



An
Bord
Pleanála

Inspector's Report PL04.249108

Development	To construct new cheese production facility and a significant upgrade of the existing Dairygold Food Ingredients Facility
Location	Mogeely and Killamucky, Mogeely, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	16/7031
Applicant(s)	Dairygold Co-operative Society Ltd
Type of Application	Permission
Planning Authority Decision	Grant subject to 32 Conditions
Type of Appeal	Third Party x 3
Appellant(s)	1) Mary Hynes & Others 2) David Hugh - Jones, Atlantic Shell Fish Ltd 3) Saleen and District Residents
Observer(s)	1) David Condon 2) Gordon Reid & Others

3) Patrick & Vera Foley

Date of Site Inspection

21st March 2018

Inspector

Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site comprising the existing Dairygold Food Ingredients (DFI) speciality cheese manufacturing facility, is located in the village of Mogeely approximately 2km north of Castlemartyr and 8km east of Midleton, Co. Cork and occupies an area of approximately 4.7 ha. The site is bounded to the north by the local Midleton to Mogeely Road (L3627) and the Dairygold Agribusiness grain handling facility directly across the road. The Kilttha River forms the western site boundary, with agricultural land lying beyond. Improved agricultural grassland forms the southern and eastern site boundaries. Further east, the site is bounded by the local north-south Mogeely to Castlemartyr Road (L3805). There is a housing estate in close proximity to this eastern boundary with Cois Maigh across the road and further linear residential dwellings and agricultural buildings occurring along the local road.
- 1.2. The main part of the appeal site is a “green field” to the immediate east / south east of the existing plant. It is relatively flat field that is bounded on its eastern boundary by the main local road. The wastewater treatment unit which serves the facility is located in the south west corner of this green field approx. 200m to the south of the main Dairygold complex and is in an area identified as susceptible to flooding. The proposed treated effluent discharge point is located at an existing outfall at Rathcoursey on the eastern shore of Cork Harbour some 10.6km to the south west of the appeal site.
- 1.3. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I would also refer the Board to the photos available to view throughout the appeal file.

2.0 Proposed Development

- 2.1. The application submitted to Cork County Council on the **8th December 2016** was for the construction of a new cheese production facility and a significant upgrade of the existing Dairygold Food Ingredients (DFI) facility. The proposed development consists of the following:
 - 1) Construction of the following Buildings or structures and associated services and site works:

- Cheese Production Building; predominantly single-storey with 3-storey middle section and 2-storey administration block
 - Single storey part open sided, roofed, Milk Intake Unit and piperack structure
 - Single storey workshop
 - Single storey Box Store
 - 2-storey Reception and Staff Facilities Building
 - Single storey Boiler House
 - Single storey RO and Pasteurisation Building
 - Single storey Weighbridge Security Building
 - Single storey Water Treatment and Fire Pumphouse Building
 - Electrical Sub-station and Switchroom
 - 2-bay Loading Bay structure attached to the northern end of the existing cheese factory
 - 2 No. water storage tanks (12.6m and 9.6m high);
 - 1 No. Salt Saturation Storage Tank (5.1m high)
- 2) Closure of 3 entrances and the construction of new entrance for HGV traffic off the L3627 on the northern site boundary. Closure of the existing HGV entrance and construction of new entrance for staff and visitor car traffic only off the L3805 Mogeely-Castlemartyr Road on the eastern site boundary
- 3) Demolition of the following Buildings or Structures and associated services:
- Dairy and Maintenance Workshop Building;
 - Packaging Store;
 - Boiler House and 3 No. stacks (33.9m high);
 - Canteen;
 - Reception and Office Building;
 - Generator Building and removal of all associated Redundant Tankage.
- 4) Upgrade of an existing bund and construction of new adjoining bund to accommodate existing tanks and the following new tankage, (height listed in brackets) and all services associated with the tankage;

- 6 No. Milk Silos(14.0m),
 - 2 No. Milk Silos(18.5m)
 - 3 No. Cream Storage Tanks(5.8m)
 - 5 No. Cleaning Tanks(8.0m)
 - 4 No. Cleaning Tanks(5.0m)
 - 2 No. Whey Silos(12.7m)
 - 2 No. Whey Silos(13.2m)
 - 2 No. Bulk Chemical Tanks(5.45m)
- 5) Construction of a 124 space Car Park, Internal Roads accessing the site from the new Entrances / Exits, Covered Pedestrian Walkway and mounded Berms, Boundary Walls, Fencing and all Associated Landscaping Works.
- 6) Upgrade and expansion of the existing Wastewater Treatment Plant including new Balance Tank, Anaerobic and Aerobic Tanks, Clarifier, Picket Fence Thickener, Dissolved Air Flotation (DAF) Plant, Pumping Station, Control Room, Filters and Concrete Plinths. The proposed upgrade will include the demolition of the existing works including the existing 9.5m high Biotower.
- 7) Installation of an underground Pipeline to convey treated water from the Facility to a discharge point at an existing outfall at Rathcoursey West, Midleton, 10.6km to the south west of the Facility. The Pipeline route will utilise the L3627 road corridor through Killamucky, Ballycrenane Beg, Kilmountain, Loughaderry, Stumphill, Clashduff, Ballyedekin, Churchtown as far as the Two Mile Inn, thrust boring under the N25, heading south along the L3628 through Dunsfort, Whiterock, Carrigeennamoe, Butlerstown, Carrigatoher, Gurteenina, west along the L3630, R629 and L3639 through Knockasturkeen, Carrigagour, Innyragga, Knockgorm, Scarriff, Ballynacorra West, Bawnard East, thrust boring under the R630 and utilising the L3629 road corridor through Bawnard West, Rathcoursey East to the outfall at Rathcoursey West, including all necessary pipeline connection, drainage and vent infrastructures.

2.2. According to the application form the gross floor space of existing buildings is stated as 7,782sqm. The gross floor space of proposed works is stated as 15,621 sqm. The gross floor space to be demolished is stated as 1,830 sqm.

- 2.3. Currently on-site water supply is from an existing on-site well, GW01, located adjacent to the main cheese plant entrance. The sanitary and process water demand is supplied from this well. Drinking water on-site is supplied by an outside water supplier (i.e. Ballygowan) via bottled water/ drinking water dispensers located around the site. There is a direct water supply connection for Cork County Council existing water main which is currently used to supply water to the Canteen for cooking purposes. The existing Dairygold Plant water supply network serving their process, sanitary and drinking water demands will continue unchanged for the new development. The proposed development will require an increase in abstraction from the well from 525m³ to 1400m³ per day. It is proposed to continue sourcing the process water supply from the onsite well, GW01 for the new development
- 2.4. The public notices state that the application relates to an establishment which has an Industrial Emissions Directive Licence (PO817-01). The Planning application form states that the development requires an Integrated Pollution Control License (Q22 refers).
- 2.5. The application was accompanied by the following:
- Written consent from land owner to make a planning application
 - Environmental Impact Statement (Volume 1 – Non Technical Summary, Volume 2 – Main EIS, Volume 3 – Appendices and Volume 4 – Photomontages)
 - Natura Impact Statement
 - Planning and Design Statement
 - Flood Risk Assessment
 - Outline Construction Environmental Management Plan
 - Water and Wastewater Design Report
 - Fire Water Risk Assessment
 - Wastewater Assessment Report
 - Initially Mobility Management Plan
- 2.6. **Unsolicited information** was submitted to Cork County Council on **9th January 2017**, the contents of which may be summarised as follows:

- Information memos that were issued to Residents at information meetings held in December 2016 in response to queries raised and *largely consists of information contained in the planning documents, particularly the Environmental Impact Statement.*

2.7. **Further unsolicited information** was submitted to Cork County Council on **30th January 2017** regarding the submissions and observations made to the Local Authority. The submission states that it *contains no new information but addresses the issues raised, and also refers to relevant sections of the EIS and supporting information accompanying the planning application where all these matters have been dealt with.*

2.7.1. In response to a request for further information on 9th February 2017 the applicant submitted the following **further information on 30th May 2017**, as summarised:

- **Item 1 Flood Risk Assessment** – The design of the proposed works in the WWTP takes into account the findings of the Flood Risk Assessment so that the upgraded facility will be effective from a pollution point of view.
- **Item 2 WWPT Safe Access / Egress** - There is an extensive flood plain area thus waters would rise slowly. Users of the site will be trained and made aware of the risk of flooding. All visitors to site will be inducted which will include information on evacuation and refuge. Refuge will be available in the control room. Appropriate signage will be erected.
- **Item 3 Traffic Impact** – The predicted peak season additional traffic volumes generated by the proposed development, when fully operational, would increase morning and evening peak traffic hour traffic volumes on the N25 at the L3805 junction, in Castlemartyr, by no more than 0.4%.
- **Item 4 HGV Construction Traffic** – Materials will only be removed from the site during periods of low construction traffic and no material will be transported during the peak traffic hours in the mornings and evenings.
- **Item 5 Abnormal Load Route** - New silos will be fabricated in Mallow or Charleville and transported to the site via the national road network (to Castlemartyr)
- **Item 6 Ecological Impact Assessment and Modelling Report of Rathcoursey Outfall** – Concluded that the proposed addition to the existing

background levels will not cause the EQS to be breached and that additional increases will not materially impact the water quality.

- **Item 7 Odour, Pathogen and Septicity Impact Assessment** – Stated that septicity and odour will not arise. At the end of the treatment process in the Dairygold Wastewater Treatment Plant the treated waste water will be given UV treatment which will eliminate the possibility of pathogens being present in the discharge.
- **Item 8 Hydrological Impact Assessment** – This was undertaken as part of the project environmental assessment and was included in the EIS
- **Item 9 Effluent Disposal** – Following consultation with Irish Water, who carried out their own review, they advised that there was capacity at Rathcoursey and agreed to accept an intermittent discharge (on the ebb tide as per WWDA) at the outlet of Rathcoursey Tidal tank.
- **Item 10 Effluent Monitoring and Retention** – The facility is a licensable activity regulated by the EPA and currently operates under Industrial Emissions License P0817-01. The treated wastewater will be continuously monitored and if the monitoring shows the effluent to be out of specification, discharge will cease and the liquid will be returned to the Inlet Balancing Tank for passing through the WWTP again.
- **Item 11 Surface Water** – There will be no increase in the maximum rate/volume of surface water run-off to the Kiltha River due to the proposed development and consequently there will be no change or impact on the Kiltha River.
- **Item 12 Hedgerow Boundaries** – Details of existing / proposed boundaries to the Greenfield site provided.
- **Item 13 Mogeely WWTP Capacity** – Irish Water has issued a Confirmation of Feasibility letter (dated 21st December 2016) confirming that it is possible to connect into both the Irish Water watermain and the foul sewer without infrastructure upgrade works.
- **Item 14 Invasive Alien Species** – The proposed pipeline will be installed within the boundaries of the public road such that the proposed works will not

result in any excavations of hedgerows or road verges that would lead to the spread of the invasive species observed.

- **Item 15 Exported Sludge** – The Plant operates under the conditions of an IPPC License issued by the EPA.
- **Item 16 Overshadowing** – Full overshadowing impact of the proposed development on the neighbouring residences is shown on drawings submitted. Submitted that the nearest residence to the proposed development is situated to the north of the proposed factory and that the solar study drawings submitted indicate that the proposed new development would have no negative overshadowing impact on the existing house in summer or at the Spring or Autumn equinox. The only impact is during winter with the maximum impact in December.
- **Item 17 Architectural Heritage** – There are no protected structures within the proposed development site. Concluded that no impact on architectural heritage and that no mitigation is required.
- **Item 18 Lighting Mitigation** - Lighting of the site has been designed so that light spill from the site will be minimised and will not exceed 5 lux at any adjacent residence in accordance with the CIBSE Guide to Limiting Obtrusive Light for areas type E2: Rural, Village, Dark Urban Locations.

2.7.2. The further information submission was accompanied by the following:

- 1) Proposed WWTP upgrade plans, sections and elevations
- 2) Letter from Irish Water (dated 29th May 2017) stating that in February 2017 Irish Water engaged the services of Irish Hydrodata to carry out an assessment of the Rathcoursey outfall and the impacts of the treated waste water discharges arising from the Dairygold plant.
- 3) Rathcoursey Outfall Investigation of the Impact of Treated Wastewater Discharges arising from the Dairygold Mogeely Plant to Cork Harbour (dated 19th May 2017) prepared for Irish Water by Irish Hydrodata Limited
- 4) Evaluation of the Risk of Adverse Impact on Cork Harbour SPA (004030) and Great Island SAC (001058) (dated 25th May 2017) prepared by Malachy Walsh & Partners
- 5) Details of Storm Water Drainage and On-Site Attenuation Drawing

- 6) Invasive Species Survey Report & Recommendations prepared by Malachy Walsh & Partners
- 7) Sludge Disposal report prepared by Nutrient Recovery to Generate Electricity Ltd.
- 8) Confirmation of feasibility letter from Irish Water (dated 21st December 2016) for connection to Irish Water watermain and foul sewer
- 9) Overshadowing Analysis Drawing
- 10) Site Lighting Impact Drawing

2.7.3. Following a request from Cork County Council in a letter dated **9th June 2017** requesting new public notices indicating that significant further information had been received **revised public notices** were submitted on 12th June 2017.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Cork County Council issued notification of decision to grant permission on 4th August 2017 subject to 32 conditions that may be summarised as follows:

- Condition No 1** Compliance with plans and details submitted on 8th December 2016 and 30th May 2017
- Condition No 2** Monitoring of construction phase to ensure all environmental mitigation measure are fully implemented
- Condition No 3** Applicant shall record complaints received relating to site operations and shall be made available to the planning authority on request
- Condition No 4** Noise management plan to be agreed
- Condition No 5** Proposed off-site disposal of construction and demolition waste to be agreed
- Condition No 6** A groundwater level and water quality monitoring programme shall be established
- Condition No 7** During construction wheels of all trucks shall be washed prior to their exit
- Condition No 8** All solid wastes arising on the site shall be recycled

- Condition No 9** All waste pump sumps or other chambers shall be fitted with high level alarms
- Condition No 10** Lighting shall be directed and cowled
- Condition No 11** Any and all demolition and / or tree felling shall only be carried out in the period from September to February
- Condition No 12** Prior to any construction work commencing appropriate surface water management controls shall be in place
- Condition No 13** Noise level restrictions during the construction phase
- Condition No 14** Continuous TON and ammonia monitoring shall be provided
- Condition No 15** Construction and Environmental Management Plan
- Condition No 16** Site landscaping
- Condition No 17** Connection agreement with Irish Water
- Condition No 18** A remotely activated valve to be incorporated at the end of the proposed treated effluent pipeline
- Condition No 19** No dust, mud or debris shall be carried onto or deposited on the public road / footpath
- Condition No 20** Provision of construction parking facilities
- Condition No 21** Entrance details
- Condition No 22** No surface water shall be permitted onto the public road
- Condition No 23** Existing roadside inlets or drains shall be preserved
- Condition No 24** Provision of an adequate supply of potable water in the absence of a public supply
- Condition No 25** Traffic and Village improvement mitigation measures providing 2m footpath along the full length of the eastern and northern boundaries of the site, road and cycle path on the road fronting the applicants site to the north shall be reduced to comply with DMURS, kerb radii on the junction of the road to the north of the applicants site to comply with DMURS, existing lay-by fronting the applicants site to be removed and the full length and width of the public road fronting the site to the north shall be strengthened and re-surfaced

- Condition No 26** Revised drawings to be agreed indicating the strengthening and resurfacing of the public road fronting the site to the north and of the public road fronting the site to the east across its full width for a distance of 100m on either approach
- Condition No 27** Programme of road strengthening / road resurfacing as required on the public road network which will be used as haul routes in connection with the construction phase of the development shall be agreed
- Condition No 28** Special Development Contribution in the amount of €70,000.00 in respect of upgrade works to the junction in Mogeely village and towards pedestrian facilities at N25 junction in Castlemartyr
- Condition No 29** Section 48 Development Contribution in the amount of €218,116.80
- Condition No 30** Mobility Management Plan
- Condition No 31** Road opening license for pipeline works
- Condition No 32** Appropriate mitigation measures at the on-site treatment plant to control pollution in the event of flooding

3.2. Planning Reports

- 3.2.1. The **Executive Planner** in their first report dated **9th February 2017** set out the details of the scheme and concluded that *ultimately the proposed development is considered to be an expansion of a long standing agri- food facility well established within an existing settlement boundary. As such the proposal would appear fully compatible with the aims/objectives of the CDP and LAP and is thus considered to be acceptable in principle.*
- 3.2.2. The **A/Senior Planner** in their first report dated **9th February 2017** noted and endorsed the report of the Executive Planner. The reports states that the key issues in relation to the assessment of this application include:
- The scale of the proposed plant and its impact on the village of Mogeely, in terms of visual integration, traffic impacts and impact on residential amenity.

- Ecological impacts, in particular those associated with the proposal to discharge process waste to the Harbour at Rathcoursey.
- Flood related issues.

3.2.3. The A/Senior Planner requested that the following further information, as summarised, be requested. Cork County Council requested further information on **9th February 2017**:

- 1) In relation to the Flood Risk Assessment, you are requested to demonstrate that the proposed mitigation associated with the upgrade to the waste water treatment plant will be effective from a pollution point of view.
- 2) A revised layout indicating the availability of a safe access/egress route (and/or provide full details of appropriate refuge) in the event of a flood at the waste water treatment plant.
- 3) Full details of traffic impacts on the junction with the N25 at Castlemartyr based on the fact that it is operating over capacity at peak periods, together with appropriate mitigation. Consideration can be given to amending the Mobility Management Plan to avoid traffic from the site (staff & HGV) using this junction during the am peak.
- 4) Full details of the impacts of HGV construction traffic movements including haul routes, especially those associated with topsoil removal and the removal of excavated material. Appropriate mitigation is required.
- 5) The abnormal load (silos) is stated to route to the site from Charleville; please clarify if they originate from here or elsewhere and provide details of the route.
- 6) A detailed impact assessment, prepared by a competent authority or institute, supported by minimum 2D estuarine hydraulic process modelling with appropriate resolution, of the resultant plume dispersal and pollutant exposure time. This model will provide for tidal and temporal variation, river contribution, stratification, meteorological conditions, etc. This model shall provide a quantum of the risk of adverse impact on Cork Harbour SPA (004030), Great Island Channel SAC (001058), and of further degradation of water quality in the Owenacurra Estuary. You should delineate the mixing zone, and allowing for tidal flushing rates, assess the impact in resulting nutrient concentrations.

- 7) An odour, pathogen and septicity impact assessment of the Dairygold discharge on arrival at Rathcoursey.
- 8) A hydrogeological impact assessment of the proposed abstraction on local aquifer users, identifying such users and effect on their abstraction, identify any groundwater based ecosystems (if any) located within the zone of contribution or dependant on the zone of contribution, and the effect on water levels in the Kiltha River. The assessment should address possible contamination incidents, and should consider if during drought conditions the rate of abstraction exceeds the natural spring discharge.
- 9) A report on the options considered for effluent disposal and the basis for the decision to discharge at Rathcoursey. Consideration of alternatives in the EIS should consider this proposal compared to other potential options for the discharge of process waste.
- 10) Proposals to provide effluent quality monitoring and appropriate retention of effluent where quality standards are not met.
- 11) Details in relation to increased rates/volumes of surface water run-off to the Kiltha River predicted to arise from the proposed development and to assess possible implications of increases on freshwater habitats and species in the Kiltha River.
- 12) In relation to landscaping proposals, where possible hedgerow boundaries on the new Greenfield site to be developed should be retained and integrated into the landscape plans. Please submit revised plans in accordance. You are also requested to provide planting proposals to mitigate for hedgerow loss where this cannot be avoided.
- 13) Further detail in relation to the public Mogeely Waste Water Treatment Plant and its capacity to accept additional waste water loading. You are requested to submit an assessment of possible implications on the Kiltha River and on downstream Natura 2000 sites of the proposals to increase sanitary loading to the public plant.
- 14) There is a high possibility that one or more invasive alien species may occur along the route of the pipeline. In such an event, works along this route could result in disturbance of contaminated spoil and spread of same. No

information has been provided as to the occurrence of invasive alien species within the development site or along the pipeline route. You are requested to complete an invasive species survey along the length of the proposed route. In the event that invasive alien species are identified along this route, you are requested to submit proposals / plan to provide for appropriate management and disposal of same.

15) Clarification of where sludge is exported to from the facility. If sludge is exported for recovery on land please provide:

- A map scale 1/50,000 showing the location of third party holdings where it is proposed to export the sludge.
- Identify the number of third party holdings and confirm the capacity of each holding to recover the nutrients in the sludge,
- Confirmation from a suitably qualified person that the proposed lands are suitable for the landspreading of sludge.

16) An overshadowing analysis has been submitted which would appear to indicate that the individual dwelling to the North does appear to be significantly impacted across the Winter months. The analysis should include an “existing” day time scenario with regards to this residence to allow a more accurate appraisal of the full extent of overshadowing.

17) Please note that architectural heritage has not been dealt with under the Archaeology and Cultural Heritage Section. While there would not appear to be any obvious impacts on existing architectural heritage, the issue should be addressed in the EIS to ensure robust assessment.

18) It is identified in the EIS that the lighting of the building will create a potentially significant impact. It is also noted that the external lighting plan is not ready at time of publication of the EIS. A lighting plan to mitigate impacts has been proposed but has not been submitted. Please address and include mitigation as appropriate.

3.2.4. The **Executive Planner** in their second report of **3rd August 2017** and having considered the further information was satisfied that the outstanding issues raised in the Request for Further Information have been answered by the applicant. The

report acknowledges that the proposed new discharge to Cork Harbour has generated the most contentious and contested aspects of this proposal and in particular the proposed effluent discharge solution and its perceived negative consequences to Cork Harbour (a Natura 2000 site). The Planner notes that the proposed solution was conceived / endorsed by Irish Water, the statutory body responsible for the infrastructure. Notwithstanding, the modelling and associated environmental data associated with this solution has been submitted, assessed and considered satisfactory. Consequently the proposal is not considered to pose an unacceptable risk to the integrity of Natura 2000 sites within the wider area. Accordingly, a grant of permission was recommended subject to 31 conditions as set out in their report.

- 3.2.5. The **A/Senior Planner** in their report dated **4th August 2017** and having considered the further information submission notes the key reports on file in respect of the response to the Request Further Information, in particular those of the Environmental Department, the Senior Engineer in Traffic & Transport, the Senior Engineer in Water Services and the Ecologist. Further the recommendation to grant by the A/SEP was endorsed. Acknowledged that the proposed new discharge to Cork Harbour has generated the most contentious and contested aspects to this proposal. Noted that the applicant in their response, have outlined how this discharge route was chosen and have provided a detailed impact assessment. The A/Senior Planner is satisfied that adverse impacts on the harbour can be ruled out. Accordingly and having regard to the foregoing, a grant of permission was recommended subject to 32 conditions as set out in their report. The notification of decision to grant permission issued by Cork County Council reflects this recommendation.

3.3. **Other Technical Reports**

- 3.3.1. The **Area Engineer** in their report dated **20th January 2017** has no stated objection to the scheme subject to conditions as set out in their report and relating to road safety, construction works, noise, entrance, surface water, road drainage, water and wastewater facilities and a special contribution for road maintenance (no amount specified). In a further report dated **31st January 2017** it was recommended that a condition be attached recommending that *the L3805 and the L3809 should be*

redesigned using The Design Manual for Urban Streets (DEMURS) for the areas affected by the new plant.

3.3.2. In a further report from the **Area Engineer** dated **9th February 2017** noted that the applicants propose to discharge treated effluent from this development through the existing outfall from Midleton Sewerage Scheme at Rathcoursey. Stated that Irish Water have informed the Area Engineer that their asset strategy section has carried out an extensive assessment and they are agreeable in principle with this proposal. The Area Engineer recommended a deferral for further information as follows:

- 1) Proposals to provide effluent quality monitoring and appropriate retention of effluent where quality standards have not been met.
- 2) A report on the options considered for effluent disposal and the basis for the decision to discharge at Rathcoursey

3.3.3. A further report from the **Area Engineer** dated **26th June 2017** and having considered the further information submitted states that they have no further issues.

3.3.4. In a further report from the **Area Engineer** dated **31st July 2017** and having considered that further information submitted recommended that permission be granted for this development subject to the following conditions:

- 1) *The developer shall enter into a connection agreement with Irish Water which provides for an inspection of the diffuser at the end of the Rathcoursey discharge pipe and for measures to address any deficiencies found.*

Reason: *To safeguard the amenities of the area and prevent water pollution.*

- 2) *A remotely actuated valve shall be incorporated at the end of the proposed treated effluent pipeline before the connection to the Irish Water discharge chamber. This valve shall be closed immediately on detection of any non-compliance in the quality of the treated effluent*

Reason: *To safeguard the amenities of the area, and prevent water pollution.*

3.3.5. The **Area Engineer** in their report dated **21st June 2017** and having considered the further information states that there are *no further issues*.

3.3.6. The **Conservation Officer** in their report dated **31st January 2017** noted that the proposed development will be located adjacent to a number of buildings / structures

that area included in the NIAH and RPS. There is no objection to permission being granted.

3.3.7. The **Architect** in their report dated **9th February 2017** requested further Information in relation to the following issues:

- Climbing plant to cover the ground floor level of the new building
- Making the silos and tanks of mixed colours
- High quality landscaping public realm on western side of the building
- Application of DMURS
- Pedestrian connectivity

3.3.8. The report from **Traffic & Transport** dated **3rd February 2017** states that the application relates to a very large development which will have significant traffic and transport impacts particularly on the village of Mogeely and the N25 Junction at Castlemartyr. There is no stated objection to the grant of permission subject to conditions set out in their report relating to the construction of a footpath along the full length of the eastern and northern boundary, compliance with DMURS, existing layby to be retained shall be removed, contribution of €50,000 towards the cost of reconfiguration of the junction in the centre of Mogeely, preparation of a Mobility Management Plan for the N25 Junction at Castlemartyr, strengthening and resurfacing of stated sections of public road and the requirement for a road opening license for proposed pipeline works.

3.3.9. The report from **Traffic & Transport** dated **14th July 2017** and having considered the further information states that they have no objection to grant of permission subject to conditions relating to the application of a Special Development Contribution in the amount of €200,000 and conditions recommended in their previous report.

3.3.10. The report from **Environment** dated **3rd February 2017** relates to *Chapter 9 (Noise and Vibration) of the EIS*. The report states that all environmental conditions associated with the operation of this development will be governed by the operating license issued by the EPA and that conditions outlined in the report relate to the construction phase of the development. There is no stated objection to the grant of permission subject to conditions set out in the report relating to noise management

at the construction phase, recording of complaints received and monitoring of the construction phase.

- 3.4. A further report from **Environment** dated **8th February 2017** is *limited to an assessment of potential impacts on water quality*. The report recommended that in order to provide greater confidence that the proposal will not adversely impact conservation objectives and further degrade the Owenacurra Estuary and/or North Channel, and/or SPA at Rostellan and Saleen, and to allay public submission's concerns. Further information should be sought relating to (1) estuarine hydraulic process modelling, (2) odour, pathogen and septicity impact assessment of the Dairygold discharge on arrival at Rathcoursey and (3) a hydrogeological impact assessment of the proposed abstraction on local aquifer users.
- 3.4.1. A further report from **Environment** dated **9th February 2017** *concentrates on the air impacts, the impacts of sludge management and the impact of the increased water abstraction* and recommended a deferral of a decision on this application subject to further information being submitted relating to the following as summarised:
- 1) Clarify where sludge is exported to from the facility
 - 2) Information in relation to increased water abstraction and the effect it will have on the aquifer underneath
- 3.4.2. The **Environment Report** dated **27th July 2017** and having considered the further information stated that there is no objection to grant of permission on environmental grounds subject to condition(s) relating to construction and demolition waste, groundwater level and water quality monitoring programme, washing of truck wheels, solid wastes arising on the site being recycled, all wastewater pump sumps or other chambers from which spillages might occur to be fitted with high-level alarms, all lighting within the site curtilage to be directed and cowled, any and all demolition and/or tree felling work to be carried out in the period from September to February (inclusive), noise levels and the continuous monitoring of TON and Ammonia on the outlet from the WWTP.
- 3.4.3. A further report from **Environment Report** dated **3rd August 2017** refers to a previous report of 3rd February 2017 (noise) and states that they have no additional comment and have no objection to grant of permission on environmental grounds.

- 3.5. The **Ecologist** in their report of **9th February 2017** recommended that the following further information (as summarised) be requested and that Appropriate Assessment and Ecological Impact Assessment will be completed on submission of same.
- 1) Applicants are requested to revisit site landscaping proposals.
 - 2) Applicants are requested to provide further detail in relation to the public Mogeely WWTP and its capacity to accept additional waste water loading.
 - 3) Invasive alien species survey along the length of the proposed route.
- 3.5.1. The **Ecologist** in a further report dated **31st July 2017** and having all of the data, and taking account in particular to the assessment of the Environment Officer, who is satisfied that the applicants have demonstrated that the proposed discharge will not result in a significant change to water quality in the harbour, and taking account also of the sensitivity assessments presented in the Malachy Walsh and Partners Report, The Ecologist is satisfied that the applicants have demonstrated that the proposed development will not give rise to adverse effects on the integrity of either the Great Island Channel SAC or on the Cork Harbour SPA. Considered that the conditions of the Senior Engineer will serve to further minimise risks to water quality in the harbour area.
- 3.6. The **Ecologist** in a further report (undated) and having considered the further information recommend that permission be granted for this development subject to conditions as set out in their report and summarised as follows:
- 1) Connection agreement with Irish Water which provides for an inspection of the diffuser at the end of the Rathcoursey discharge pipe and for measures to address any deficiencies found.
 - 2) A remotely actuated valve shall be incorporated at the end of the proposed treated effluent pipeline before the connection to the Irish Water discharge chamber.

3.7. **Prescribed Bodies**

- 3.7.1. The **Environmental Protection Agency (EPA)** in their report dated **23rd December 2016** submitted the following comments as summarised:

- The most recent license pertaining to Dairygold at Mogeely is Industrial Emissions (IE) License Register No: P0817-01 issued on 21st April 2011 for a milk processing activity with details available on the agency website.
- The license may need to be reviewed or amended to accommodate the changes proposed in the planning application
- EIA may be required
- The EIS accompanying the application appears to address the key points in relation to the environmental aspects of the proposed activity which relate to the matters that come within the functions of the agency
- The agency cannot issue a Proposed Determination on a license application which addresses the development until a planning decision has been made

3.7.2. The **Health Service Executive (HSE)** in their report dated 5th January 2017 submitted the following comments as summarised:

- Assessment of Public Consultation – Effective public consultation has not taken place in relation to this project particularly in relation to residents and local business long the 10km proposed discharge pipeline route from the existing plant to the outfall tidal holding tank at Rathcoursey, Midleton. Recommended that effective consultation take place.
- Traffic & Transport (Human Beings) – A heavy volume of peak construction truck movements generated during the site excavation works area scheduled to occur at the outset of construction for one to two months. Mitigation measure for this impact on the local road network in Mogeely and Castlemartyr have not been included in the EIS. Recommended that mitigation measure are put in place.

3.7.3. **Inland Fisheries Ireland (IFI)** in their report dated 9th January 2017 is not opposed to the development in principle but has concerns in relation to the proposal to construct a pipeline in order to avail of assimilative capacity at Rathcoursey since the proposed receiving water (North Island Great Channel) is currently classified as moderate status under the Water Framework Directive and is at risk of not achieving good status. The North Island Great Channel is designated as a nutrient sensitive area under the Urban Wastewater Regulations and is also designated as a shellfish water. In this context the IFI has significant concerns in relation to both the impact of

the proposed discharge and the principle behind the concept of trans catchment discharges

3.7.4. **An Taisce** in their report dated **20th January 2017** submitted the following comments as summarised:

- **Water Abstraction** – The Council should ensure that the increased ground water abstraction associated with the expansion of the Mogeely plant will not result in water stress in the Kiltha River or surrounding water bodies.
- **Storm Overflow** – Concerns is raised that the Kiltha River may not have the assimilative capacity to absorb storm water discharge from the plant.
- **Potential Impacts on the Public Sewer System** – Concern is raised with regard to the potential impact of fats, oils and grease (FOG) on the public sewer as congealed blocks of fat area known to cause blockages in sewer systems, causing significant damage to infrastructure.
- **Aquaculture** – A deterioration in water within the bay may threaten the livelihood of anyone carrying out aquaculture in the affected area.
- **Water Quality Impacts** – Considered that the Operational Phase waste water discharge into Cork Harbour is the greatest potential environmental threat of this project.
- **Cumulative Impact** – Concern is raised that other cumulative impacts on water quality may, in combination with the discharge from Mogeely plant, result in the transitional waters in the bay to fail to meet good status by 2021.
- **Case Law** – The lack of sufficient information submitted as part of this application makes it difficult to assess the actual impact of this project when the nature of the discharge appears to be unknown.
- **Appropriate Assessment** – There is potential for significant water quality impacts as a result of the operation of the project which would affect habitat and prey distribution. Further information should be sought to clarify whether this is the case.
- **Research on the Impact of Animal Fats on Seabirds** – Policy for support of enforcement activities is necessary in order to identify and prevent discharges of edible oils, particularly in circumstances where the discharge could concentrate as slicks at the water surface.

- Designated Bird Species – Concern is raised that the contamination of the feather of wildfowl within the bay by animal oils and fats emanating from the Mogeely effluent may cause the mortality of these designated bird species.
- Marine Leisure – If there are negative impacts on the water quality of Cork Harbour this will ultimately impact on marine recreation / leisure.

3.7.5. **Transport Infrastructure Ireland (TII)** in their submission dated **24th January 2017** submitted the following comments as summarised:

- The proposed development shall be undertaken strictly in accordance with the recommendations of the Transport (Traffic Impact) Assessment
- The proposed development is located in a study area for a future national road scheme. The Authority shall consult with the local Road Design Office
- Details of all works on the existing N25 associated with the construction of the proposed pipeline shall be agreed prior to commencement of development with Cork County Council National Roads Office.

3.7.6. In a further report dated **19th June 2017** and having considered the further information received TII state that their submission remains the same.

3.7.7. **Irish Water** in their submission dated **25th January 2017** has no stated objection to proposal.

3.8. **Third Party Observations**

3.8.1. There are multiple observations recorded on the planning file (refer to Appendix A for list of submissions) following the submission of the application to Cork County Council. As noted but by the Case Planner in their first report, *the overwhelming concern raised in virtually all the submissions received relate to the impact of the proposed new discharge pipeline on Cork Harbour.* The issues raised may be summarised as follows:

- **Consultation** - Dairygold failed to carry out any consultation with locals around East Ferry / Rathcoursey area or along the route of the pipeline, or around the wider Harbour area prior to making their application. This may not be a planning requirement, but it is very poor practise and perhaps indicative of wanting to sneak an unpleasant aspect of their development at Mogeely under the radar. The same could be said of the application over the Christmas Holiday period.

- **Residential Amenity** - Destruction to recreational facilities (angling, rowing, yachting, canoeing, sail boarding and swimming). Odours from vents along the pipe line and at point of discharge. Impact on adjoining residents in terms of noise, pollution, vehicle activities, loss of light, devaluation of property, flooding and mental impact. Impact on vehicular movement as a result of the pipe construction
- **Visual Impact** - The area is of particular significance as recognised by the Cork County Local Area Plan and Environmental Reports. The site is immediately along Scenic Route S51, again such a development is not in keeping with a scenic route. The area is specifically identifies as being of very high landscape value under the Specific Objectives of the Cork County Council Development Plan 2009. This development would negatively affect the existing landscape.
- **Rathcoursey** – Wastewater resulting from cheese production is the most polluting among all types of dairy wastewater given that it contains a huge quantity of organic biodegradable matter. Serious concern raised with the choice of discharge point of treated waste water from the proposed new cheese making facility at Mogeely to receiving waters at Rathcoursey Point in the North Channel of Cork Harbour. The North Channel has a very long residence time. The area is a Nutrient Sensitive area of concern for Transitional & Coastal Water Quality. Such development will negatively impact the ecology of marine life and the water quality of the area. Discharge is planned only for the period of ebb-tide. There is, however, no evidence that all of a given discharge will clear the Channel during an ebb-tide. The waters of Cork Harbour are already polluted in excess of EU Directives by a great many untreated sewage outlets. Adding to this will only compound the damage to the environment
- **Fats, Oils and Greases (FOG)** - FOGs, particularly in accumulation area very slow to breakdown in nature. They are also very clinging and will adhere to every surface they contact – shoreline, wildlife, moorings, boats, quays, jetties, etc. FOGs are also very mal-odorous in warm weather. Discharge of 3m litres of waste water containing residual fats, oils and grease (i.e. FOG that solidifies as it cools) into the east ferry estuary, which is already trying to cope with a sewage pumping station

- **Alternatives** - There is no evidence of consideration of alternatives to discharging this effluent. There are number of proven treatment and re-use methods available. A more suitable location could be found for the discharging of the waste water from the plant at Mogeely. A more direct route leading to the open sea south of the Dairygold site would be preferable to using Cork Harbour.
- **Traffic Impact** – Roads along the entire route of the proposed pipeline are narrow rural single lane roads. Mostly in already poor condition. Laying the pipeline will further damage the surface of these roads. Unless Dairygold intend to complete a comprehensive resurfacing of the entire road surface (which is not mentioned in the application), these roads will be left prone to increased wear and pot-holing in the future. The construction of the pipeline will cause major disruption and inconvenience for many people living along the route. The road from Bawnard Cross to East Ferry is substandard. Any laying of pipes on this stretch of the road will lead to road closures, resulting in a long diversion over narrow roads, for people wishing to travel to Midleton or Cork.
- **Consultation** - Regrettable that no consultation has taken place with those directly affected by the pipeline. This is contrary to requirements and good practise.
- **Appropriate Assessment** – The North Channel is listed as a Special Area of Conservation (SAC) under the EU Habitats Directive. The North Channel is also listed as a Special Protection Area (SPA) under the Birds Directive. Considered that the Stage 2 Appropriate Assessment should have concluded that the possibility of adverse effects cannot be excluded to the standard of proof required by law. The applicant should be required to proceed to the third stage and to consider alternatives to the proposed discharge of wastewater into the Harbour.

3.9. Following the submission of **further information** there are further multiple observations recorded on the planning file (refer to Appendix B for list of submissions). Many of the issues raised are similar to those raised in the original observations to the Council. Additional comments may be summarised as follows:

- **Process** - Scheme needs to be formally re-advertised and lack of public consultation
- **Wastewater** - Objection to the installation of an underground pipeline to convey treated water to Rathcoursey, it is not true to say that effluent will rise to the

surface and disperse with the outgoing tide at Rathcoursey, volume of water containing FOG will leave a residual on the shoreline and on top of the water around the area, threat of water pollution and would be prejudicial to public health, no consideration of alternative outlets closer to the site,

- **Traffic Impact and Management.** Laying of the proposed pipe lines from Mogeely to Rathcoursey will cause major disruption, road closures and diversion will have to be enforced and this will cause inconvenience to local residents and emergency services, any effluent with organic matter could threaten the areas sea bass population at East Ferry, Alternative open-sea outfall points might prove more environmentally suitable than the Inner Harbour outfall point being currently proposed
- **Natura 2000** - Negative impact on the Cork Special Protection Area, concerns regarding the irreversible destruction of wildlife, spawning fish, vegetation and water from FOG being pumped at East Ferry Outlet, inaccurate information submitted in relation to Winter Bird Monitoring, concern with the choice of the discharge location at Rathcoursey Point, which lies between four designated Shellfish Waters in the North Channel and Rostellan and the particular unsuitability of these waters to be used for the disposal of waste water of any description
- **Residential Impact** - Height and proximity to existing houses, loss of privacy, loss of light and overshadowing, noise, odours, light pollution

4.0 Planning History

- 4.1. According to the Local Authority Planner this facility first commenced operations pre-1964 and is identified as “Imokilly Co-Operative Creamery” on historical maps. It has incrementally altered in scale/ appearance over the decades.
- 4.2. There is no evidence of any previous appeal on this site. The following is a summary of the most recent planning applications to Cork County Council.
- 4.3. **Reg Ref 12/5143** – In **July 2012** Cork County Council granted planning permission subject to conditions to Dairygold Co-Operative Society Ltd for the retention of an existing single storey extension and alterations to front elevation by removing and

relocating doors to cheese plant building and retention of 2 no prefabrication single storey buildings used as canteen and office.

- 4.4. **Reg Ref 02/5694** – In **February 2003** Cork County Council granted planning permission subject to conditions to Dairygold Co-Operative Society Ltd for a boundary fence and gate.
- 4.5. **Reg Ref 96/4032** – In **January 2001** Cork County Council granted planning permission subject to conditions to Dairygold Co-Operative Society Ltd for the upgrading of existing milk processing facilities and relocation of exiting equipment and holding silos.

5.0 Policy Context

5.1. Local Planning Policy

5.2. Cork County Development Plan 2014

Objective RCI 1-1: Rural Communities - *Strengthen rural communities and counteract declining trends within the settlement policy framework provided for by the Regional Planning Guidelines and Core Strategy, while ensuring that key assets in rural areas are protected to support quality of life and rural economic vitality.*

Objective EE 4-4: Industry - *Promote the development of industry in appropriate locations through the Local Area Plans with:*

- *Good access for heavy goods vehicles to the National Road network without the need to travel for long distance through urban areas;*
- *Access to public transport and facilities for walking and cycling; and*
- *Generally low environmental sensitivity.*

Prioritise the provision of infrastructure to support the development of those areas identified. Protect existing industrial development from other inappropriate development in nearby locations where this would adversely affect the industrial operation or its sustainable future development. Protect areas of industrial development from other inappropriate development, such as residential or 'enterprise' development and retailing. Identify a sufficient supply of land which is suitable for distribution industry development and which allows for safe and efficient

access to the local and National road network in compliance with NRA guidance. See also Objective TM 31: National Road Network (c) and (d).

Objective EE 8-1: Agriculture and Farm Diversification - Encourage the development of a dynamic and innovative, sustainable agricultural and food production sector by:

- Encouraging the development of sustainable agricultural and infrastructure including farming buildings;
- Prioritising the development of sustainable rural housing to support working farmers and their employees. See Chapter 4 Rural Coastal and Islands;
- Encouraging farm diversification through the development of other sustainable business initiatives appropriate to the rural area; and
- Supporting appropriate proposals for sustainable tourism development. See Chapter 8 Tourism.

Objective EE 9-1: Business Development in Rural Areas - The development of appropriate new businesses in rural areas will normally be encouraged where:

- The scale and nature of the proposed new business are appropriate to the rural area, and are in areas of low environmental sensitivity.
- The development will enhance the strength and diversity of the local rural economy,
- The proposal will not adversely affect the character and appearance of the landscape,
- The existing or planned local road network and other essential infrastructure can accommodate extra demand generated by the proposal,
- The proposal has a mobility plan for employees home to work transportation,
- Where possible the proposal involves the reuse of redundant or underused buildings that are of value to the rural scene;
- The provision of adequate water services infrastructure; and
- Provision of a safe access to the public road network (See Objective TM 31: National Road Network (c) and (d)).

Objective TM 3-1: National Road Network (c) and (d):

c) *Restrict individual access onto national roads, in order to protect the substantial investment in the national road network, to improve carrying capacity, efficiency and safety and to prevent the premature obsolescence of the network.*

d) *Avoid the creation of additional access points from new development or the generation of increased traffic from existing accesses onto national roads to which speed limits greater than 50kph apply.*

5.2.1. **East Cork Local Area Plan 2017**

5.3. **General Objectives**

Objective IN--01 Flood Risk Assessment and Management – *All proposals for development within the areas identified as being at risk of flooding will need to comply with Objectives WS 6-1 and WS 6-2 as detailed in Chapter 11, Volume 1 of the Cork County Development Plan, 2014, as appropriate, and with the provisions of the Ministerial Guidelines – ‘The Planning System and Flood Risk Management’. In particular, a site---specific flood risk assessment will be required as described in WS 6-2.*

Section 5.2 Villages states that it is a strategic aim of the Cork County Development Plan, 2014 is to encourage and facilitate development at a scale, layout and design that reflects the character of each village and where water services and waste water infrastructure is available to support the retention and improvement of key social and community facilities within villages, including the improved provision of interurban public transport.

There is scope for development within the villages; however, it is important that the village’s rural character, architectural heritage and its other heritage and natural amenities are maintained, enhanced and not compromised. It is also important that any future development maintains the integrity of the surrounding landscape, particularly any designated high value landscapes. There may be opportunities for some small scale development in the village centres. It is important that any proposed development would be in keeping with the established character of the villages.

If a proposal for a local employment opportunity at a scale appropriate to the particular village is forthcoming, either through the refurbishment of an existing

building or the provision of a new building, then this should be given consideration within the current development boundary of the village. Buildings whose format and layout encourages the sharing of services (for example administrative services) are also to be encouraged.

GO-01 General Objectives for Villages – *(h) Other tourism /business / industrial development can be accommodated on suitable sites within the development boundary subject to normal proper planning and sustainable development criteria*

GO-01 General Objectives for Villages - *(i) The development of lands closest to the village centre is proposed in the first instance, and the development of good pedestrian and amenity links with the village core/main street are considered to be an important part of any proposed scheme.*

GO-01 General Objectives for Villages - *(j) Extend footpaths and public lighting to serve the whole of the village and where practicable, to provide for the under-grounding of utilities.*

GO-01 General Objectives for Villages - *(m) All proposals for development within the areas identified as being at risk of flooding will need to comply with Objective IN-01 in Section 1 of this Plan.*

GO-01 General Objectives for Villages - *(n) Encourage new development to be designed to ensure that water resources and the natural environment are protected. Protection and enhancement of biodiversity resources within the receiving environment of the villages is also encouraged. Development will only be permitted where it is shown that it is compatible with the protection of sites designated or proposed to be designated for the protection of natural heritage.*

5.4. **Mogeely Objectives**

Objective DB-03 - *It is an objective to implement traffic calming measures in the village, including measures to prevent inappropriate roadside parking.*

Objective DB-03 - *It is an objective to safeguard the existing rail line and associated rail infrastructure from inappropriate development that could compromise its use either as a rail facility or as part of a greenway linking Midleton and Youghal in the future. It is therefore an objective to assess and, as appropriate, develop a greenway on the disused railway line.*

5.5. **Section 48 Guidelines**

5.6. **Flood Risk Guidelines** - The Planning System and Flood Risk Management guidelines (DEHLG) state ‘permission should be refused where flood issues have not been, or cannot be addressed successfully and where the presence of unacceptable residual flood risks remain for the development, its occupants and adjoining property. Only developments which are consistent with the overall policy and technical approaches of these Guidelines should be permitted’.

5.7. **Natural Heritage Designations**

The relevant Natura 200 site pertaining to this scheme are (1) Ballycotton Bay SPA, (2) Ballymacoda Bay SPA, (3) Ballymacoda (Clonpriest & Pillmore) SAC, (4) Cork Harbour SPA, (5) Great Island Channel SAC, (6) Blackwater River (Cork/Waterford) SAC and (7) Blackwater Estuary SPA.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. There are three third party appeals on the file from:

- 1) Mary Hynes & Others, Mogeely, directly opposite the appeal site
- 2) David Hughes-Jones, Atlantic Shell Fish Ltd
- 3) Noonan Linehan Carroll Coffey on behalf of Saleen & District Residents Association, Midleton, Co Cork

6.1.2. The issues raised may be summarised under the following general headings:

6.1.3. **Decision** – The decision to grant permission is inconsistent with the proper planning and sustainable development of the area in particular having regard to the receiving environment for the outfall pipe proposed. The outfall proposed to Cork Harbour is unnecessary and highly undesirable. The Council has struck the wrong balance when weighing the respective interests of the parties concerned and has given undue weight to the agri-food operation to the potential or actual detriment of residents, amenity users and other commercial uses active in Cork Harbour and its environs.

- 6.1.4. **Inadequate Information** – Reference is made to the report of Cork County Council Traffic & Transport Further Information 14th July 2017 that suggest that there is inadequate information presented on traffic and no information on impacts from the removal of excess excavated material from the site.
- 6.1.5. **EIA Directive / Alternatives** – In the present case it is submitted that the information presented by the developer in its EIS and otherwise is insufficient to meet the requirements of the EIA Directive in so far as the duty is on the developer to present specified information. This is particularly so in regard to the consideration of alternatives and their impacts. The absence of consideration of alternatives to the proposed outfall is particularly criticised. This is a mandatory obligation and as it has not been met therefore the Planning Authority and the Board is precluded from granting permission. It is stated that “logically therefore the Board is unable to lawfully grant permission in the circumstances”. Reference is made to the case of *Holohan & Others, Applicants and An Bord Pleanála & Others, Respondents (2017)*. Reference is also made to the report of Cork County Council Environment Report dated 27th July 2017 where reference is made to the failure to give further consideration to alternative disposal routes and notes that the applicant’s consideration of alternative options is limited. The report also concludes that consideration should be given to whether the requirements of best available technology have been met in this case.
- 6.1.6. **Habitats Directive** – The development poses a significant threat to the Great Island Channel SAC and the Cork Harbour SPA. Having regard to the strict requirements under the Habitats Directive the application should be refused. The particular vulnerability of the habitats within Cork Harbour require that no avoidable risks should be taken and this development is clearly such a risk. The approval by the Council is contingent on mitigation measures working as designed at all times in perpetuity. It is submitted that this is an unreasonable basis for making a decision to grant permission. Further submitted that the arguments contained in the observations by the appellants, An Taisce and by Dr Gordon Reid and Catriona Reid have not been dealt with by the Council and that there is no reasonable scientific doubt as to the effects of the development on protected sites. Considered that the Board is in no better position than the Council as matters stand.

- 6.1.7. **EPA License** – The decision was made in the absence of definitive information about the terms of any EPA license governing the proposed discharges. It is noted that the EPA and An Bord Pleanála have a protocol which could and should have been invoked by the local authority but wasn't. In the absence of a full comprehensive assessment based on facts rather than speculation it is not open to the Board to grant permission. Submitted that both Irish Fisheries Ireland and An Taisce submission express concerns about the effect of discharges on receiving waters and that the receiving waters are only of moderate status under the Water Framework Directive and therefore at risk of not achieving good status by 2021.
- 6.1.8. **Height / Overshadowing** – The ground where the factory is proposed to be built is 1.8m above road level. The proposed building is 14m high. Therefore, the building will be c15.8m above road level. The residential development across the road is 40m from the proposed scheme and it is therefore blocking light. Submitted that it will also overshadows these houses. The overshadowing analysis is inaccurate. Noted that the existing silos are at similar height and while further away they block some evening sunlight.
- 6.1.9. **Noise** – Presently the noise from the fans coming from the existing building is so loud at times that residents across the road cannot open their windows, especially in the summertime. This has been reported to both Dairygold and the EPA on numerous occasions. The noise has a significant impact on the daily lives of adjoining residents. The existing building is 200m away from residents. The proposed building is 40m from the housing estate and is planned to operate 24 hours a day.
- 6.1.10. **Odour** – The odour that is endured by residents on almost a daily basis has caused huge upheaval as residents cannot open windows, sit in their gardens etc. This has been reported on numerous occasion over the years to both Dairygold and the EPA. Residents' odour log attached together with a copy of EPA Site Visit Report SV12445. Dairygold has claimed absolutely no responsibility but has been assessed by the EPA. Dairygold was found in breach of condition 5.2 of the facilities EPA license relating to odours.

- 6.1.11. **Flooding** – Mogeely is in a flood zone area and adjoining houses cannot be insured against flooding. If Dairygold raise the ground level it put adjoining properties at further risk of flooding in the future.
- 6.1.12. **Traffic** – Concern raised about the extra traffic volume of large mild trucks coming at all hours of the day and night. This will have a direct negative impact on the residents by reason of noise and pollution. Further concerns are raised regarding increased traffic chaos and delays in the village of Mogeely by reason of extra traffic. Parts of both Mogeely Road to Castlemartyr and the L3627 are too narrow in several parts and practically impossible for cars and trucks to pass each other and impossible for two HGVs to pass each other. The extra heavy vehicle traffic will make these roads very dangerous. Further it is almost impossible to for residents coming from Mogeely to Castlemartyr to pass through the traffic lights at the bridge due to heavy volume of traffic from Ladybridge, who have the right of way.
- 6.1.13. **Greenway** – Since planning was originally submitted in December 2016 it has been announced that the old railway line between Middleton and Youghal is going to be a Green Route linking both areas.
- 6.1.14. **Notification & Appeal** – Noted that the permission was granted on Friday 4th August 2017 (bank holiday weekend), notifications were not posted until 8th August 2017. Submitted that this delayed the appeal by 5 days. The online application was not updated until Friday 11th August one week after planning was granted. In addition, as notifications were registered any residents who wasn't home could not get theirs until Saturday 12th August 2017.
- 6.1.15. **Waste Water Discharge Location** –Concern is raised with the choice of the wastewater discharge location at Rathcoursey Point, which lies between four EU designated Shellfish Waters in the North Channel and Rostellan, in the Lower Harbour, and the particular unsuitability of these waters to be used for the disposal of wastewater of any description. More attention should have been given to the *options considered for effluent disposal and the basis for the decision to discharge at Rathcoursey*. It is stated that an open sea outfall is planned imminently for Ballycotton and will be no further away from Mogeely than Rathcoursey Point in the North Channel. Submitted that a connecting pipeline will be needed before long to take any further treated sewage effluent from the agglomerations of Castlemartyr

and Ladysbridge, neighbouring Mogeely, to the proposed long sea outfall at Ballycotton. It would be highly retrograde to add more waste at this juncture to the innermost cul-de-sac of Cork Harbour, where the latest hydrodynamic work shows it will remain for up to 70 days.

6.1.16. **Tidal Flushing** - Overall, there is minimal water exchange in the receiving waters to receive the existing nutrient loads, without adding further to them. Submitted that not only is the dilution not “substantial”, there is hardly any dilution at all, with the residence times in the North Channel given as 64 days and stretching to 70 days at the west end, to which the westerly residual current is taking it. The situation at the appellants 3 designated oyster-beds at Rostellan, which were also the site of oyster beds in the past for the same hydrographic reasons, have a residence time of 47 days. The Rathcoursey Point location for discharging waste products, which is actually sited between these two stagnant areas, could therefore not be worse positioned.

6.1.17. **Rathcoursey Outfall** - The effect of the Midleton WWTP outfall at Rathcoursey is clearly shown in the EPA’s Envision Map of the trophic status in Cork Harbour in 2007-2009. There is only one significant discharge in the North Channel, which is the Rathcoursey Point discharge, which has lowered the trophic level of the North Channel to “Potentially eutrophic”. The residual flow is shown to be a substantial 1.2km per tide, flowing to the west. This means that any extra input of nutrients at Rathcoursey Point will inexorably be carried to the far west end of the North Channel where they will accumulate and where there is also the highest residence time of the water at 70 days.

6.1.18. **Toxic Algae** - The North Channel is subject to serious toxic algal blooms of the most dangerous variety. The North Channel is one of just two areas in the country (the other is Belfast Lough) where there is the risk of the most dangerous of the toxic algae reaching bloom conditions when their cells produce saxitoxins, often quoted as being 1,000 times more potent than cyanide. These biotoxins are taken up by shellfish, , and these will then be passed on to consumers of the shellfish, causing Paralytic Shellfish Poisoning (PSP). It is considered hazardous to stimulate such blooms by adding further nutrients to a situation which is at present on the cusp of getting out of control. The Owenacurra Estuary and the Greater Island North

Channel have both now been designated EU sensitive waters. This means that their nutrient status has to be taken into account.

6.1.19. **Dairygold Gas Discharge** – Concern is raised with the addition of Nitrogen (N) and Phosphorous (P) from the Dairygold discharge. The Irish Water Study for Dairygold notes that the eutrophic limit is already being exceeded for 32 psu salinity water, without the addition of any further nutrients. The EPA have put the Middleton WWTP at the top of their National Priority Enforcement List of the 7 worst performing WWTPs in the Country. A comparison of the storm overflows from WWTPs around the country in 2011 and 2012 found that the Midleton collection network accounted for nearly half the “storm” water overflows report for the entire country. Midleton is one of the agglomerates included in the EU Commission’s Letter of Formal Notice to Ireland – EU Infringement Case NO. 2013/2056 of September 2013.

6.1.20. **Effect of Additional Dairygold Effluent entering the designated sensitive water of the Owenacurra Estuary/North Channel** - The Midleton WWP 10,000 PE nominal plant capacity is constantly exceeded, both biologically and hydraulically. At times the biological load is consistently 170% of the design capacity and hydraulically is constantly over three times the design throughput. If the WWTP is to comply with the foreshore licence requirements of 5/6 spills p.a. and less than 1.5% of storm run-off to be spilled, then *this storage capacity would require the construction of storage tanks with a capacity of 130-140 times the capacity of the existing storage tanks. Based on an average tank height of 5m, the area of the storage tanks would be up to 52,500m², or 5.25 hectares.* As such tanks would cover about 5 football pitches by 5m high. The provision of this level of storage capacity is not practical or feasible. Midleton is one of the WWTPs singled out for non-compliance with secondary treatment for the Urban Wastewater Treatment Directive in the current EU Reasoned Opinion 2013/2056, which is awaiting hearing at the European Court of Justice and it is at the top of the EPA’s National Priority Enforcement List for failing WWTPs. Dilution simply does not exist at Rathcoursey Point and the North Channel is a very shallow virtual cul-de-sac. The addition of what will become a very large discharge (4,000m³), which contains especially phosphorous and into an area which has virtually no tidal exchange and modelled and calibrated water residence times of 64+ days in the North Channel upstream and 47 days in the NE corner of the lower harbour downstream, with an inward residual

current of 1.2km per tide, carrying all the waste nutrients up to the far west end of the North Channel where the residence time is 70 days.

- 6.1.21. **Ebbtide Discharge** - The discharge is required to be made on the ebb tide only. This regime was insisted upon by the Department of Communications, Marine and Natural Resources in May, 1992. The Dairygold proposal is to establish storage tanks at Mogeely and regulate the flow from there. Considered that to expect that to work out, with the precision required, over 14km of pipeline is unlikely.
- 6.1.22. **Operator Error** - In April, 2013 Dairygold was convicted at Midleton District Court by of three charges under the 1959 Fisheries Consolidation Act and the Local Water Pollution Act. Dairygold was fined the maximum possible under the legislation which was €12,000. It was thought that 20,000 juvenile salmon, trout and lamprey eel had been killed in the River Kiltaha, because an operator had forgotten to turn off an insecticide spray, which had drained to the river. The Inland Fisheries Inspector is reported as advising the judge that it would have required 50,000 dilutions “to bring it down to a safe level”. Such errors could have devastating consequences to crops of shellfish worth millions of euros. As well as our own earlier production of 200 tonnes p.a. of oysters, Fota Oyster Farm, now under French ownership, continues to produce more than that in the North Channel.
- 6.1.23. **Environmental Safety** - A belt and braces approach is required for environmental safety. Most of the faecal pollution of oyster beds in the world today reaches them via municipal discharges and for this reason the public has, for a long time, been protected in the USA from receiving contaminated oysters by placing a buffer zone around the discharge point and the EU is expected to shortly follow suite. The size of buffer zone depends on the dilutions available at the discharge point and on the degree of contamination that might come down the pipe. Unless, for instance, a WWTP can be guaranteed to be operating all the time within its design parameters, without exceptions that have not been agreed in advance, a dilution of 100,000:1 is required. Although the Dairygold discharge should not be immediately dangerous either to the oysters or members of the public, who consume them, adequate dilution is quite definitely needed as insurance against mishaps and the very real possibility of tipping the balance towards full blooms of PSP in the North Channel.

6.1.24. **Conclusion** - This scheme is utterly retrograde step of disposing industrial waste to a shallow, nearly eutrophic backwater of Cork Harbour, 10 km from the open sea, with a computed residence time of more than 60 days, which can be put to use to produce some of the finest quality oysters in Europe and employ 20 people.

6.1.25. The appeal by Noonan Linehan Carroll Coffey on behalf of **Saleen & District Residents Association** asks that particular attention is paid to the following documents on file:

- Submissions by Saleen & District Residents Association to Cork County Council
- Submission by Dr Gordon Reid
- Submission by the HSE dated 5th January 2017
- Submission by Inland Fisheries Ireland dated 9th January 2017
- Submission by An Taisce dated 20th January 2017
- EPA letter dated 23rd December 2016
- Cork County Council Environment Report dated 27th July 2017
- Cork County Council Traffic & Transport Further Information report dated 14th July 2017
- Ecologist Primary Report dated 9th February and Further Information Response Report dated 3rd August 2017.

6.1.26. The appeal by **Mary Hynes & Others** was accompanied by the following:

- EPA Site Visit Report SV12445 issued 4th August 2017. The report states inter alia that *due to the findings of the odour assessment and the subsequent post assessment site visit to your facility, it is the opinion of this Inspector that the activities occurring on the premises of Dairygold Food Ingredients, Mogeely, Co. Cork were in breach of Condition 5.2 of the facilities EPA License (Odour). The report states that it appear to the Inspector that the intercept tanks was the primary source of the odour at the time of the inspection.*
- Report from RedFM.ie entitled "The EPA has carried out an investigation after receiving complaints in recent weeks about a small in a North Cork Town"

6.1.27. The appeal by David Hughes-Jones, **Atlantic Shell Fish Ltd** was accompanied by 21 references including the following:

- J.B. Barry and Partners “Midleton Sewerage Scheme – WWTP upgrade” June 2006.
- Cork CCC WSIP “Brief for the engagement of a Consulting Engineer/client’s Representative” August 2007.
- WYG Report on Upgrading of Wastewater Treatment Facilities at Midleton, Castlemartyr, Cloyne, Caleen and Ballycotton Cost Benefit Analysis for Alternative Outfall for Midleton WWTP”, July 2009.
- “An integrated approach trophic assessment of coastal waters incorporating measurement, modelling and water quality classification” M. Hartnett, S. Nash*, I. Olbert (College of Engineering and Informatics, National University of Ireland, Galway, Ireland) 2012.
- Mott MacDonald Report, “Assessment of Pump Station Overflows”, August 2011.
- “Modelling Alexandrium bloom dynamics in Cork Harbour, Ireland”. PhD Thesis of Aoife Ni Rathaille, June 2007.

6.2. Applicant Response

6.2.1. The first party response, prepared by Malachy Walsh & Partners on behalf of the applicant was submitted in two parts. The first submission was a response to the appeal by Mary Hynes & Others with the second a submission a response to the appeal by David Hugh - Jones, Atlantic Shell Fish Ltd and Saleen and District Residents. Both submissions may be summarised under the following general headings:

6.2.2. **General Information** – Two potentially viable options for the project location within Dairygold landownership were investigated at Mogeely and Mitchelstown. Following detailed qualitative and quantitative assessment of the raw material (milk) knowledge and application of the production techniques, it was determined that the preferred option to meet worldwide consumer market demand for Jarlsberg would be to co-locate with Dairygold in Mogeely necessitating the expansion of existing facilities into adjacent lands. Due to the topography of the existing field the level of the existing

ground will be raised at the southern end of the site so that a level plateau will be created to accommodate the new production building

- 6.2.3. **Height & Overshadowing** – Reference is made to the Solar Study Assessment as detailed in the EIS, the Further Information submitted and the report of the Case Planner who was satisfied that the proposal would not result in an unacceptable loss of light / amenity for 3rd party dwellings. Submitted that as a check the applicant has looked at the angle of the sun at 18.00hrs on 31st March and the 22nd September and calculated the length of the shadow produced by the proposed building using Photographers Ephemeris software. Submitted that the houses at Cois Maigh are not in shadow of the building at this time.
- 6.2.4. **Noise** – Reference is made to the Noise Assessment in the EIS. Submitted that as the noise emissions from the proposed re-development and expansion of the cheese plant are not predicted to increase at any of the nearest noise sensitive receptors it can be concluded that the cumulative impact will not increase either.
- 6.2.5. **Odours** – Reference is made to Chapter 12 of the EIS. The installation of a high efficiency odour control system is an integral part of the upgrade program to further control and reduce odours from the various plant components.
- 6.2.6. **Flooding** – Reference is made to the Flood Risk assessment set out in the EIS. There will be no increase in the maximum rate / volume of surface water run-off to the proposed development and consequently there will be no change or impact on the Kiltha River or surrounding areas. The EIS concluded that for the main site there was a very small area at the southern end of the site which is Zone B. It is proposed that this area is to be reshaped by the new entrance road so that there is no loss to the flood plain due to the proposed works. The flood plain is not affected by the proposed development.
- 6.2.7. **Traffic** – Reference is made to the Traffic & Transport Assessment set out in the EIS together with the further information submitted. In summary the predicted peak season additional traffic volumes generated by the proposed development, when fully operational, would increase morning and evening peak traffic hour traffic volumes on the N25 at the L3805, in Castlemartyr, by no more than 0.4%. Submitted that in order to remove any impact on the junction with the N25 at Castlemartyr, the mobility Management Plan will be amended so that no additional

traffic will use this junction during the morning peak. Additional staff on the site will start work at 07.00am and so avoid the morning peak traffic between 07.30 and 09.30am. As part of the Dairygold development planning permission a special contribution will be made towards the cost of upgrading the junction in Mogeely Village towards the pedestrian facilities at the N25 junction in Castlemartyr.

6.2.8. **Old Railway Greenway** – The applicant welcomes the creation of the Greenway between Midleton and Youghal along the line of the old railway and which will pass through Mogeely Village. Submitted that as part of the Dairygold development significant investment will be made in the provision of footpaths, public lighting, road improvements and public areas on both the northern and eastern perimeters of the site and that will add significantly to the villages amenity.

6.2.9. **Consideration of Effluent Disposal Discharge Alternatives** – Reference is made to Item 9 of the Further Information response where it states that Dairygold considered a number of local solutions for the disposal of treated effluent, none of which was feasible. The next option was to consult with Irish Water who undertook their own review and advised that there was capacity at Rathcoursey and agreed to accept an intermittent discharge (on the ebb tide as per their WWDA) at the outlet of Rathcoursey Tidal Tank. The Senior Engineer in their report states that *it is reasonable for the applicants to rely on the statutory provided to identify a suitable connection location.*

6.2.10. **Ballycotton Outfall** – The Ballycotton outfall was not considered by the Applicant or identified by Irish Water. It was not possible as the existing outfall would not have capacity for the proposed connection. While a Foreshore License has been issued for a proposed treated effluent outfall at Ballycotton, into Ballycotton Bay (not the open sea) it is noted that the Wastewater Discharge Authorisation (WWDA) application and WWDA issued was for Ballycotton only (strictly domestic) and for the treated effluent from 1,420 p.e.

6.2.11. **Suitability of receiving water at Rathcoursey Point** – In response to the request for Further Information (Item 6) Dairygold referred the request to Irish Water as the owners of the outfall. They in turn appointed Irish Hydrodata (IH) to prepare the model and detailed impact assessment. The IH 2D Model of Cork Harbour used the published EPA monitoring in their Harbour Model and carried out a “worst case”

assessment of the maximum Dairygold discharge at Rathcoursey point. The specific response to Atlantic Shellfish Ltd may be summarised as follows:

- **Tidal Flushing** – The “new” flushing waters in this case are from the lower harbour and not from the open sea. The 2017 Irish Hydrodata Report notes that the North Channel empties to a large degree at low tides and estimates a flushing time between 3 days (Neap Tide) and 6 days (Spring Tide).
- **Modelling of Cork Harbour by NUIG** – The data used to calibrate the NUIG model are two dye releases carried out and recorded in the 1977 Cork Harbour Pollution Report at Marino Point and Camden i.e. remote from Rathcoursey Point and the North Channel. The hydrodynamic model constructed by Irish Hydrodata in their 2017 report is specific to the Rathcoursey Pont and used a dye studies carried out at that location for calibration.
- **Trophic Status** – The current Water Framework Directive (WFD) status of Cork Harbour is set out in the Irish Hydrodata Report. The status will not be changed by the proposed discharge.
- **Nutrient Dispersal** - The 2017 Irish Hydrodata Report specifically addresses this issue in Sections 4.7 & 4.8 of their report, Section 4.7 gives the simulated results for N, P, BOD and SS dispersion while Section 4.8 summarises the results.
- **Residual Flow in North Channel** – Section 2.5 of the Irish Hydrodata Report states that *the speeds on the flooding tide are stronger than on the ebb, with the flood lasting for about 6 hours and the ebb for the remaining 6.42 hours. The high water slack lasts for less than 30 minutes.* The difference in the length of Flood and Ebb tides would account for the difference in velocities.
- **The Addition of Nitrogen (N) and Phosphorous (P) from the Dairygold Discharge** – The 2017 Irish Hydrodata Report specifically addresses this issue in Sections 4.7 & 4.8. The report concludes that *model results show that the addition of the Dairygold discharge will increase the average background DUN by less than 0.02 mg/l N and the PO4 by less than 0.002 mg/l P. These additions to the existing background levels will not cause the EQS to be reached.*

- **No Allowance for Untreated Sewage** – All existing nutrients inputs to the Owenacurra River, whether from farming, Combined Sewer Overflows or any other source, are accounted for in the EPA monitoring data and taken into account in the 2017 Irish Hydrodata assessment of the discharge impact. The issues of stormwater spills are occurring in the town of Midleton some 3km. **Discharge on the Ebb Tide** – The WWDA licence (D0056-01) issued to Cork County Council sets out a requirement that all discharges a Rathcoursey Point outfall are to be on the ebb tide. It is for Irish Water and Cork County Council to comply with that condition for their discharges.

6.2.12. **Good Practise** – In terms of operator error reference is made to Condition No 14 of the notification of decision to grant permission that requires continuous monitoring on the outlet from the WWTP prior to forward feed to the holding tank at Rathcoursey in addition to other safeguards that are included in the design of the WWTP.

6.2.13. **EIS / Alternatives** – EIS Volume 2 Chapter 3 documents the main alternatives considered by the developer as part of the project and set out the main reasons which led to the selection of the final project proposal. Submitted that the information provided in relation to alternative in the EIS, complies with the requirements of the 2011 Directive and paragraph 1(d) of Schedule 6 of the Plannign and Development Regulations 2011 as amended. It is also considered relevant that Cork County Council Senior Area Engineers Report of 31st July 2017 concluded that it was *“reasonable for the applicants to rely on the statutory provider to identify a suitable connection location. This response is adequate.”*

6.2.14. **Appropriate Assessment (Risk to the Great Island Outfall SAC and the Cork Harbour SPA)** – The submission of the NIS by the Developer and further information including details on the characteristic of the wastewater; the Irish Hydrodata Report; and the Malachy Walsh and Partners Report entitled “Evaluation of the Risk Adverse Impact on Cork Harbour SPA and Great Island SAC was provided to assist the Planning Authority in carrying out such an assessment. The detailed assessments undertaken and made available to the Planning Authority scientifically demonstrate that the proposed discharges either alone or in combination with discharges from Midleton Municipal WWTP and Irish Distillers Ltd would not significantly change the water quality of the receiving waterbody and that the proposed development would not adversely affect the integrity of the relevant European Sites in view of its

conservation objectives and the conservation status of its Special Conservation Interests (SCIs).

6.2.15. **Decision made in the absence of EPA License** – The impacts of the discharge to Cork Harbour on the basis of the information furnished by the Applicant in relation to the predicted emissions level and water quality levels that will be achieved by the proposed development.

6.2.16. The submissions were accompanied by the following:

- Drawings dated 11th March 2016, 24th October 2016, 25th October 2016, 26th October 2016, 7th November 2016, 25th November 2016 comprising Flood Zone Map, Shadow / Solar Studies, Elevations and Layout.
- Summary of the matters set out in the materials referenced by the Appellants (Table 1 refers)
- Copy of unsolicited further information submitted to the Planning Authority on 26th January 2017

6.3. Planning Authority Response

6.3.1. **Cork County Council** in their submission dated **2nd October 2017** set out the following as summarised:

- The principle of the development is acceptable and supported by the County Development Plan
- The impacts on Mogeely village are considered to be acceptable subject to the mitigation measures proposed.
- Based on the details submitted in the applicant's response to the request for further information, the Planning Authority was satisfied that the development does not pose a significant risk to the Great Channel SAC or the Cork Harbour SPA. In this regard, reports of the Councils Environment Directorate, Water Services Department and the Council's Ecologist address the potential impacts on these Natura sites.
- The processing for EPA Licenses is separate to the planning code. Nonetheless the reports of the Environmental Directorate and Water Services

accept that the water modelling exercise concludes that there will be no exceedance of statutorily established environmental quality standards.

- In respect of alternatives for the discharge the County Council is satisfied that there has been a reasonable exploration of alternatives. Further the public body (Irish Water) with the responsibility for municipal effluent disposal confirmed the feasibility of the discharge of Rathcoursey.

6.4. Observations

6.4.1. There are three observations recorded on the appeal file from (1) David Condon, (2) Gordon Reid & Others and (3) Patrick & Vera Foley. The submissions may be summarised as follows:

- The suggested method of disposing of the hazardous waste products from this proposal will be damaging to the health and wellbeing of local residents and local amenities. Dairygold proposed to discharge 3 million litres (minimum) of waste water every day through the existing holding tank outlet at Rathcoursey, East Ferry pumping station which is currently almost at full capacity pumping Jameson's (Diageo) waste water and the greater Middleton's areas of semi treated sewage into the estuary.
- There are significant risks associated with the discharge proposals. Dairygold's waste water or FOG (fats, oils and grease) one of which is not soluble in water, is piped under roads a distance of 12.5 km from Mogeely. Submitted that this FOG cannot be properly monitored prior to discharge. If this scheme is permitted the extra discharge of FOG it will cause irreversible damage to wildlife, spawning fish, sea vegetation, tourism, sea angling, yacht and boats clubs. At low tide the smell from the sewage is very evident and the fear in the local community is that this proposal will add to the smell and make it an unpleasant area to live and visit.
- Submitted that there is a more direct route from Mogeely to the sea, nearly half the distance. Queried why this route was not considered. Queried why FOG water cannot be further purified in extra holding tanks at Mogeely until the waste water is purified and fit for discharge.

- There is a lack of knowledge in the NIS of the potential for upstream pollution (i.e. into the Great Island Channel SAC). Lack of consideration in the NIS of the fate of pollution released downstream (i.e. into the Cork Harbour SPA). Lack of analysis in the NIS of the possible deposition of FOG on the surface mudflats, and the effect of such deposition on deeding birds. Lack of consideration in the NIA of the known rising trend in dioxins / furans in the upper layers of the mudflats that comprise the Cork Harbour SPA, and the possibility for dioxins to be trapped in the fatty layer on the mudflats. Lack of baseline analysis of water quality in the areas affected by the release of effluent to justify the conclusion of the NIS that there will be “no significant effect on water quality”. Based on the foregoing the AA process should have stopped at Stage 2 and concluded that the possibility of adverse effects could not be excluded to the standard of proof required by law. The applicant should therefore be required to proceed to the third stage and to consider alternatives to the proposed discharge of wastewater into the Harbour.
- Possible alternatives included (in ascending order of land area likely to be required) constructed wetlands, irrigation of short rotation willow coppice, and irrigation of farmland. All these alternative would completely avoid the release of pollutants into the waters of Cork Harbour and would avoid the possible adverse effects on protected species of the SAC and SPA.
- The submission from David Condon was accompanied by a letter form Waters & Communities highlighting the water around Cork Harbour at risk of failing the Water Framework Directive together with a copy of two newspaper articles as follows:
 - 1) “Ireland Prosecuted Over Raw Sewage in Waters”, Paul Melia, Environment Editor, Irish Independent 16/02/2017
 - 2) “Water Quality Under Threat from Pollution, says Watchdog”, Paul Melia, Environment Editor, Irish Independent 22/06/2017

6.5. Further Responses

- 6.5.1. In response to a letter issued by An Bord Pleanála on 6th December 2017 to the **Environmental Protection Agency** (EPA) seeking general observations and

comment the EPA in their response dated 20th December 2017 set out the following as summarised:

- The most recent license pertaining to Dairygold at Mogeely is Industrial Emissions (IE) License Register No P0817-01 issued on the 21st April 2011 for a milk processing activity. The license was amended on the 16th December 2013 to incorporate the requirements of an Industrial Emissions License. Details are available on the Agency's website.
- Before any license review application is granted, the license will be made subject to an Environmental Impact Assessment. Consultation on the license application and EIS will be carried out as appropriate. An Bord Pleanála will be required to provide the documentation relating to the EIA that shall carried out.
- The Agency cannot issue a Proposed Determination on a license application which addresses the development above until a planning decision has been made.

7.0 Planning Assessment

7.1. Dairygold Co-operative Ltd is planning to build a second cheese manufacturing plant at their existing dairy production facility located in the village of Mogeely, Co. Cork. The facility is currently operating under IEL (P0817-01) issued by the EPA in 2011. The present (2015) annual through-put of milk is 120,000 Tonnes producing 12,000 Tonnes of cheese. The proposal is to increase the processing capability of the installation up to a total of 365,411 Tonnes of milk producing 37,500 Tonnes of cheese by 2025. This will involve the construction of a new production and storage/packing building located to the east of the present manufacturing building on a Greenfield site.

7.2. Therefore Dairygold Co-Operative Society Ltd, propose to redevelop and expand its Dairygold Food Ingredients (DFI) speciality cheese manufacturing facility located at Mogeely, Co. Cork. The development proposals are to facilitate a new cheese manufacturing line which will increase the processing capabilities of the site and expand the range of speciality cheeses produced on-site. This will involve the redevelopment and reorganising of the current facility and site in order to improve its operation, and the construction of a new cheese factory in the green field immediately east of the site. While a detailed description of the proposed works is provided in Section 2.0 of this report, the proposed works to the current site and the field adjacent to it can be summarised as follows:

1) Core Development Elements:

- Modification and re-organising of the existing on-site cheese facility
- Construction of a new cheese production building on a Greenfield site east of the existing Dairygold cheese facility
- Upgrading of the on-site facility Waste Water Treatment Plant (WWTP)
- Installation of an underground discharge pipeline from the facility WWTP to the public discharge outfall at Rathcoursey

2) Associated Development Components

- New and modified vehicle site access arrangement
- New and modified internal vehicle circulation routes and pedestrian walkways (footpaths)

- Revised parking areas
- New plant (including reverse osmosis plant) and overground distribution pipe network
- New and modified drainage and run-off control systems
- New tanks
- New external lighting provisions
- Boundary landscaping (planting of trees and shrubs)

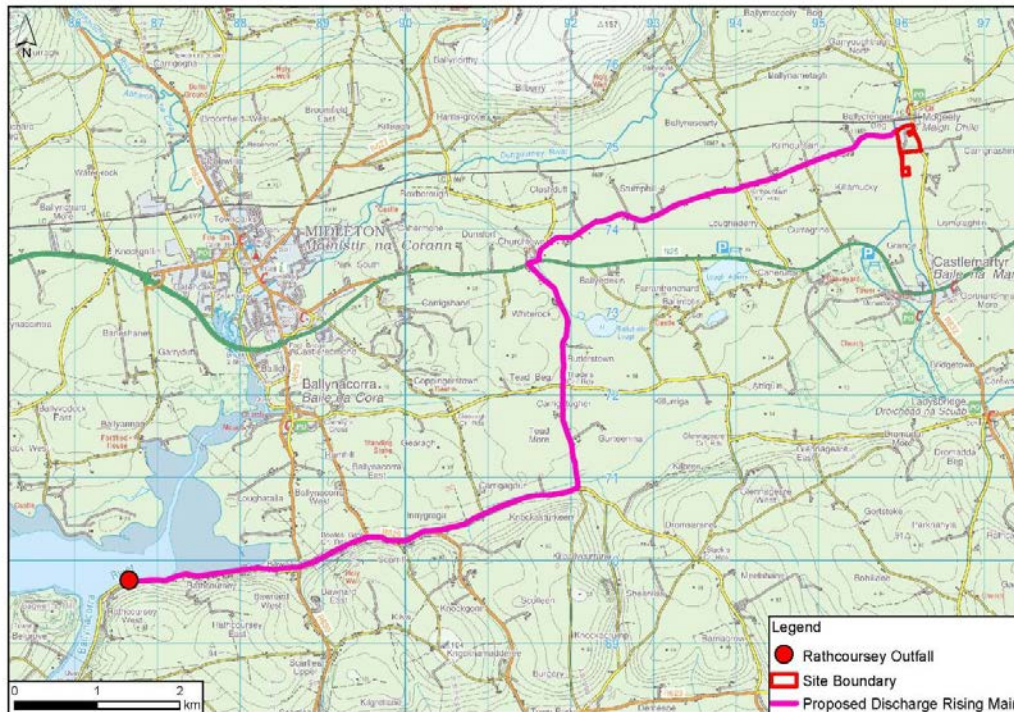


Boundaries showing current site layout (blue) and proposed development lands (red) (Source Figure 2, EIS-Volume 1 Non-Technical Summary, Page 7)

7.3. The proposed works out with the existing site can be summarised as follows:

- 3) Installation of an underground Pipeline to convey treated water from the Facility to a discharge point at an existing outfall at Rathcoursey West, Midleton, 10.6km to the south west of the Facility. The Pipeline route will utilise the L3627 road corridor as far as the Two Mile Inn, thrust boring under the N25, heading south along the L3628, west along the L3630, R629 and L3639, thrust boring under the R630 and utilising the L3629 road to the outfall

at Rathcoursey West, including all necessary pipeline connection, drainage and vent infrastructures.



Route of proposed discharge pipeline from Mogeely along public road to Rathcoursey outfall (Source Figure 6, EIS-Volume 1 Non-Technical Summary, Page 7)

- 7.4. The project will require demolition and construction works which are estimated to take place over an 18 month period in accordance with procedures set out in an Outline CEMP which has been submitted
- 7.5. The application was submitted to Cork County Council on the **8th December 2016**. Unsolicited information was submitted to Cork County Council on **9th January 2017**. Further unsolicited information was submitted to Cork County Council on **30th January 2017**. In response to a request for further information on 9th February 2017 the applicant submitted further information on **30th May 2017**. Following a request from Cork County Council revised public notices were submitted on **12th June 2017**. Accordingly this assessment is based on the plans and particulars submitted on 8th December 2016, 9th January 2017, 30th January 2017, 30th May 2017 and 12th June 2017.

- 7.6. I note the concerns raised in the appeal regarding the inadequate presentation of information regarding traffic with no information on the impacts from the removal of excess excavated material from site. Together with my site visit I am satisfied that there is adequate information available on the appeal file to consider the issues raised in the appeal and to determine this application. I would also point out for the purpose of clarity that the development proposed is considered “de novo”. That is to say that the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application.
- 7.7. The concerns raised regarding the dates of notification of decision to third parties and the implications for time permitted to appeal the decision are noted. However I do not consider this to be a matter for An Bord Pleanála. It is not for An Bord Pleanála in this instance to determine whether the application was in breach of the Planning and Development Regulations 2001. I do not therefore consider these issues in this context to be material to the consideration of this appeal and therefore I do not propose to deal with these matters in this assessment.
- 7.8. Cork County Council issued a notification of decision to grant permission on 4th August 2017 subject to 32 conditions. The decision has been appealed by 3 no third parties; (1) Mary Hynes & Others, (2) David Hugh - Jones, Atlantic Shell Fish Ltd and (3) Saleen and District Residents. Having regard to the information presented by the parties to the appeal and in the course of the planning application and to my site inspection of the appeal site, I agree with the Cork County Council Executive Planner and Senior Planner that proposed discharge to Cork Harbour has generated the most contentious and contested aspects of this proposal and in particular the proposed effluent discharge solution and its perceived negative consequences to Cork Harbour (a Natura 2000 site). I also agree that the key issues pertaining to the assessment of this application include:
- The scale of the proposed plant and its impact on the village of Mogeely, in terms of visual integration, traffic impacts and impact on residential amenity.

- Ecological impacts, in particular those associated with the proposal to discharge process waste to the Harbour at Rathcoursey.
- Flood related issues.

7.9. Accordingly I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:

- 1) Principle / Policy Considerations
- 2) Traffic Impact
- 3) Residential Impact
- 4) Consideration of Alternatives
- 5) Waste Water Treatment
- 6) Discharge at Rathcoursey Point
- 7) Flooding
- 8) Development Contributions
- 9) Other Issues
 - EPA License
 - Railway Greenway
 - DMURS
 - Operator Practise
 - Invasive Alien Species
 - Exported Sludge
- 10) Environmental Impact Assessment
- 11) Appropriate Assessment

8.0 Principle / Policy Considerations

8.1. The proposed new Speciality Cheese production building is being developed on an area of land that is currently a 'green field' site, east of the existing main cheese plant building at Mogeely. The new cheese production building while it will share utilities and milk reception facilities with the existing plant, it is stated that it will be an independent manufacturing plant and will include its own raw milk processing facilities, production and packing equipment, stores and CIP system. The new

cheese production building will also include a two storey administration block at the southern end providing offices, meeting rooms, canteen and sanitary facilities. The development also comprises the upgrading of the on-site facility Waste Water Treatment Plant (WWTP). As the Kiltla River does not have the capacity to accept the increased volumes of treated wastewater from the expanded facility it is proposed to discharge treated process effluent into Cork Harbour at Rathcoursey. Therefore the installation of an underground discharge pipeline from the facility WWTP to the public discharge outfall at Rathcoursey. It is stated that the development will generate an additional 67 jobs, and consolidate and strengthen the role of Mogeely as an important agri food processing location.

- 8.2. The operative Plan for the area is the Cork County Development Plan 2014 and the East Cork Local Area Plan 2017. Objective EE 4-4 of the County Development Plan recognises the importance of the agri-food (and fisheries) section as being Ireland's largest indigenous industry and that a key element in the County's strategy to protect and enhance the County's rural areas is to provide support and encouragement for a dynamic, innovative and sustainable agriculture and food production sector. The Plan also summarises key goals of Government Policy (Food Harvest 2020) in respect of agri-foods, which includes targets for expansion of the industry.
- 8.3. The East Cork Local Area Plan 2017 recognises agriculture as a key economic activity throughout the District both in direct farming of land and in food processing with significant dairy processing industry located in the village of Mogeely. The main building work element of the appeal site is on a greenfield site within the designated development boundary for the village. The area of the proposed waste water treatment plant upgrade and the underground pipeline from the facility to the existing outfall at Rathcoursey are outside the designated envelop of the village boundary.
- 8.4. Given the long established use of the cheese production facility at the site, the proposal before the Board is considered an extension to the existing agri food facility. I agree with the Planning Authority that in general planning policy terms, the proposed land use is generally consistent with the County Development Plan and Local Area Plan and there is no objection to the proposed scheme in principle land use terms.

8.5. In addition to the foregoing the proposed development also comprises the demolition of the following buildings and associated services:

- Dairy and Maintenance Workshop Building;
- Packaging Store;
- Boiler House and 3 No. stacks (33.9m high);
- Canteen;
- Reception and Office Building;
- Generator Building and removal of all associated Redundant Tankage.

8.6. The buildings to be demolished are not listed in the record of protected structures and neither are they located within a designated conservation area. Further, the buildings do not in my view, have any distinctive architectural merit and I do not consider that they makes any significant contribution to the area in terms of visual amenity or character. Accordingly, there is no objection to the proposed demolition of these buildings.

8.7. Having regard to the foregoing I agree with the Cork County Council executive Planner that *ultimately the proposed development is considered to be an expansion of a long standing agri- food facility, well established within an existing settlement boundary.* As such the proposal would appear fully compatible with the aims/objectives of the CDP and LAP and is thus considered to be acceptable in principle subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

9.0 Traffic Impact

9.1. Concern is raised in the appeal regarding increased traffic volumes of large milk trucks coming at all hours of the day and night and the associated negative impact on residents by reason of noise and pollution. Further concern is raised regarding increased traffic in the village of Mogeely and capacity of the adjoining road network.

9.2. The main access to the existing facility is provided on the west side of the L3805, approximately 30 metres south of its junction with the L3627. Currently staff and all milk delivery traffic accessing the site use this entrance. There are also additional existing gated vehicle entry/exit points to the site along the northern boundary which

facilitate access directly to/from the L3627. It was noted on day of site inspection that these were closed and their use appeared to be infrequent. A gated access is also currently provided to the existing Greenfield lands (the site of the proposed expansion) from the L3805 approximately 330m from south of the L3805/L3627 junction. The scheme before the Board comprises the closure of these existing 3 entrances and the construction of new entrance for HGV traffic off the L3627 on the northern site boundary together with the construction of a new entrance for staff and visitor car traffic only off the L3805 Mogeely-Castlemartyr Road on the eastern site boundary.

- 9.3. Once operational the proposed development would facilitate a total of up to 67 additional operational staff during peak season. This would increase existing peak season staff numbers from 94 staff to 161 staff. It is envisaged that additional staff working hours would be similar to existing. Accordingly, the majority of staff would have work start and finish times outside the main peak traffic periods. Parking at the proposed development will be in accordance with the parking standards set out in Cork County Development Plan. A total of 124 car parking spaces is proposed for the development to cater for all staff and visitors, including off-peak shift changes when short-period increased car parking demand occurs. Dedicated sheltered cycle parking and motorcycle parking will also be provided.
- 9.4. The predicted peak season additional traffic volumes generated by the proposed development, when fully operational, would increase morning and evening peak traffic hour traffic volumes on the N25 at the L3805, in Castlemartyr, by no more than 0.4%. Submitted that in order to remove any impact on the junction with the N25 at Castlemartyr, the mobility Management Plan will be amended so that no additional traffic will use this junction during the morning peak. Additional staff on the site will start work at 07.00am and so avoid the morning peak traffic between 07.30 and 09.30am. Also stated that as part of the Dairygold development planning permission a special contribution will be made towards the cost of upgrading the junction in Mogeely Village towards the pedestrian facilities at the N25 junction in Castlemartyr.
- 9.5. Peak construction heavy vehicles generated by the Mogeely construction site would increase two-way daily traffic volumes by 80 heavy vehicles on local roads. The highest hourly increases would be up to 10 heavy vehicles. Typical, non-peak, construction deliveries would be of the order of 10 to 20 trucks per day with materials

removed from the site during periods of low construction traffic only and with no material transported during the peak traffic hours in the mornings and evenings. Submitted that the eight silos would be transported to the proposed Mogeely development site as abnormal loads by a specialist approved licensed haulier, in consultation with all relevant authorities, including Cork County Council and An Garda Síochána. The new silos will be fabricated in Mallow or Charleville and transported to the site via the national road network (to Castlemartyr). A construction tower crane would also be transported to and from the site as an abnormal load. During peak season, the hourly heavy vehicles generated by the existing site operations would increase by up to two loads during the morning peak and two loads during the evening peak.

- 9.6. The proposed discharge pipeline route, between the proposed development Mogeely site and the Rathcoursey Outfall Tidal Holding Tank, extends for approximately 13.6 km along existing public roads. The average rate of pipe laying would be 150 metres per day. There would be six to eight construction personnel. The total construction period for the proposed discharge pipeline works is 20 weeks. The discharge pipeline construction works would generate 41 heavy vehicle truck loads per day. Working hours on public roads would be from 9.00 a.m. to 5.00 p.m. Monday to Saturday. The total 20 weeks discharge pipeline construction works would require temporary moving construction traffic management along the pipeline route, including alternating one-way stop/go traffic and temporary road closures with local diversion routes. These construction works will result in a series of temporary road closures and stop/go one way systems at various locations. This will be the subject of Road Opening Licences which will determine and stipulate all the procedures and traffic management measures to safeguard the general public, road users and residents along the route during the works.
- 9.7. I refer to the report from Cork County Council Traffic & Transport dated 3rd February 2017 where conditions to be attached to any grant of permission are set out. The conditions relate to the construction of a footpath along the full length of the eastern and northern boundary, compliance with DMURS, existing layby to be retained shall be removed, contribution towards the cost of reconfiguration of the junction in the centre of Mogeely and pedestrian facilities at the N25 junction at Castlemartyr, preparation of a Mobility Management Plan for the N25 Junction at Castlemartyr,

strengthening and resurfacing of stated sections of public road and the requirement for a road opening license for proposed pipeline works. I agree with the conditions proposed and recommend that should the Board be minded to grant permission that similar conditions be attached.

9.8. I have considered the information available on file and I am satisfied that together with my site inspection that there is adequate information available to consider the appeal. With regard to the proposed development construction works I consider that they would have a short-term moderate to significant traffic impact on the local road network. With regard to the operational traffic impact of the proposed development I agree with the applicant that it would be moderate and consistent with existing and emerging trends.

9.9. Given the location of the appeal site together with the layout of the proposed scheme I am satisfied that the vehicular movements generated by the scheme would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area. While there will be a significant interruption during the construction phase particularly along the route of the discharge pipeline from Mogeely to Rathcoursey I am satisfied that this will be short term. Overall I consider the proposal to be acceptable and I am satisfied that the proposed development will not result in the creation of a traffic hazard.

10.0 Residential Impact

10.1. I note the concerns raised in the appeal with regard to the height and scale of the proposed scheme and its impact on adjoining residential properties in terms of loss of light, overshadowing, noise and odours. The proposed works consist of a large footprint main building plus ancillary smaller units, car parking and more operational silos, tanks etc within the existing factory site. The appeal site is proximate to low density housing and is only a few minutes' walk from the centre of the village. With a number of residential properties in close proximity to the site, noise and shadow impacts are potential sources of nuisance. In addition, the relatively large scale of the new processing facility has the potential to visually dominate its neighbours.

- 10.2. **Visual Impact** – The scheme comprises a large new production building on what is currently a Greenfield site. The proposed building is clearly industrial in its design, scale and elevation treatment and will read as an addition to the existing industrial agri-food development site. I agree with the County Architect that while this large structure will alter views from the adjoining houses it remains that it is located within the settlement boundary of the village and represents the extension of a substantial long established agri-food facility. Accordingly the proposed scheme is acceptable in terms of visual impact.
- 10.3. **Height & Over Shadowing** - Concern is raised that residential properties to the east and immediate north of the building are potentially vulnerable to shadow impacts. The buildings at Cois Maigh are a minimum of 36m away from the proposed new production building. The wall of the production building facing the Cois Maigh houses would be 12.6m high. There is a plant room penthouse, the top of which is at a level of 15.05m OD and this is set back 36m from the edge of the building, therefore is 97m away from the houses at Cois Maigh. It is submitted that this set back means that the plant room will not be visible on the ground floor or the first floor of the existing houses in Cois Maigh. I refer to the Solar Study Assessment as detailed in the EIS, the Further Information submitted and the report of the Case Planner who was satisfied that the proposal would not result in an unacceptable loss of light / amenity for third party dwellings.
- 10.4. I am satisfied that the estate to the east (Cois Maigh) will not be significantly impacted by shadowing arising from the development compared to the existing situation. In relation to the individual dwelling to the north of the proposed building, the solar study drawings submitted indicate that the proposed new development would have no negative overshadowing impact on the existing house in summer or at the Spring or Autumn equinox. The only impact is during winter with the maximum impact in December. As part of the overshadowing analysis, the applicants have highlighted that December is the dullest month with approx. 2 hours daily sunshine in the south. The analysis indicates that the proposed development will see the average levels of sunshine received by the dwelling reduce from 1 hour 23 mins daily to 1 hour.
- 10.5. The presence of the new proposed facility in the landscape at this location will have some temporary short term shadow effects on adjoining the cluster of house to the

east at the end of the day in the last hour before sunset. This is particularly true during both the spring/autumn solstice and the summer solstice periods. During the winter periods there is potential for shadow effects to the individual residence due north of the new facility and on the cluster of house to the east.

- 10.6. On balance and having regard to the fact that it is that the overshadowing impact has been shown to be negligible during spring/summer/autumn and having regard to the level of impact during winter, I am satisfied that the proposal would not result in an unacceptable loss of light and amenity to adjoin houses within the designated village of Mogeely.
- 10.7. **Lighting** – it is submitted that the lighting of the site has been designed so that light spill from the site will be minimised and will not exceed 5 lux at any adjacent residence in accordance with the CIBSE Guide to Limiting Obtrusive Light for areas type E2: Rural, Village, Dark Urban Locations. A site plan showing the lighting layout, light types and light spill indicates that the light spill from the development at adjacent residences is less than 1 Lux. It is recommended that should the Board be minded to grant permission that a condition be attached to minimise light interference requiring that all lighting within the site curtilage be directed and cowed so as not to interfere with, or cause any glare or additional light spill to adjoining residential property.

Odours - The issue of odours is addressed in the EIS. It is stated that there have been 12 EPA complaints since 2014. Eight of these complaints relate to odour/smells. The applicant has responded to each of the EPA complaints on or before the EPA specified response due date. The main sources of potential malodours were associated with the existing WWTP. It is stated that the proposed upgraded WWTP will be entirely new with only three of the existing tanks being retained and refurbished for new duties. It is stated that it will be a bespoke biological activated sludge plant particularly suited to the treatment of dairy wastewaters. The installation of a high efficiency odour control system is an integral part of the upgrade program to further control and reduce odours from the various plant components. Therefore as a result of the planned upgrade of the Dairygold WWTP, the potential for odours to be detected beyond the site boundary is considered to be low. Concentrations of malodours such as hydrogen sulphide likely to result in a community nuisance are unlikely with the improvements proposed with

the upgrade of the WWTP. In addition ensuring that the plant is in operated in accordance with best practice and within specifications will reduce the risk of septic conditions and unnecessary emissions from the process. Overall I am satisfied that the proposed operational changes and odour controls within the newly designed WWTP will lead to a reduction in overall emissions of any potential for offensive odours.

10.8. **Noise** - The EIS Noise Assessment has considered the noise impacts during both the construction and operational phase of the development. A noise modelling exercise was carried out by the applicant which concluded that the development would not result in a deterioration in noise levels for nearby residences. It is submitted that the Dairygold facility will decrease at receptors east and south of the proposed development site as a result of the new production building blocking the propagation of sound in this direction. The main noise sources will be located behind or within the production buildings in dedicated plant rooms. Having regard to the information available on file I am satisfied that a combination of the new structure providing a screening effect between the housing to the east and the existing facility including the relatively noisy milk intake area together with the proposed mitigation measures including noise control measures and an acoustic barrier that as the noise emissions from the proposed re-development and expansion of the cheese plant are not predicted to increase at any of the nearest noise sensitive receptors. It can therefore be concluded that the cumulative impact will not increase either.

11.0 Consideration of Alternatives

11.1. Significant and detailed concern has been raised throughout the appeal with regard to the absence of consideration of alternatives to the proposed outfall at Rathcoursey. Reference is made to the EIA Directive and it is submitted that this is a mandatory obligation and as it has not been met therefore the Planning Authority and the Board is precluded from granting permission. It is stated that "*logically therefore the Board is unable to lawfully grant permission in the circumstances*". EIS Volume 2 Chapter 3 documents the main alternatives considered by the developer as part of the project and set out the main reasons which led to the selection of the final project proposal.

11.2. TINE, the Norwegian Company behind the proposed development are Norway's leading dairy company whose flagship product is Jarlsberg Cheese. In 2016 the Norwegian government made a decision to abolish export subsidies making exports from Norway uncompetitive. This presented a major challenge to TINE who sought to find a suitable location outside Norway to produce their signature Jarlsberg wheel product. Due to the unique and exact formula for the process of making Jarlsberg cheese and the difficulties experienced in replicating the production of this high quality brand outside Norway, a specialist committee was set up by TINE to undertake an evaluation of the possible strategic options to solve this problem. This involved the evaluation of a number of locations across the globe along with a number of existing Dairygold locations.

11.3. Two viable options for the project location within Dairygold were investigated. These were Mogeely and Mitchelstown options, both of which necessitate expansion within Greenfield lands. The provision of a new plant on Greenfield lands elsewhere with the duplication of the required supporting facilities would be economically unviable. Following detailed qualitative and quantitative assessment of: the raw materials [milk], knowledge and application of the production techniques, it was determined that the preferred option to meet worldwide consumer market demand for Jarlsberg would be to co-locate with Dairygold in Mogeely. The main reasons for selecting Mogeely were:

- The Dairygold factory in Mogeely had been successfully producing premium continental cheeses since 1975 and it was and still is the only Irish facility with the capability to produce a range of such cheeses. The Castlefarm site in Mitchelstown, while located near the Dairygold Cheddar plant and Moorepark, has a focus more aligned with high volume efficiencies and powders.
- The Key knowhow and experience to manufacture Jarlsberg block cheese at the same quality as product produced in Norway already exists on site in Mogeely.
- The opportunity to leverage the existing facilities in Mogeely to ensure a competitively produced product. The opportunities for operational synergies in Mogeely is greater as the existing plant is similar in scale, equipment, quality requirements and practices. The same opportunities to potentially

share services such as labs, maintenance parts and people, operators, office/meeting space does not exist to the same level at the Castlefarm site in Mitchelstown.

- Environmentally, key considerations were effluent related. The Mogeely option has considerable advantages over the Castlefarm option to cater for treatment and disposal of process wastewaters. The option to cater for the effluent in Castlefarm assumes the successful reduction in water consumption in the current plant. Also to increase the discharge volume from the effluent plant in Castlefarm would require a new discharge point to the river Blackwater which would be a freshwater outfall. The option in Mogeely takes the effluent to a saline outfall.

11.4. With regard to the consideration of alternatives for the discharge of wastewater it is submitted that local options considered and dismissed at an early stage of this project included discharge to the River Kilttha or River Womanagh catchments and infiltration to groundwater but this was immediately dismissed as the surrounding lands are liable to flood. The Kilttha River does not have the capacity to accept the increased volumes of treated wastewater. The next option was to consult with Irish Water who undertook their own review and advised that there was capacity at Rathcoursey and agreed to accept an intermittent discharge (on the ebb tide as per their Wastewater Discharge Authorisation (WWDA)) at the outlet of Rathcoursey Tidal Tank. The applicant states that the option to discharge at Rathcoursey was viable on environmental grounds and therefore further consideration of an alternative location was not warranted. This discharge point was progressed as part of the EIA. It is submitted that the fact that the lands around the WWTP are subject to flooding means that treatment processes such as constructed wetlands, short rotation willow coppice and the use of grey water to irrigate farmland are automatically ruled out. It is also pointed out that the Local Authority Senior Engineer in their report states that *it is reasonable for the applicants to rely on the statutory provider to identify a suitable connection location*. The applicant states that an existing feasible alternative outfall to the proposed outfall has not been made available to the developer by the competent authority. The ability of the developer to provide a new alternative outfall is reliant on acquisition of consents outside of the developers control and thus is potentially unrealistic and undeliverable.

- 11.5. The Ballycottan outfall was not considered by the Applicant or identified by Irish Water. It is stated that discharge was not possible as the existing outfall would not have capacity for the proposed connection. While a Foreshore License has been issued for a proposed treated effluent outfall at Ballycottan, into Ballycottan Bay (not the open sea) it is noted that the WWDA application and WWDA issued was for Ballycottan only (strictly domestic) and for the treated effluent from 1,420 p.e. This outfall has not been constructed nor is it on the Irish Water Capital Investment Programme. The area of the coastline between Garryvoe and Ballycottan is designated a SPA. It is submitted that for Dairygold to discharge to the proposed Ballycottan outfall it would have to be pumped some 17km from the proposed Dairygold WWTP at Mogeely. In addition both the Foreshore License and the WWDA would have to be revised to accommodate the possible twelvefold increase in flows to the Ballycottan site.
- 11.6. The application in the present case was lodged with the Council on 8th December 2016, prior to the implementation date for the 2014 Directive. It follows that the applicable Directive requirement is that under the 2011 Directive as implemented. The 2014 Directive does not affect applications which were submitted before the implementation date. EIA Directive 2011/92 (“the 2011 Directive”), Art 5.3(d) requires the EIS prepared by the developer to contain “an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects”. This requirement was implemented by Article 94 and Schedule 6 of the Planning and Development Regulations 2001, as amended (“the 2001 Regulations”), in so far para 1(d) refers to:
- “(d) An outline of the main alternatives studied by the developer and an indication of the main reasons for his or her choice, taking into account the effects on the environment”*
- 11.7. Further the requirements under Article 94 and Para 1(d) of the 2001 Regulations requires that the alternatives to be outlined (a) must have been studied by the developer and (b) must be the “main” alternatives so studied.
- 11.8. I am satisfied having regard to the information available on file that the consideration of alternatives by the applicant complies with the requirements of both the 2011 Directive and Article 94 of the 2001 Regulations, taken together with paragraph 1(d) of Schedule 6 thereof. In view of the above and having regard to the particular

characteristics of the proposed development, I consider that the applicant has adequately identified and described reasonable alternatives which are relevant to the project and the main reasons for the option chosen. I am also satisfied therefore that the requirements of the EIA Directive have been met.

12.0 Waste Water Treatment

- 12.1. All treated wastewater is currently discharged to the adjacent Kiltla River under IE Licence P0817-01. There is an existing process wastewater conveyance, treatment and discharge for the site. The WWTP was originally constructed in the 1970s and has had a number of upgrades in the intervening years. The Plan is to increase production to 37,500 Tonnes of cheese per annum by 2025. If the peak effluent increased pro-rata then the effluent discharge should increase to 3,020m³/day. Neither the existing Process conveyance line, the Wastewater Treatment Plant (WWTP) nor the Kiltla River have the capacity to cater for the expanded production and therefore all elements must be upgraded and a new discharge point is required.
- 12.2. The proposed scheme includes the upgrade and expansion of the existing Wastewater Treatment Plant including new Balance Tank, Anaerobic and Aerobic Tanks, Clarifier, Picket Fence Thickener, Dissolved Air Flotation (DAF) Plant, Pumping Station, Control Room, Filters and Concrete Plinths. The proposed upgrade will include the demolition of the existing works including the existing 9.5m high Biotower. In addition it is proposed to install an underground pipeline to convey treated water from the Facility to a discharge point at an existing outfall at Rathcoursey West, Midleton, 10.6km to the south west of the Facility. This discharge point has been agreed with Irish Water and is the existing Midleton Main Drainage Outfall at Rathcoursey. The outfall pipeline is designed for 4,000 m³ per day to provide for any potential expansion in the future.
- 12.3. The waste water being treated in the upgraded treatment plant, and discharged via a pipeline to the existing outfall at Rathcoursey, will be treated process water only. At the end of the treatment process in the Dairygold Wastewater Treatment Plant the treated waste water will be given UV treatment which, it is stated will eliminate the possibility of pathogens being present in the discharge. The foul waste from the proposed development will be collected separately and will be discharged to the

existing public sewer on the Castlemartyr Road and treated at the existing municipal treatment plant.

- 12.4. The facility is a licensable activity regulated by the EPA and currently operates under Industrial Emissions License P0817-01. The treated wastewater will be continuously monitored in the Final Effluent Tidal Holding Tanks at Mogeely, which have capacity for 6,25 hours of ultimate discharge, and if the monitoring shows the effluent to be out of specification, discharge will cease and the liquid will be returned to the Inlet Balancing Tank for passing through the WWTP again. Until the treated effluent meets the permitted discharge limits no discharge will take place. It is stated that if necessary processing of milk and production of cheese would cease until any problems are rectified.
- 12.5. It is submitted that the new development will result in a 97% reduction of BOD discharge to the Kilttha River from the Dairygold site. Similarly there will be a reduction in Suspended Solids, Ammonium, Total Phosphates and Ortho Phosphates in the discharge from the redeveloped Dairygold site to the River Kilttha. Therefore the water quality within the Kilttha River is expected to improve as a result of removing the process wastewater treatment plant discharges from this river.
- 12.6. Construction of the new WWTP will take approximately 12 months to complete the Civil, Mechanical, Electrical installation and commissioning. This will have to be carried out in a number of phases over two production campaigns in order to minimise the impact of the existing cheese factory. Given the very restricted site available, and the fact that production at Mogeely cannot be interrupted, construction will be phased so that a full section of the new WWTP is commissioned and capable of treating the full existing wastewater load to the proper standard before any of the existing WWTP can be demolished and replaced. That treatment will have to include tertiary treatment until such time as the new outfall is licensed, constructed and available. While the volumes of wastes and emissions will increase over that generated by the existing facility, no new waste types and no new types of emissions will be generated on site as a result of the proposed development.
- 12.7. Having regard to the information available on the appeal file I am also satisfied that the proposal is compliant with all relevant guidelines and is capable of accommodating the existing and future wastewater requirements at this site. It is

recommended that should the Board be minded to grant permission that conditions similar to those set out by Cork County Council be attached.

13.0 Discharge at Rathcoursey Point

- 13.1. One of the primary issues of concern in the appeal(s) relates to the proposal to discharge treated process water to Cork Harbour and the potential for this discharge to have a negative impact on the designated water status of this water body given that the current status of this water body is “at risk” of failing to meet good status by 2021. While the volumes of wastes and emissions will increase over that generated by the existing facility it is noted that no new waste types and no new types of emissions will be generated on site as a result of the proposed development.
- 13.2. Currently, Irish Water discharge via the Rathcoursey outfall, treated wastewater from Midleton Municipal Wastewater treatment plant as well as process wastewater from Irish Distillers Ltd. to North Channel Great Island (Water Body Code: IE_SW_060_0300). A water body’s status and risk are determined by the EPA, and are based on physiochemical and biological qualities of the water body. The water body associated with the wastewater discharge is the “transitional” ‘North Channel Great Island’ at Rathcoursey, designated as nutrient sensitive under Part 2 of Urban Waste Water Treatment (Amendment) Regulations, 2010.
- 13.3. The current status of the Cork Harbour Coastal Water, under the Water Framework Directive (WFD), was deemed “Good” in the period 2010 – 2012. However, the status of the Owenacurra Estuary, less than 1.3km upstream from the discharge point, in a tidal area, has deteriorated from “intermediate” to “potentially eutrophic” for the same period (EPA water quality publication (Water Quality in Ireland, 2010-2012). Both the North Channel Great Island and Owenacurra Estuary water bodies are classified as “At Risk” of not achieving WFD objectives. Further part of the water body in the North Channel Great Island and Cork Harbour is designated shellfish water under European Communities (Quality of Shellfish Waters) (Amendment) Regulation 2009, SI 55 of 2009. Accordingly there is potential for significant impacts on water quality in the harbour.
- 13.4. This issue is addressed in the Natura Impact Statement submitted with the application. I have also noted the contents of the report prepared for Irish Water by

Irish Hydrodata - Rathcoursey Outfall Investigation of the impact of Treated Wastewater Discharges Arising from the Dairygold Mogeely Plant to Cork Harbour; and the report prepared by Malachy Walsh and Partners - Evaluation of the Risk of Adverse Impact on Cork Harbour SPA and the Great Island Channel SAC.

13.5. The conclusions of the first report, which are based on hydraulic modelling set out the following:

- The WFD water quality status of the transitional waters of the north channel of Cork Harbour will not be affected by the proposed discharge when measured in combination with other discharges and in taking account of existing water quality conditions in the north channel;
- Target standards for the relevant physico-chemical parameters (PO₄, BOD and Suspended Solids) set for a minimum of Good water quality status will continue to be met in the north channel;
- While there is no EQS set under the regs for DIN for transitional waters, there are currently exceedances of the EQS (as set for coastal waters) for DIN in the Owenacurra Estuary. However, the Dairygold discharge would not result in a significant increase in the level of exceedance of this parameter at this location; and
- The mixing zone will not exceed recommended limits in terms of the extent of estuarine channel predicted to be likely to be affected.

13.6. The report also states that the additional discharge would not result in any exceedance in the volume of processed wastewater which is licensed to be discharged from this location. The model demonstrates that the addition of the Dairygold discharge will increase concentrations of PO₄-P by 0.002mg/l, DIN by 0.02mg/l, neither of which will cause an exceedance of statutorily established environmental quality standards. If Environmental quality standard (EQS) are not exceeded, it must be assumed there will be no adverse effect on Natura sites or surface water dependant environmental objectives. Allowing for the expected improvement in river water in the Owenacurra and Dungourney rivers, due to network upgrades and improved pump management systems, planned upgrade to Saleen wastewater works, currently rudimentary primary treatment, and also the Programme of Measures established under the Water Framework Directive for the

catchments, it is concluded that a reduction in the DIN loading to Great Island North Channel and Cork Harbour can be reasonably expected.

- 13.7. The characteristics of the final wastewaters to be discharged have not yet been agreed with the EPA. However it is stated that the WWTP has been designed to meet the emission limit values for sensitive waters set out under the Urban Waste Water Treatment Regulations, 2001, as amended, and the limits determined under statute or Directive for the purpose of achieving the environmental objectives established for surface waters, groundwater or protected areas for the water body into which the discharge is made. These are the limits set out in the Midleton Municipal WWDA and other Industrial Emissions Licenses.
- 13.8. The presence of residual Fats, Oils and Grease in the final treated wastewater is not unique to Cheese Manufacturing wastewater. It is a characteristic of all domestic and municipal wastewaters as well as many industrial discharges. It is submitted that the residual concentration of FOG in the final treated wastewater at 15mg/l is the emission limit value determined by the EPA in respect of discharges from other industry into the same outfall, to ensure that the discharge will not cause deterioration in water quality or compromise the achievement of Water Framework Directive (WFD) water quality objectives. The EPA as part of the licence review of the Dairygold Food Ingredients Industrial Emissions License will have to assess the current application under similar standards so as to ensure that there will be no change in the receiving water and no impediment to achieving the 2021 WFD objective.
- 13.9. Specific concerns raised by the appellants have been specifically addressed by the Applicant as follows:
- **Tidal Flushing** – The “new” flushing waters in this case are from the lower harbour and not from the open sea. The 2017 Irish Hydrodata Report report, which was commissioned by Irish Water in response to Cork County Councils request for Further Information, specifically addresses this issue in Sections 4.8 of their report. The report is based on a model of the Owenacurra Estuary, North Channel and Lower Harbour which is calibrated using a dye study carried out at Rathcoursey Point. The report notes that the North

Channel empties to a large degree at low tides and estimates a flushing time between 3 days (Neap Tide) and 6 days (Spring Tide).

- **Modelling of Cork Harbour by NUIG** – The data used to calibrate the NUIG model are two dye releases carried out and recorded in the 1977 Cork Harbour Pollution Report at Marino Point and Camden i.e. remote from Rathcoursey Point and the North Channel. The hydrodynamic model constructed by Irish Hydrodata in their 2017 report is specific to the Rathcoursey Pont and used a dye studies carried out at that location for calibration.
- **Trophic Status** – The current Water Framework Directive (WFD) status of Cork Harbour is set out in the Irish Hydrodata Report. The status will not be changed by the proposed discharge.
- **Nutrient Dispersal** - The 2017 Irish Hydrodata Report specifically addresses this issue in Sections 4.7 & 4.8 of their report. Section 4.7 gives the simulated results for N, P, BOD and SS dispersion while Section 4.8 summarises the results.
- **Residual Flow in North Channel** – Section 2.5 of the Irish Hydrodata Report states that *the speeds on the flooding tide are stronger than on the ebb, with the flood lasting for about 6 hours and the ebb for the remaining 6.42 hours. The high water slack lasts for less than 30 minutes.* The difference in the length of Flood and Ebb tides would account for the difference in velocities.
- **The Addition of Nitrogen (N) and Phosphorous (P) from the Dairygold Discharge** – The 2017 Irish Hydrodata Report specifically addresses this issue in Sections 4.7 & 4.8 of their report. The report concludes that *model results show that the addition of the Dairygold discharge will increase the average background DUN by less than 0.02 mg/l N and the PO4 by less than 0.002 mg/l P. These additions to the existing background levels will not cause the EQS to be reached.*
- **No Allowance for Untreated Sewage** – All existing nutrients inputs to the Owenacurra River, whether from farming, Combined Sewer Overflows or any other source, are accounted for in the EPA monitoring data, which is based on actual sampling for the Owenacurra Estuary and North Channel are an therefore, taken into account in the 2017 Irish Hydrodata assessment of the

discharge impact. The issues of stormwater spills are occurring in the town of Midleton some 3km. The issue of stormwater spills has nothing to do with the discharge at Rathcoursey Point.

- **Discharge on the Ebb Tide** – The WWDA licence (D0056-01) issued to Cork County Council sets out a requirement that all discharges a Rathcoursey Point outfall are to be on the ebb tide. It is for Irish Water and Cork County Council to comply with that condition for their discharges. Dairygold will provide the necessary controls on their discharge to comply with the WWDA.

13.10. While the treatment of wastewater can be a complicated process due to the type, flow and load produced I agree with the applicant that the proposed upgrade to the existing WWTP on site at Mogeely together with discharge at Rathcoursey is the most suitable solution in this case and is necessary to ensure compliance with the EPA requirements. The detailed assessments undertaken and made available to the Planning Authority scientifically demonstrate that the proposed discharges either alone or in combination with discharges from Midleton Municipal WWTP and Irish Distillers Ltd would not significantly change the water quality of the receiving waterbody. The current status, under the Water Framework Directive, was deemed “Good” in the period 2010-2015, which is the latest data available from the EPA. The Irish Hydrodata Report demonstrates that the proposed Dairygold discharges will not change the current Good Status classification or result in the waterbody failing to meet its objectives under the Water Framework Directive. While I note the concerns raised relation to outfall discharge I consider the applicant’s arguments to be robust in this case and I agree that the proposed outfall at Rathcoursey is satisfactory in this case. It is recommended that should the Board be minded to grant permission that conditions similar to those set out by Cork County Council be attached.

14.0 Flooding

14.1. The appeal notes that the Mogeely is in a flood zone area and that the adjoining houses cannot be insured against flooding. Concern is raised that if Dairygold raise the ground level it put adjoining properties at further risk of flooding in the future. I refer to the Flood Risk Assessment (FRA) submitted with the planning application

together with all other relevant information and submissions available on the appeal file.

14.2. The issue of flooding and the flood risk associated with the proposed development is addressed in the EIS. For the purposes of the FRA the site has been split into three separate sub-sites in the FRA. These are;

- Main Site: This includes the entire northern portion of the site as far south as the northern end of the WWTP access road.
- WWTP Access Road: This includes the full length of the access road from the main site to the WWTP gate.
- WWTP: This includes the area bounded by the WWTP

14.3. The majority of the Main Site is located outside of Flood Zones A and B therefore these areas are in Flood Zone C. These areas have a low probability of flooding. Two small areas in the Main Site are located within Flood Zone B and therefore have a moderate probability of flooding. A small area towards the south of the Main Site, adjacent to the river, is within Flood Zone A and so has the highest probability of flooding. The majority of the existing WWTP site access road is located within Flood Zone A. This is with the exception of a small area to the north which is in flood zones B and C. The existing WWTP is located entirely within Flood Zone A and as such it is in the highest probability flood zone. The Stage 1 and 2 flood risk assessments indicated that there is potential for flooding at this site. The potential source of flooding was identified as the Kiltha River which runs along the western boundary of the site.

14.4. In Managing Development in Areas at Risk of Flooding Objective IN---01 Flood Risk Assessment and Management states that all proposals for development within the areas identified as being at risk of flooding will need to comply with Objectives WS 6-1 and WS 6-2 as detailed in Chapter 11, Volume 1 of the Cork County Development Plan, 2014, as appropriate, and with the provisions of the Ministerial Guidelines – ‘The Planning System and Flood Risk Management’. In particular, a site specific flood risk assessment will be required as described in WS 6-2.

14.5. The Flood Risk Management Guidelines have outlined three Vulnerability Classifications for developments based on the proposed land use and type of

development. These classifications and particular examples of development types which would be included in each classification are summarised as follows;

- Highly Vulnerable Development: This would include emergency services, hospitals, schools, residential institutions, dwelling houses, essential infrastructure, water & sewage treatment etc.
- Less Vulnerable Development: Retail, leisure, commercial, industrial buildings, local transport infrastructure.
- Water-compatible development: Docks, marinas and wharves. Amenity and open space, outdoor sports and recreation and essential facilities such as changing rooms.

14.6. The Guidelines also include a matrix of vulnerability versus flood zone to differentiate between developments which are appropriate in various flood zones and those which require a Justification Test.

14.7. The proposed cheese production facility is considered to be a Less Vulnerable development in accordance with the Guidelines. Almost all of the Main Site is within Flood Zone B and C and these areas are therefore appropriate for development. The small portion of the Main Site located within Flood Zone A is currently overgrown and disused and the area will not be affected by the proposed development. On this basis a Justification Test was not considered necessary for the main site, however appropriate mitigation measures will be implemented as outlined in the application. The existing WWTP site access road will not be affected by this development and as such a Justification Test is not relevant.

14.8. It is stated that there is no history of flooding within the Main Site however flooding of the WWTP Site occurred in November 2009. It is stated that the adjacent landowner made modifications to the river banks prior to this event which may have contributed to the flooding. An earth embankment was subsequently constructed along the south and western boundaries and the WWTP site has not subsequently been flooded. The WWTP is classified as a Highly Vulnerable Development. Although this aspect of the development includes only for upgrading of the existing WWTP, a Justification Test was carried out in accordance with the guidelines. This demonstrated that upgrading of the WWTP would be appropriate subject to the implementation of the recommended mitigation measures. It was further noted that

the upgrade work to the WWTP will provide an opportunity to minimise the consequences of flooding within the site and to minimise the risk to users of the site.

14.9. Upgrading of the WWTP reduces the volume of storage available within the WWTP site. The existing WWTP is protected from flooding to a certain level by the flood embankment to the south and west of the site. The tanks and structures within the site are also protected from flooding, generally by masonry barriers. The existing WWTP therefore already causes a reduction in floodplain storage. The upgraded WWTP will occupy an additional footprint of circa 1800m² within the floodplain. During an extreme flood event the storage volume in this footprint would be of the order of 1100m³ for the 1% AEP event and 1300m³ for the 0.1% AEP event. The volume of the affected flood hydrograph for the 1% and 0.1% AEP events is estimated to be circa 1.1M m³ and 1.7M m³ respectively. The reduced storage volume is negligible in the context of the flood hydrograph volume and the overall volume of floodplain storage available adjacent to the site. The resulting impact on flood levels downstream of the site would be immeasurably low. Upgrading of the WWTP site will, therefore, have no impact on flooding elsewhere.

14.10. Generally, potential impacts outside the site can occur due to increased storm water runoff rates from roofs and paved surfaces or due to loss of water storage where part of a flood plain is filled to accommodate development. Once the proposed mitigation measures are implemented, I am satisfied that the proposed development of the main site will not have an adverse impact on flooding elsewhere since the existing flow paths and river conveyance will not be changed. Residual risks associated with the development were also assessed and were found to be low. The impact of overtopping of the bridge on the L3627 due to a blockage upstream was found to be the most significant potential residual risk as this could cause water to flow into the site via the existing northern boundary. This was further mitigated by increasing the ground level locally along the northern boundary and by providing a flow path for water to flow back into the river at the downstream side of the bridge. It is submitted that this measure should also help to reduce flood risk generally within Mogeely village.

14.11. As set out above the majority of the site lies within Flood Zone C – two areas within the main site are stated to be located within Flood Zone B and one area in the main site and the WWTP are located within Flood Zone A. I am satisfied that the applicant

has addressed outstanding concerns regarding the flood risks associated with the treatment plant. Measures to prevent pollution in the event of a flood are set out. Various mitigation measures are recommended in order to minimise the flood risk. The mitigation measures are outlined in detail in Section 4.8 of the FRA. In summary these will include setting floor levels above the design flood level with appropriate freeboard, incorporation of barriers around tanks etc. Having regard to the information available on the appeal file there is no objection to the proposed development from a flooding perspective. However should the Board be minded to grant permission it is recommended that a condition be included requiring the development to comply with the requirements of the relevant Water Services and Drainage Departments of the Planning Authority together with the mitigation measures set out in the EIS and further information submission.

15.0 Development Contributions

- 15.1. Cork County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended). The proposed development does not fall under the exemptions listed in Scheme. In line with Condition No 29 (€218,116.80) of the notification of decision to grant permission issued by Cork County Council it recommended that should the Board be minded to grant permission that a suitably worded condition, similar to Condition No 29 be attached to the notification of decision to grant permission be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.
- 15.2. Notwithstanding the foregoing the Board will be aware that Section 48(2)(c) of the Planning and Development Act 2000 states that a Planning Authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by the General Development Contribution Scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development. Only developments that will benefit from the public infrastructure or facility in question should be liable to pay the development contribution.

15.3. Condition No 28 of the notification of decision to grant permission issued by Cork County Council requires the developer to pay a special contribution in the amount of €70,000.00 to Cork County Council, in respect of works proposed to be carried out, for the provision of upgrade of junction in Mogeely village and towards pedestrian facilities at N25 junction in Castlemartyr. This contribution is as per the recommendation of the Area Engineer and the Case Planner. This condition has not been appealed by any party to the appeal. Based on the information available I am satisfied that the works to be carried out are precise and that given the nature of the development that they are a clearly specific exceptional cost, which was not envisaged in the current scheme. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48(2)(c) Special Development Contribution in the amount of €70,000 in accordance with the Planning and Development Act 2000.

16.0 Other Issues

16.1. **EPA License** - All emissions will be controlled, licensed and monitored by the Environment Protection Agency (EPA) under Industrial Emissions legislation in addition to any conditions arising from the planning process. The process for EPA Licenses is separate to the planning code. The EPA is the relevant authority in regard to wastewater discharge authorisation and the setting of emission limit values (ELVs) on EPA licensed activities. Both the discharge from Midleton Agglomeration (Wastewater Authorization Reference WWDL D0056-01), and the Dairygold (DG) facility at Mogeely (Industrial Emission Licence Ref. P0817-01) are activities licensed by the EPA. The facility was first granted an Integrated Pollution Prevention Control (IPPC) Licence (Reg No. P0817-01) on 21st April 2011. The licence was subsequently amended on 16th December 2013 under Section S82A(11) of the Environmental Protection Agency Act 1992 to bring the licence into conformity with the Industrial Emissions Directive (2010/75/EU). Emissions arising from the operational phase of the development, will be avoided by the statutory requirement for the applicant to obtain and operate the proposed development in accordance with an Industrial Emissions licence, which will specify emission limits for all relevant parameters. Monitoring of compliance with emission limit values will fall to the EPA.

- 16.2. **Railway Greenway** - It is noted in the appeal that since planning was originally submitted in December 2016 that it has been announced that the old railway line between Midleton and Youghal is going to be a Green Route linking both areas. In this regard I refer to the East Cork Local Area Plan 2017 and Objective DB-03 therein that states that it is an objective to safeguard the existing rail line and associated rail infrastructure from inappropriate development that could compromise its use either as a rail facility or as part of a greenway linking Midleton and Youghal in the future. It is therefore an objective to assess and, as appropriate, develop a greenway on the disused railway line.
- 16.3. While I do not consider that the proposed scheme will interfere with Objective DB-03 I agree with the comments of the County Architect the proposed scheme should take account of this and make provision for the enhancement of a pedestrian urban connection to the former railway line. While I consider the applicants proposals for the provision of footpaths, public lighting, road improvements and public areas on both the northern and eastern perimeters of the site will add to the village's amenity and support future connectivity with the Railway Greenway I also support the approach of the Planning Authority in their notification of decision to grant permission. Accordingly it is recommended that should the Board be minded to grant permission that a condition be attached, similar to Condition No 25 (traffic and village improvement mitigation measures) requiring that a 2.0m wide footpath be constructed along the full length of the eastern and northern boundaries of the site with public lighting and drainage, lighting to be capable of lighting the entire road width.
- 16.4. **DMURS** - With regard to compliance with DMURS I agree with the approach of the Planning Authority and recommend that should the Board be minded to grant permission that a condition similar to Condition No 25 of the notification of decision to grant permission be attached requiring that the Traffic and Village improvement mitigation measures comply with DMURS.
- 16.5. **Operator Practise** - Concerns raised by the appellants regarding Dairygolds conviction of three charges under the 1959 Fisheries Consolidation Act and the Local Water Pollution Act in April 2013 are noted. It is submitted that the treated wastewater will be continuously monitored in the Final Effluent Tidal Holding Ranks at Mogeely which have capacity for 6.25 hours of ultimate discharge and that until

the treated effluent meets the permitted discharge limits no discharge will take place. I also note the comments of the applicant that in addition to the EPA monitoring it is expected that as part of the Discharge agreement, Irish Water will also undertake regular monitoring of the Dairygold discharge to ensure that it does not compromise their own license.

- 16.6. In this regard I refer to Condition No 14 of the notification of decision to grant permission that requires continuous monitoring on the outlet from the WWTP prior to forward feed to the holding tank at Rathcoursey in addition to other safeguards that are included in the design of the WWTP. It is recommended that should the Board be minded to grant permission that a condition similar to Condition No 14 of the notification of decision to grant permission be attached requiring that continuous TON and ammonia monitoring be provided.
- 16.7. **Invasive Alien Species** – An invasive species survey was carried out along the route of the proposed pipeline; Invasive Species Survey Report & Recommendations prepared by Malachy Walsh & Partners refers. The report notes that the only invasive plant species recorded along the route during the survey was Montbreitia which was observed in 7 locations. It is stated that these locations for the most part, occurred along stone walls, earth banks and grass verges lining the public roads. I am satisfied that as the proposed pipeline will be installed within the boundaries of the public road, the proposed works would not result in any excavations of hedgerows or road verges that would lead to the spread of the invasive species observed.
- 16.8. **Exported Sludge** – I refer to the Sludge Disposal report prepared by Nutrient Recovery to Generate Electricity Ltd. The Plant operates under the conditions of an IPPC License issued by the EPA. It is stated that a revised Nutrient Management Plan was submitted and approved by the EPA in January 2017 in respect of the planned recovery of sludge during 2017 from the Mogeely site. It is stated that all the organic sludge produced at this site will be recovered as fertilizer for agricultural lands. Six farmers have pledged a total of 280.02 ha and a tonnage allocation of 937
- 16.9. **Architectural Heritage** – There are no protected structures within the proposed development site. There are seven that fall within 1km radius of the proposed development site and pipeline. No buildings or gardens included in the NIAH are

located within the proposed development site. A total of 23 buildings and structures are located within 1km of the proposed development site and pipeline route. Three gardens are listed in the historic garden survey of the NIAH which lie within 1km of the proposed development site and pipeline route. I am satisfied that there will be no unwarranted impact on architectural heritage and that no further mitigation is required.

17.0 Environmental Impact Assessment

17.1. This section of the report comprises an environmental impact assessment of the proposed development. Many of the matters considered have already been addressed in the Planning Assessment above. This section of the report should therefore be read, where necessary, in conjunction with relevant sections of the Planning Assessment.

17.2. Schedule 5 of the Planning and Development Regulations 2001- 2015 sets out the relevant thresholds for different classes of development for the purposes of establishing if an Environmental Impact Assessment (EIA) is required. Schedule 5, Part 2, Section 7 (c) requires an EIA for: “*Installations for manufacture of dairy products, where the processing capacity would exceed 50 million gallons of milk equivalent per annum*”. The proposed development would exceed this figure thus an Environmental Impact Statement (EIS) has been submitted.

17.3. The application for the proposed development is accompanied by an EIS that set out the following:

- Describes the project and provides information on the site, design, size and particular features of the proposed development and the existing environment,
- Describes the likely significant effects of the project on the environment
- Describes the features of the project and/or measures envisaged to avoid, prevent, reduce, and if possible, remedy significant impacts,
- Provides a description of the main alternatives studied, and an indication of the main reasons for the choice of alternative put forward, taking into account environmental effects, and

- Includes a non-technical summary of the above information.

17.4. Chapters 1-3 of the EIS provide a project overview and consideration of alternatives. Chapter 1 also outlines the level of public consultation that was carried out. Table 1.3 and 1.4 of the EIS sets out the competencies of experts who prepared the Report. Competencies are reasonable and consistent with the technical requirements of the EIS.

17.5. The EIS is well presented and clearly laid out. I am satisfied that the level of information provided in the EIS together with other supplementary information provided by way of further information and available on the appeal file is such as to enable an assessment of the likely significant effects on the environment arising from the proposed development. Further the information presented is such that it is in compliance with the requirements of the EIA Directive and Planning and Development Regulations 2001, as amended.

17.6. The issues arising can be addressed under the following headings:

- Human Beings
- Ecology
- Hydrology & Hydrogeology
- Soils & Geology
- Air Quality
- Noise & Vibration
- Landscape and Visual Impact
- Archaeology & Cultural Heritage – note architectural heritage supplement report to EIS submitted with FI – item 17
- Traffic & Transportation
- Material Assets
- Interaction of the Foregoing

17.7. **Human Being**

17.7.1. I have considered all of the written submissions made in relation to human beings, in addition to those specifically identified in Chapter 4 of the EIS (and in other related Chapters).

- 17.8. The construction phase will take 18 months and may employ up to 200 persons. This will have a positive, although temporary, impact on employment. It is anticipated that approximately sixty seven (67) additional jobs will be created at the Cheese manufacturing facility. There will therefore be a positive impact in terms of local employment opportunities.
- 17.9. As with any development, community concern about the need to protect the local environment and general local amenity must be addressed, particularly any potential impacts associated with health and safety including noise, air quality and traffic effects during the construction phase and traffic, noise emissions, air pollutants, odour emissions and visual impact that might result from the completed development.
- 17.10. Noise modelling indicates that the expansion of this facility will not increase noise level above those currently existing and operational licence compliance limits will not be exceeded. It is predicted that once operational the noise emissions from the expansion and re-development of the facility will decrease at locations east and south of the new production building due to the screening this building affords of the external activities within the site. Additional proposed measures including the erection of a 3m high noise barrier along the new internal access road will also help reduce potential increases of noise levels at nearby residential properties.
- 17.11. There will be no change in the type of atmospheric emissions compared to current conditions at the facility and there are no other emission vents of significance. Air modelling demonstrates that the facility will not significantly impact on the local air quality. Odour pollution in the area is a concern for many people living in the vicinity of the facility. Potential sources of nuisance odour emissions from the facility are associated with the WWTP. The proposed upgraded WWTP, will be entirely new with only three of the existing tanks being retained and refurbished for new duties. It will be a bespoke biological activated sludge plant particularly suited to the treatment of dairy wastewaters. The installation of a high efficiency odour control system is an integral part of the upgrade program to control and reduce odours from the various plant components.
- 17.12. The proposed operational changes and odour controls within the newly designed WWTP will lead to a reduction in overall emissions of any potential for offensive

odours. Therefore as a result of the planned upgrade of the Dairygold WWTP, the potential for odours to be detected beyond the site boundary is considered to be low. Concentrations of malodours such as hydrogen sulphide likely to result in a community nuisance are unlikely with the improvements proposed with the upgrade of the WWTP.

17.13. The proposed redevelopment will operate under an Industrial Emissions Licence regulated by the Environmental Protection Agency (EPA). With the recommended mitigation measures in place, no significant negative impacts on the local human environment are expected. The proposed development will have positive short and long terms impacts on employment in terms of both construction and operational phases and can be considered as having a positive impact on the economy of both Cork City and the wider south-western region.

17.13.1. Having regard to the matters discussed above, I am satisfied that impacts that are predicted to arise in respect of human health can be avoided, managed and mitigated by the measures which form part of the proposed development, the proposed mitigation measures and through suitable conditions. I am satisfied, therefore, that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on human health.

17.14. **Ecology**

17.14.1. I have considered all of the written submissions made in relation to ecology, in addition to those specifically identified in Chapter 5 of the EIS (and in other related Chapters).

17.15. There are designated ecological sites of National Importance within 10km of the proposed Dairygold site. A Natura Impact Statement (NIS) was undertaken in accordance with Article 6 of the 'Habitats' Directive (92/43/EEC) to determine whether the redevelopment and expansion of Dairygold Speciality Cheese Plant in Mogeely will have a significant negative impact on the features of interest of the designated sites. The NIS concluded that the proposed development will not adversely affect the integrity of any Special Areas of Conservation (SACs) or Special Protection Areas (SPAs), collectively referred to as Natura 2000 sites. Fifteen proposed Natural Heritage Areas (pNHAs) are located within 10 km of the proposal

site. The redevelopment and expansion of Dairygold Speciality Cheese Plant in Mogeely will not have a significant negative impact on a pNHA.

17.16. No rare or protected flora or fauna species were recorded during field surveys at the proposal site. The higher value habitats associated with the proposal are the Kiltha River and Cork Harbour. Currently, both storm water and treated effluent are discharged to the river. The new development proposes to discharge storm water to the Kiltha River during operation of the expanded facility, through a controlled surface water drainage system. Waste Water Treatment Plant (WWTP) emissions to the Kiltha will cease and will instead be directed to the existing Main Midleton Discharge Outfall at Rathcoursey into Cork harbour. The on-site WWTP will be upgraded to cater for the expanded facility and all emissions will be in compliance with the existing IED Licence Emission Limit Values at Rathcoursey and be discharged on the ebbing tide. It is not anticipated that any significant impacts to receiving waterbody at Rathcoursey will ensue. The cumulative effect of the Dairygold proposal with other sources of point and diffuse discharges has also been considered and it is concluded that significant cumulative impacts will not occur.

17.17. The Appointed Contractor will finalise a Construction and Environmental Management Plan (CEMP) prior to commencing on site. The CEMP will be based on good site practice include detail on Water Quality Control Measures, Waste Management, Stockpiling and Management of Materials, Fuel and Oil Management, Concrete Management and a Procedure for the Control of Spillages. It is concluded that there will be no significant remaining impacts on the local or wider ecology associated with the construction and operation of the proposed extension to the Dairygold Mogeely site

17.17.1. Having regard to the matters discussed above, I am satisfied that impacts that are predicted to arise in respect of Ecology can be avoided, managed and mitigated by the measures which form part of the proposed development, the proposed mitigation measures and through suitable conditions. I am satisfied, therefore, that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on human health.

17.18. **Hydrology & Hydrogeology**

- 17.19. I have considered all of the written submissions made in relation to Hydrology & Hydrogeology, in addition to those specifically identified in Chapter 6 of the EIS (and in other related Chapters).
- 17.20. The potential for effects on surface water and groundwater resources associated with the proposed expansion of the Dairygold Mogeely Speciality Cheese facility and related treated effluent discharge pipeline was assessed. There are currently two (2) licenced emission points to surface waters from the installation. These are emission point SW3 which conveys combined treated process and domestic wastewater discharges to the River Kiltha and SW4 which conveys stormwater discharges also to the River Kiltha.
- 17.21. It is proposed as part of the upgrade to revise the existing wastewater and stormwater drainage networks. It is proposed that treated wastewater will no longer be discharge to Kiltha River. Instead this treated wastewater stream will be discharged into the North Island Great Channel via a new constructed pipeline which will connect into the existing Midleton Main Drainage Outfall at Rathcoursey. This is considered a significant positive impact of the proposed development on the Kiltha River. It is also proposed as part of the new development proposal that sanitary wastewater from the facility will no longer be directed to the Dairygold WWTP. It is proposed that this wastewater stream will, subject to agreement/approval from Irish Water (IW), be collected and conveyed separately from the site to the Mogeely Village WWTP via a connection into the existing public foul sewer on the Castlemartyr Road. Therefore the treated wastewater discharges from the Dairygold site to the North Island Great Channel could not contain faecal or viral contaminants. It has been calculated that the proposed treated wastewater discharges from the Dairygold Facility would have a negligible impact on the quality of the receiving water body and would not significantly contribution to an increase baseline nutrient concentrations.
- 17.22. The new storm water drainage network will discharge into the adjacent Kiltha River at two existing outfall locations, namely the existing stormwater outfall (SW4) and the current wastewater outfall (SW3). Prior to discharging to the Kiltha River, the storm water networks will discharge into a storm water monitoring/divert chamber, via full retention petrol interceptors. The storm water monitoring chamber will analyse the

storm water for pH, Conductivity and Temperature. A risk of significant impact on the water quality of the Kiltha River is not envisioned.

17.23. It is proposed as part of the future development the site facility process water requirement will continue to be met by groundwater abstractions from the existing on-site well. The increased abstraction rate will not significantly impact the local ground water resource.

17.24. A comprehensive site specific flood risk assessment (FRA) was undertaken to determine the actual flood risk potential of both current and proposed development. A hydraulic model was used to establish the design flood levels within the site and these were used to produce a flood zone map for the site. The development as designed will not adversely affect flooding upstream or downstream of the site.

17.25. The key potential impacts associated with the development relate to the ground preparation and construction phases of the development. During the construction phase, impacts from initial site preparation, excavation, stockpiling and vehicle movements have the potential to create a pathway for contaminants to enter shallow groundwater or off-site surface waterbodies. During the construction phase a number of surface water control measures will be implemented. These will reduce risks of significant adverse impact on the water quality from the construction activities.

17.26. The risk of significant impact on the water quality of Kiltha River and the North Island Great Channel during the operational phase can be adequately controlled through the implementation of appropriate surface water management controls and adherence to operating procedures in terms of accident prevention, emergency response and materials handling under environmental and health and safety system.

17.26.1. Having regard to the matters discussed above, I am satisfied that impacts that are predicted to arise in respect of Hydrology & Hydrogeology can be avoided, managed and mitigated by the measures which form part of the proposed development, the proposed mitigation measures and through suitable conditions. I am satisfied, therefore, that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on human health.

17.27. **Soils & Geology**

- 17.28. I have considered all of the written submissions made in relation to Soils & Geology, in addition to those specifically identified in Chapter 7 of the EIS (and in other related Chapters).
- 17.29. The proposed development site is a combination of the existing manufacturing site on made ground (man-made material terrain) and a neighbouring Greenfield site (agricultural field) in Mogeely, which is situated in a lowland valley of east Cork. The proposed pipeline to carry the final discharge from the facility's Waste Water Treatment Plant will be constructed in the public road network from Mogeely to the Rathcoursey outfall in the southwest. There are no geological heritage sites at the proposed development site or along the pipeline route.
- 17.30. The site is predominantly underlain by limestone and the limestone of this valley is known to have karst landforms. There are a number of karst features in the Mogeely area including caves, springs and depressions. The underlying groundwater body is karstic and is a Regionally Important Aquifer.
- 17.31. While the removal of the soil and subsoil is a direct and permanent impact, it will not constitute a significant impact of the project. When excavated materials are stockpiled on site, there is potential for sediment to be carried in run-off during periods of heavy rainfall. Good site practice in the management of stockpiles and the protection of water can prevent mobilised sediments entering water and drainage features. Without proper management, all construction materials required, including any hazardous substances such as concrete, fuel and oil, have the potential to impact on the soil and geological environment should a spill occur. There will be no significant impact on the soil and geological environment as a result of the excavations during site clearance works, sediment mobilisation or during the use of hazardous substances such as concrete, fuel and oil.
- 17.32. The Appointed Contractor will finalise a Construction and Environmental Management Plan (CEMP) prior to commencing on site. The CEMP should be based on good site practice include detail on Waste Management, Stockpiling and Management of Materials, Fuel and Oil Management, Concrete Management and a Procedure for the Control of Spillages. There will be no residual impacts on the soil and geological environment associated with the construction and operation of the

proposed extension to the Dairygold Mogeely site, provided best practice and mitigation are adhered to.

17.33. Having regard to the matters discussed above, I am satisfied that impacts that are predicted to arise in respect of Soils & Geology can be avoided, managed and mitigated by the measures which form part of the proposed development, the proposed mitigation measures and through suitable conditions. I am satisfied, therefore, that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on human health.

17.34. Air Quality

17.35. I have considered all of the written submissions made in relation to Air Quality, in addition to those specifically identified in Chapter 8 of the EIS (and in other related Chapters).

17.36. The existing air quality is good with ambient concentrations well below the National Air Quality Standards (NAQS). The Dairygold facility is the only industrial activity licensed by the EPA within the Mogeely area. An assessment of the existing boiler emissions from the facility and the impact of emissions from the proposed expansion was undertaken. The results of an air quality modelling study demonstrate that both the predicted short-term and annual concentrations of Nitrogen Dioxide (NO₂) are well below the NAQS for the protection of the health of the community and environment.

17.37. As part of the upgrade of the existing WWTP, an odour reduction programme will be implemented including covering a number of tanks and installing an odour control unit for treating the air from these tanks and the sludge dewatering building. An assessment of the proposed measures including improvements in secondary treatment of the process effluent and enclosing certain plant components was carried out. The upgrade will substantially reduce odour potential from the Dairygold WWTP.

17.38. An assessment of the potential impact on local air quality due to traffic emissions associated with the proposed expansion of the facility demonstrates that the predicted maximum ground level concentrations are well below the appropriate NAQS exhaust pollutants from traffic on the local roads. No significant increase in

road-side concentrations were predicted based on projected traffic flows compared to the projected 'No Development' flows.

17.39. During the construction phase a number of dust control measures will be implemented. These include installing a wheel-wash and regular maintenance of the site entrance, spraying internal haul roads during dry weather conditions and controlling and limiting dust emissions from vehicles, machinery and plant used during both the demolition of a number of buildings and construction of the new manufacturing building. The potential impact of air emissions will be greatest during the demolition and first stage of the construction, when levelling and excavating foundations takes place. It is expected that substantial amounts of material from the demolition programme will be re-used as fill material. The impact near the boundary will be temporary and is likely to be minor or slight with the measures fully implemented. During construction of the discharge pipeline, temporary dust control measures will be implemented as the pipe-laying programme progresses along the route.

17.40. Having regard to the matters discussed above, I am satisfied that impacts that are predicted to arise in respect of Air Quality can be avoided, managed and mitigated by the measures which form part of the proposed development, the proposed mitigation measures and through suitable conditions. I am satisfied, therefore, that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on human health.

17.41. Noise & Vibration

I have considered all of the written submissions made in relation to Noise & Vibration in addition to those specifically identified in Chapter 9 of the EIS (and in other related Chapters).

17.42. The impact of both the construction and operational phases of the proposed development have been assessed. During the construction phase noise levels in the vicinity of the works will be increased above typical ambient noise levels. There will be a series of control measures employed during the construction phase to ensure that construction noise does not exceed typical construction noise limit values. These measures will form part of the contract documents to ensure minimal disturbance to neighbours. Construction noise levels will be monitored for the

duration of the construction phase to ensure compliance with typical construction noise limit values as described in Chapter 9 of the EIS. There will be no significant vibrations during the construction phase. These measures will include the management, selection and location of plant and machinery, and ongoing on site noise monitoring of the construction noise. Temporary barriers may also be employed where necessary to ensure that construction noise levels do not exceed typical construction noise limits. A liaison officer will be available to the local community during the construction phase.

17.43. Once operational the noise emissions from the expansion and re-development of the proposed facility will decrease at locations east and south of the new production building. There will be a series of mitigation measures which are detailed in Chapter 9 of the EIS which are included to reduce noise emissions from existing and future noise sources. These include the erection of a 3m high noise barrier along the new access road.

17.44. The cumulative effect of the Dairygold Food ingredients and the Dairygold grain handling facility has also been considered and it has been shown that the overall noise emissions from both facilities in operation simultaneously will not increase.

17.45. Having regard to the matters discussed above, I am satisfied that impacts that are predicted to arise in respect of Noise & Vibration can be avoided, managed and mitigated by the measures which form part of the proposed development, the proposed mitigation measures and through suitable conditions. I am satisfied, therefore, that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on human health.

17.46. Landscape and Visual Impact

17.47. I have considered all of the written submissions made in relation to Landscape & Visual Impact, in addition to those specifically identified in Chapter 10 of the EIS (and in other related Chapters). The Landscape and Visual Impact Assessment describes the landscape context of the proposed development and assesses the likely landscape and visual impacts of the proposed development on the receiving environment.

17.48. The highest level of effect is considered to occur from the residential property immediately to the north of the new production building and the housing estate

immediately opposite the proposed production building and new site entrance on the Mogeely road. Overall, it is considered that the proposed development, though a substantial piece of industrial infrastructure, is appropriately sited and designed to assimilate with the existing landscape and visual context. It will result in visual impacts at adjacent residential receptors to the north and east on the Mogeely road that are in the high order of magnitude.

17.49. Having regard to the matters discussed above, I am satisfied that impacts that are predicted to arise in respect of Landscape and Visual Impact can be avoided, managed and mitigated by the measures which form part of the proposed development, the proposed mitigation measures and through suitable conditions. I am satisfied, therefore, that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on human health.

17.50. Archaeology & Cultural Heritage

17.51. I have considered all of the written submissions made in relation to Archaeology & Cultural Heritage, in addition to those specifically identified in Chapter 11 of the EIS (and in other related Chapters).

17.52. There are a total of 55 recorded archaeological sites listed in the Record of Monuments and Places for Co Cork and the Sites and Monuments Record Database of the National Monuments Service within 1km of the proposed development site. There are no recorded archaeological sites within the site of the proposed extension to the Dairygold facility. There are seven archaeological sites which adjoin the road along which the proposed pipeline will run. None of these features extend into the footprint of the road, however, it is possible that Churchtown graveyard and Rathcoursey East midden may, at one time, have extended into this area. No known features of archaeological or cultural heritage significance will be impacted by the proposed extension to the facility or the construction of the waste water pipeline.

17.53. A programme of archaeological investigations will be undertaken on the site of the proposed extension in advance of development which may include archaeological geophysical survey and or archaeological testing. Archaeological monitoring will be carried out on the pipeline route and the pipeline trench will be situated at the maximum distance southeast of Churchtown graveyard to ensure minimal disturbance of possible associated deposits. Excavation in areas of high sensitivity,

such as the road adjoining Churchtown graveyard, will be undertaken judiciously to ensure any potential archaeological deposits are identified. No cumulative impacts on the archaeology and cultural heritage are predicted if the project proceeds. It is anticipated that with the implementation of the above proposed mitigation measures there will be no significant residual impacts on the archaeological and cultural heritage.

17.54. Having regard to the matters discussed above, I am satisfied that impacts that are predicted to arise in respect of Archaeology & Cultural Heritage can be avoided, managed and mitigated by the measures which form part of the proposed development, the proposed mitigation measures and through suitable conditions. I am satisfied, therefore, that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on human health.

17.55. Traffic & Transportation

17.56. I have considered all of the written submissions made in relation to Traffic & Transportation, in addition to those specifically identified in Chapter 12 of the EIS (and in other related Chapters). The issue of Traffic Impact has been discussed in Section 9.0 above. I refer to same.

17.57. Construction personnel at the Mogeely site would arrive on-site well before the weekday morning peak commuter traffic period, and depart from site well after the weekday evening peak commuter traffic period. The core construction working hours are 7.00 a.m. to 7.00 p.m. Monday to Saturday. Accordingly, traffic generated by core construction personnel will be during the off-peaks and will not have a significant adverse impact on the road network.

17.58. Peak construction heavy vehicles generated by the Mogeely construction site would increase two-way daily traffic volumes by 80 heavy vehicles on local roads. The highest hourly increases would be up to 10 heavy vehicles. Typical, non-peak, construction deliveries would be of the order of 10 to 20 trucks per day. .

17.59. Once operational the proposed development would facilitate a total of up to 67 additional operational staff during Dairygold Mogeely's peak operational season, with peak staff numbers at the site. This would increase existing peak season staff numbers from 94 staff to 161 staff. It is envisaged that additional staff working hours

would be similar to existing. Accordingly, the majority of staff would have work start and finish times outside the main peak traffic periods.

17.60. The proposed development would increase peak season total daily heavy vehicle delivery loads from 44 existing, to 77. The vast majority of heavy vehicle loads would be generated outside the morning and evening peak traffic periods. Milk loads would increase and continue to be delivered during the period from 4.30 a.m. to 5.00 p.m., while whey loads would reduce and continue to be generated evenly over 24 hours. During peak season, the hourly heavy vehicles generated by the existing site operations would increase by up to two loads during the morning peak and two loads during the evening peak.

17.61. The proposed Mogeely site development construction would have a short-term moderate to significant traffic impact on the local road network. The proposed discharge pipeline construction works would have a temporary significant traffic impact on local roads. The operational traffic impact of the proposed development would be moderate, consistent with existing and emerging trends

17.62. Having regard to the matters discussed above, I am satisfied that impacts that are predicted to arise in respect of Traffic & Transportation can be avoided, managed and mitigated by the measures which form part of the proposed development, the proposed mitigation measures and through suitable conditions. I am satisfied, therefore, that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on human health.

17.63. **Material Assets**

17.64. I have considered all of the written submissions made in relation to Material Assets, in addition to those specifically identified in Chapter 13 of the EIS (and in other related Chapters).

17.65. Material assets are defined as 'resources that are valued and that are intrinsic to specific places, they may be either human or natural origin and the value may arise for either economic or cultural reasons'. They can be economic assets of natural or human origin, or cultural assets

- Man-made material assets include Mogeely village, Dairygold Cheese Factory, Dairygold Agribusiness, the affected road infrastructure and public utilities such as underground water and sewage services. No

significant negative impacts are anticipated on Mogeely village as an asset. The proposal entails the extension of an established industrial use that already contributes strongly to the character of its immediate environs. The change of use of the Greenfield site from agricultural pasture to an industrial site is not significant. The Greenfield site as a resource would not be considered a unique or scarce asset in the area.

- The additional operational HGV traffic is not significant and is not likely to have a major effect on the structural condition of the road network in the long term.
- There are no known geological resources of significance located within in the proposed development lands. Therefore the proposed project will not result in the sterilisation of valuable material geological resources.
- The assessment on water quality impact determines that the proposed development is unlikely to have adverse impacts to the water quality of the North Island Great Channel. Subsequently significant negative effects on the practices and habitats that this natural amenity supports are not considered likely
- It is estimated that the public water supply requirement by the facility will increase from 7.5m³ to 9.6m³ per day. While this is not considered a significant increase it will place additional pressure on the public water supply, which currently has capacity constraints.
- The hydrogeological impact assessment undertaken regarding this project determines that there will be no significant impact to the groundwater resource or asset as a result of the continued use and increased abstraction to meet the process water requirements.
- It is proposed as part of the new development that sanitary wastewater from the facility will be discharged to the Mogeely Village WWTP. The Mogeely municipal wastewater treatment plant has capacity to accept the proposed wastewater volumes and no significant impact is envisaged on this resource.

- The redevelopment and expansion proposal will not require any modification to the overall local gas and ESB infrastructure.
- It has been concluded that no significant negative impacts on material assets during either the construction or operational phases are anticipated

17.66. Having regard to the matters discussed above, I am satisfied that impacts that are predicted to arise in respect of Material Assets can be avoided, managed and mitigated by the measures which form part of the proposed development, the proposed mitigation measures and through suitable conditions. I am satisfied, therefore, that the proposed development would not have any unacceptable direct, indirect or cumulative impacts on human health.

17.67. Interaction of the Foregoing

17.68. I have considered all of the written submissions made in relation to Interaction of the Foregoing, in addition to those specifically identified in Chapter 14 of the EIS (and in other related Chapters).

17.69. The main interactive impacts arising from the proposed development are and human beings, landscape, noise, dust, material assets and traffic related impacts and, in my opinion, have been adequately addressed in the EIS. The effects of the interactions between humans and noise and vibration, air quality, visual impact, and material assets, between ecology and, hydrology, and soils, and between landscape and the natural environment and cultural heritage are implicit in the range of preceding issues listed

17.70. In my assessment of each environmental topic I have considered the likelihood of significant effects arising as a consequence of interrelationships between factors. Most interactions are addressed under individual topic headings. Given the generally modest impacts which are predicted to occur, having regard to the nature of the proposed development, mitigation measures or as a consequence of proposed conditions, I do not foresee any likelihood of any of these interrelationships giving rise to significant effects on the environment.

17.71. Reasoned Conclusions of Significant Effects

17.72. Having regard to the examination of the environmental information contained above, and in particular to the EIS and supplementary information provided by the developer, and the submission from the planning authority, prescribed bodies and observers in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- **Traffic & Transportation** – The proposed development gives rise to an increase in vehicle movements during construction and operation. Significant impacts on the public road network can be (a) mitigated by measures to manage construction traffic set out in the EIS, and (b) avoided by condition controlling haul routes for delivery vehicles (alternative fuel/raw materials). The effectiveness of these measures can be monitored by condition.
- **Ecology** – The proposed development gives rise to the risk of adverse effects on downstream sites of nature conservation interest, via emissions to water, and those in the wider vicinity of the site, by virtue of emissions to water, during the construction and/or operational phase of the proposed development. However, significant effects can be (a) mitigated by measures set out in the EIS to prevent the pollution of water bodies, and (b) the requirement to obtain and operate the proposed development in accordance with an Industrial Emission licence. The effectiveness of mitigation measures can be controlled by condition. Monitoring of compliance with emission limit values will fall to the EPA.

17.73. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment.

18.0 **Appropriate Assessment**

18.1.1. Concern is raised in the appeal that the AA process should not have stopped at Stage 2, because the NIS is erroneous in its conclusion that there is no risk to the protected species of the Great Island Channel SAC and Cork Harbour SPA. For this reasons it should have been continued to a “further stage”, the consideration of alternatives to the release of waste water into the sea. Section 177 of the Planning and Development Act 2000 gives effect to the Habitats Directive by requiring the

planning authority or, on appeal, An Bord Pleanála to carry out and Appropriate Assessment (AA) pursuant to which it is obliged to consider and make a determination in respect of the potential impacts which the proposed development would or might likely have on any nearby “Natura 2000” sites.

18.2. Article 6(3) of the Habitats Directive (Council Directive 92/43/EEC of 21st May 1992 on the conservation of natural habitats and of wild fauna and flora) requires that any plan or project not directly related to the management of a European site of nature conservation interest (i.e. a Special Area of Conservation or a Special Protection Area), but likely to have significant effect on it, individually or in combination with other plans and projects, shall be subject appropriate assessment, for its implications for the site. Further, it provides that the competent authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned. The Habitats Directive has been transposed into Irish law by the Planning and Development Act 2000, as amended, and the European Union (Birds and Natural Habitats) Regulations 2011-2015.

18.3. Guidance on appropriate assessment is provided by the EU and the NPWS in the following documents:

- Assessment of plans and projects significantly affecting Natura 2000 sites - Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (DoEHLG, 2009)

18.4. Both documents provide guidance on screening for appropriate assessment and the process of appropriate assessment itself. In this instance the applicant has submitted a Screening Report and a Natura Impact Statement together with further information including details on the characteristic of the wastewater; the Irish Hydrodata Report; and the Malachy Walsh and Partners Report entitled “Evaluation of the Risk Adverse Impact on Cork Harbour SPA and Great Island SAC. I refer to these documents in my assessment below, together with the EIS.

18.5. **Screening**

18.6. The Screening for Appropriate Assessment has been undertaken to determine whether a proposal for expansion of an existing Dairygold facility, in Mogeely, Co.

Cork, individually or in combination with other plans and projects, is likely to have a significant effect on any European site (i.e. Natura 2000 Sites), in view of the site's conservation objectives.

18.7. Brief Project Description

18.8. Dairygold Co-Operative Society Ltd. wishes to redevelop and expand its Dairygold Food Ingredients (DFI) cheese manufacturing facility at Mogeely. There will be no changes to the types of activities currently being undertaken at the facility or materials used on-site. The existing process conveyance line and WWTP do not have the capacity to cater for the volumes of wastewater to be generated by the expanded production. Therefore upgrading is required. Part of the redevelopment will involve redirecting future Waste Water Treatment Plant (WWTP) effluent discharges from the Kiltha River to Cork Harbour through a new wastewater discharge connection to the Midleton Main Drainage Outfall at Rathcoursey. The Kiltha River does not have the capacity to accept the increased volumes of treated wastewater from the expanded facility and therefore a new WWTP discharge point is required. It is being proposed to discharge treated process effluent into Cork Harbour at Rathcoursey via an underground pipeline for a length of 13.61km from the facility WWTP to the existing Midleton Main Drainage Outfall at Rathcoursey. This discharge point has been agreed with Irish Water. The characteristics of the project are described in detail in Section 4.2.6 of the AA Screening Report.



Source: Screening for Appropriate Assessment, Malachy Walsh & Partners

18.9. Natura 2000 Sites

18.10. The site at Moogeely is removed from the network of European sites, with the nearest site at Cork Harbour SPA and Great Island Channel SAC. It is stated that the point of discharge at the existing Midleton Main Drainage Outfall at Rathcoursey is approximately 70m south of Cork Harbour SPA and approximately 15m south of Great Island Channel SAC. The applicant identifies six European sites within c.15km of the proposed development which may be affected by it (Figure 2, Screening Report). This geographical area seems reasonable given (a) the 20km geographical area used for the modelling of emissions to air (i.e. 10km in each direction from the application site), (b) the relatively modest impacts that are subsequently predicted for air quality in the modelling exercise, and (c) with the likelihood of further dispersion of effects over a greater geographical area. The table below lists designated SAC and SPA sites within 15km or the zone of influence of the proposal site including their proximity.

No	Designated Site	Site Code	Proximity of proposal site to nearest
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			point of designated site
1	Ballycotton Bay SPA	004022	8.6km South
2	Ballymacoda Bay SPA	004023	8.7km SE
3	Ballymacoda (Clonpriest & Pillmore) SAC	000077	8.7km SE
4	Cork Harbour SPA	004030	Treated waste water will be discharged approximately 70m south of this Natura 2000 site at Rathcoursey. Refer to Figure 7
5	Great Island Channel SAC	001058	Treated waste water will be discharged approximately 15m south of this Natura 2000 site at Rathcoursey. Refer to Figure 7
6	Blackwater River (Cork/Waterford) SAC	002170	12.7km E
7	Blackwater Estuary SPA	004028	12.7km E

18.11. There is a direct hydrological connection between the development site and two Natura 2000 sites at Ballymacoda via the connecting Kiltha River which flows into the Womanagh River namely the Ballymacoda Clonpriest and Pillmore SAC and Ballymacoda SPA. The development also has a hydrological connection to two Natura 2000 sites within Cork Harbour as treated process water is proposed to be discharged into the harbour namely the Great Island Channel SAC and Cork Harbour SPA

18.12. Using the source-pathway-receptor model, impacts of the development on the network of sites will, therefore, be indirect i.e. they will not arise as a result of land take or directly from construction (e.g. disturbance of adjoining habitats). Pathways linking the application site to European sites are therefore likely to be by water (e.g. contaminated wastewater leaving the site and polluting downstream sites of nature conservation interest).



Designated conservation sites within 15km radius of proposed site

Source: Screening for Appropriate Assessment, Malachy Walsh & Partners

18.13. Conservation Objectives

18.14. The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. These habitats and species are listed in the Habitats and Birds Directive. Special Areas of Conservation and Special Protection Areas are designated to afford protection to the most vulnerable of them. The site specific conservation objective aims to define favourable conservation condition for a particular habitat or species at that site. The detailed conservation objectives are available from the NPWS. Copies of the conservation objectives synopsis (Source: NPWS) are provided in Appendix C of this report.

18.15. Potential likely and significant effects (direct or indirect)

18.16. Description of elements of the project likely to give rise to potential ecological impacts sites:

Location of Proposal

- Main production site upstream of Ballymacoda Bay SPA and Ballymacoda (Clonpriest & Pillmore) SAC
- Wastewater discharge pipeline adjacent to Cork Harbour SPA and Great Island Channel SAC.

Construction Phase

- Noise emissions during construction phase (Plant/equipment/personnel)
- Excavation at the site and along wastewater discharge pipeline required for construction of facility and connection to services.
- Use of construction equipment, vehicles and plant.
- Use of fuels/oils and cement.
- Runoff of pollution from the site e.g. sedimentation.
- The production of waste.

Operation phase

- Existing licenced storm water discharge point to Kiltia River in accordance with IE Licence (P0817-01).
- Treated WWTP effluent will be discharged to the Midleton Main Discharge Outfall at Rathcoursey under licensed discharge agreement with Irish Water.

18.17. Description of any likely direct, indirect or secondary ecological impacts of the project (either alone or in combination with other plans or projects) by virtue of Size and scale; Land-take; Distance from Natura 2000 Site or key features of the Site; Resource requirements; Emissions; Excavation requirements; Transportation requirements; Duration of construction, operation etc.; and Other

18.18. Main production site:

- Proposed works do not require land take from a Natura 2000 Site.
- Accumulated spoil and exposed soil from excavations may initiate runoff of suspended solids which may impact water quality. However, a temporary drain will be installed to the south of the greenfield. Run-off from this area will be directed to a settlement pond. The CEMP/control measures. (see Section 4.2.6 above) will be established prior to commencement to protect water quality.
- The facility will operate in accordance with IED Licence.

18.19. Wastewater Discharge Pipeline:

- Proposed works do not require land take from a Natura 2000 Site. However, it will use an existing Irish Water discharge point at the Ballynacorra River/Estuary with the diffuser located on the southern end of the Natura 2000 sites at the top of the Ballynacorra River channel. Refer to Figure 7 above.
- As the majority of the route does not occur in proximity to Natura 2000 designations (Refer to Figures 5 & 6) temporary noise disturbance to birds over the course of the construction phase is considered likely to potentially occur only along the west L3629 adjacent Cork Harbour.
- CEMP/Removal of excavated material/Fuel management plan should remove the risk of any run off of sediment/fuel/oil or cement/concrete materials (see Section 4.2.6 above).
- There is potential for water quality impacts to Ballynacorra River/Estuary owing to operational discharges.
- The facility will apply to the EPA for a review of their existing IED Licence.

18.20. Wastewater Discharge Pipeline

- Proposed works do not require land take from a Natura 2000 Site. However, it will use an existing Irish Water discharge point at the Ballynacorra River/Estuary with the diffuser located on the southern end of the Natura 2000 sites at the top of the Ballynacorra River channel. Refer to Figure 7 above.
- As the majority of the route does not occur in proximity to Natura 2000 designations (Refer to Figures 5 & 6) temporary noise disturbance to birds over the course of the construction phase is considered likely to potentially occur only along the west L3629 adjacent Cork Harbour.
- CEMP/Removal of excavated material/Fuel management plan should remove the risk of any run off of sediment/fuel/oil or cement/concrete materials (see Section 4.2.6 above).
- There is potential for water quality impacts to Ballynacorra River/Estuary owing to operational discharges.
- The facility will apply to the EPA for a review of their existing IED Licence.

18.21. It is considered that the proposed development does not include any element that is likely to have a significant effect on the conservation objectives of three Natura 2000 sites; (1) Ballycotton Bay SPA (004022), (2) Blackwater River (Cork/Waterford) SAC (002170) and (3) Blackwater Estuary SPA (004028). The rationale for screening out these Natura 2000 sites is as follows:

- The ecology of the species and the habitats in question are neither structurally, nor functionally linked to the development site or to the outfall at Rathcoursey.
- An intervening distance of between 8.6km and 12.7km exists between the respective SAC, SPA and the proposal site.
- No direct ecological pathways linking the Natura site with the proposal site.
- Habitat loss, alteration, disturbance/displacement, fragmentation and water quality within this SAC is unlikely to be impacted by the localised, temporary nature of the proposal.
- The ecology of the species and the habitats in question are neither structurally, nor functionally linked to the development site or to the outfall at Rathcoursey.

18.22. The conditions required to initiate a potential 'source-pathway-target' vector connecting the proposal site to the Blackwater Estuary SPA/Blackwater River (Cork/Waterford) SAC or the Ballycotton Bay SPA will not be created. It is further considered that no potential impact pathway connects these designated sites to the location of the proposed works and, therefore, it is objectively concluded that no significant impact on these Natura 2000 sites is reasonably foreseeable as a result of the proposed development.

18.23. The proposed Dairygold project does not overlap spatially with any of the two designated sites located at Ballymacoda Bay, namely;

- Ballymacoda Bay SPA
- Ballymacoda (Clonpriest & Pillmore) SAC

The River Kiltha occurs approximately 8.7km as the crow flies and 14 river kilometres upstream of Ballymacoda Bay and does not constitute a component part of either the Ballymacoda Bay SPA or the Ballymacoda (Clonpriest & Pillmore) SAC. The habitats within the project footprint are of low value for the qualifying interest

species within these two Natura 2000 sites. The project will not result in any loss of habitat to Ballymacoda Bay SPA (004023) and Ballymacoda (Clonpriest & Pillmore) SAC (000077).

18.24. The proposed Dairygold project does not overlap spatially with any of the two designated sites located at Cork Harbour, namely;

- Cork Harbour SPA
- Great Island Channel SAC

There will be no interaction or overlap between the wastewater discharge pipeline and the Natura 2000 sites located at Cork Harbour, as the pipeline will connect at the landward side of the existing Midleton Main Discharge Outfall infrastructure at Rathcoursey. Refer to Drawing No. DGMY01- M17617-60-DR-C-5210. There will be no requirement for construction works within Cork Harbour as the project will utilise the existing discharge pipe. Therefore, the proposed Dairygold works will not result in direct habitat loss within the Cork Harbour SPA (004030) or the Great Island Channel SAC (001058). Habitat alteration as a result of poor water quality has the potential to occur arising from construction site run-off and operational discharges.

18.25. The likelihood of significant effects to a Natura 2000 site from the project was determined based on a number of indicators including:

- Habitat loss
- Water quality and resource
- Habitat alteration
- Disturbance and/or displacement of species
- Habitat or species fragmentation

18.26. **Great Island Channel SAC (001058) & Cork Harbour SPA (004030)**

18.27. **Habitat Loss** - There will be no interaction or overlap between the wastewater discharge pipeline and the North Channel Great Island waterbody as the pipeline will connect at the landward side of the existing Midleton Main Discharge Outfall infrastructure at Rathcoursey. Refer to Planning Drawing No. DGMY01-17617-60-DR-C5210 A. There will be no requirement for construction works within the Natura designated waterbody. Therefore, the proposed Dairygold works will not result in

direct habitat loss within the Cork Harbour SPA (004030) or the Great Island Channel SAC (001058). Habitat alteration as a result of poor water quality has the potential to occur arising from site run-off and discharges.

18.28. **Water Quality** – The main potential ecological effect of the proposed works at the Dairygold site relate to the potential impacts on water quality within the North Channel Great Island directly, and on a larger scale Cork Harbour. Treelines, stone walls and residential properties separate the L3629 road from the estuary. The Great Island Channel SAC (001058) overlaps spatially with the Cork Harbour SPA. There is potential for significant water quality impacts during the construction phase from the pipeline construction and the operational phase from the treated effluent discharging to the harbour. It is considered that the Dairygold proposal (construction phase) is temporary (less than one month) and will not have a significant impact on the water quality within the Cork Harbour SPA (004030), or the Great Island Channel SAC (001058) as:

- CEMP in place
- No works required within SPA or SAC
- Existing physical separation between area of works and receiving environment.
- No removal of any semi natural habitats to facilitate construction of pipeline
- No requirement for new sub tidal infrastructure
- The wastewater discharge pipeline will be connected at the SW corner of the existing tidal holding tank located immediately adjacent the public road
- Works along L3629

18.29. Trade effluent will be discharged just south of SPA (70m) and SAC (10m) via an existing underwater diffuser pipe from Rathcoursey an ebbing tide. As discharges will be on an ebb tide, effluent will be carried away from the Natura 2000 designated areas of the receiving waterbody. The effluent emanating from the discharge point is lighter than sea water so it rises to the surface, spreading out as it does so, thus becoming more diluted by the friction of the seawater on the rising column. Generally it occupies the top one third of the waterbody at the surface and continues to be diluted further. As it sinks deeper as it travels, it eventually diffuses through the entire

waterbody. The discharge will quickly diffuse into the overall waterbody and owing to the ebb tide, will be carried out and away from the SAC/SPA.

18.30. In summary, the water quality of the trade effluent discharge will meet the proposed Emission Limit Values (ELV) and will have no discernible effect on receiving waters outside the mixing zone. Trade effluent will be discharged just south of Natura 2000 sites via diffuser pipe on 6+ hour ebbing tide in a 24 hour period with water undergoing an ~80% exchange so that the subsequent discharge event will occur on new water coming in. In conclusion, it is considered that the Dairygold proposal (operational phase) will not have a significant impact on the water quality within the Cork Harbour SPA (004030) or the Great Island Channel SAC (001058).

18.31. **Habitat Alteration** – Dairygold proposal will not result in significant water quality impacts during the construction or operational phases. The design approach to the WWTP pipeline and the best practice techniques that will be employed in relation to prevention of water pollution will ensure there will be no significant water quality impacts during the construction phase of the Dairygold proposal. The characteristics of the proposed works e.g., precautions preventing oil/concrete spills, are such that that potential for water pollution will be greatly reduced. As previously discussed, during the operational phase of the proposed Dairygold development all emissions from the proposed facility shall be treated prior to being released into North Channel Great Island and the facility will operate within the parameters of the existing Irish Distillers Limited IE Licence (P0442-02). The proposed discharge is not expected to significantly negatively impact or indeed alter the dynamic, typically estuarine properties of the receiving water as the concentration of nitrogen and BOD will have no discernible effect on the receiving waters. Significant habitat alteration impacts to the Great Channel Island SAC or the Cork Harbour SPA are not likely owing to the proposed Dairygold development.

18.32. **Disturbance and/or displacement of species** – Great Island Channel SAC is designated for two Annex I habitats with no qualifying species listed, therefore there is no potential for disturbance and/or displacement of species within this designated site. The Cork Harbour SPA site is of special conservation interest for NPWS listed species. The site is also of special conservation interest for holding an assemblage of over 20,000 wintering water birds. The physicochemical properties of the receiving environment will not be significantly impacted by the proposed discharge,

thus prey habitat and abundance is not envisaged to be significantly impacted. It is reasonable to conclude that significant habitat alteration impacts within the Cork Harbour SPA will not arise as a result of the proposed discharge.

18.33. The proposed construction works to be conducted in the vicinity of the SPA as part of the proposed development will be conducted entirely along the public road L3629 immediately adjacent the North Channel Great island. There is the potential for some very localised and temporary disturbance and/or displacement of bird species of conservation interest within the nearby Cork Harbour SPA. Noise disturbance will be temporary and confined to the localised area of the pipe laying work. As the pipeline route is a linear project works are expected to move along the route quickly. It is envisaged that at an average rate of pipe laying, the work will progress approximately 150m per day. However, given the level of activity currently in the area including the proximity of the SPA to main public roads and residential properties in this area, and considering the scale and temporary nature of the proposed works at this location of the proposed pipeline route, this potential impact is not considered to be significant and is temporary in nature (less than one month).

18.34. Operation of the pipeline is not expected to cause significant disturbance or displacement impacts to birds as it will remain in-situ under the public road and will not generate any noise when in operation. Bird species potentially swimming or foraging within the receiving environment during a discharge event are not expected to be significantly disturbed by the operation of the discharge pipeline outfall as this is an existing operational feature of the receiving environment with no obvious operational mechanisms that may create disturbance/displacement of species. Therefore it is reasonable to conclude that significant disturbance/displacement of SCI species with the Cork Harbour SPA will not arise. No significant disturbance/displacement impacts are reasonably foreseeable on any of the SCI's protected within the Cork Harbour SPA (004030) as a result of either the construction or operational phase of the proposed Dairygold development.

18.35. **Habitat or species fragmentation** - The existing Dairygold site and the improved agricultural grassland that will be incorporated into the Dairygold Facility are already highly modified and managed. The man made/altered habitats within the footprint of the proposal offer very low potential habitat for species of qualifying interest. The Dairygold proposal will not result in significant disturbance/displacement impacts to

species protected within nearby designated sites. Therefore, it is unlikely that the proposal described in this report will result in significant habitat or species fragmentation within the designated sites considered in this report

18.36. Assessment of In-Combination & Cumulative Effects – Having regard to the foregoing there will be no direct or indirect significant impacts are expected to ensue from the proposed programme of works to be conducted at the Dairygold site. Regarding, the transitional and coastal waters of Cork Harbour, the discharge from the Mogeely facility will not impact on the objective to restore water quality to ‘Good’ by 2021. It is recognised that the most critical issue in securing the restore objective is the delivery of the Lower Harbour Sewage Scheme, whereby a new wastewater treatment plant located at Shanbally will negate the discharge of untreated wastewater from Cobh, Carrigaline, Passage West/Monkstown and Ringaskiddy. Furthermore, the upgrades to the Carrigtwohill WWTP and Midleton WWTP will reduce nutrient inputs in the north east of the harbour which will benefit the Great Island Channel.

18.37. The trade effluent is being discharged immediately south of the Ballynacorra River Estuary of Cork Harbour SPA and SAC into the Ballynacorra River channel. Water quality of the trade effluent discharge will meet the proposed Emission Limit Values (ELV) and will have no discernible effect on receiving waters outside the mixing zone. Trade effluent will be discharged via diffuser pipe on 6+ hour ebbing tide in a 24 hour period with water undergoing an ~80% exchange so that the subsequent discharge event will occur on new water coming in. Thus, considering the water exchange within Cork harbour it is unlikely that significant cumulative water quality will arise

18.38. With regard to the industries operating within Cork Harbour and within the Womanagh River Catchment, it is considered that their individual compliances with IPPC/IEL Licence requirements, such as environmental quality standards, will preclude the possibility of significant cumulative adverse impacts ensuing from them.

18.39. It is considered, therefore, bearing in mind the scope, scale, nature, size and location of the project, the impacts identified and the sensitivities of the ecological receptors for which the sites are designated, that there is no potential for synergistic interaction between the proposed works, and the activities identified, that would create any

significant cumulative or in combination impacts. It is concluded that significant cumulative and or in-combination impacts, between these activities and the Dairygold proposal, are not reasonably foreseeable.

18.40. **Mitigation** - The following Best Practice Management as per the project design will be implemented for the duration of the project:

- WWTP upgrades will be as per planning design
- Construction of the wastewater discharge pipeline will be as per planning design
- Trench and outfall excavations will be carried out to Best Practice
- Detailed method statements will be prepared for water crossings, trench excavations and outfall excavations

18.41. Provided that the mitigation measures (from section 7.8) are implemented in full, it is not expected that significant impacts will result to the features of interest identified for appraisal in this NIS and thus it is not expected that the proposal will have an adverse impact on Natura 2000 sites. In conclusion, provided the design mitigation measures are implemented in full it is not expected that the Dairygold Speciality Cheese Plant Expansion will not adversely impact the integrity of the Natura 2000 sites considered in this NIS, namely:

- Cork Harbour SPA (004030)
- Great Island Channel SAC (001058)

18.42. **Conclusion**

18.43. I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Ballycotton Bay SPA, Ballymacoda Bay SPA, Ballymacoda (Clonpriest & Pillmore) SAC, Cork Harbour SPA, Great Island Channel SAC, Blackwater River (Cork/Waterford) SAC and Blackwater Estuary SPA or any other European site, in view of the site's Conservation Objectives and that a Stage 3 Appropriate Assessment is not, therefore, required.

18.44. I am satisfied that an examination of the potential impacts has been analysed and evaluated using the best scientific knowledge. Significant effects on Natura 2000

sites were identified. Where potential adverse effects were identified, mitigation measures are prescribed to remove risks to the integrity of the European sites. The hierarchy of mitigation was followed with avoidance measures the primary mitigation tool employed. I am satisfied based on the information available that if the mitigation measures are undertaken, maintained and monitored as detailed, adverse effects on the integrity of Natura 2000 sites will be avoided.

19.0 Conclusion

- 19.1. The proposal represents an expansion of an existing established operation on appropriately zoned lands and is consistent with local planning policy which recognises agriculture as a key economic activity throughout the District both in direct farming of land and in food processing with significant dairy processing industry located in the village of Mogeely
- 19.2. The proposed development is situated in an established agri-industrial area, is reasonably removed from nearby sensitive receptors and will be subject to an Industrial Emissions licence which will control emissions to air, dust, noise and water. The proposed development will not, therefore, have any significant adverse impact on the residential amenities of adjacent properties.
- 19.3. Traffic arising from the development will result in a very modest increase in traffic on the local road network, relative to existing levels, and, subject to compliance with conditions in respect of the management of construction and operational traffic, would not be unacceptable, therefore, in terms of traffic safety.
- 19.4. The information supplied to the Planning Authority by the developer addresses in detail the environmental effects of the discharge into Cork Harbour and how they are mitigated. The NIS supports the conclusion that the proposed development, considered in conjunction with other plans and projects, will not have an adverse effect on the integrity of any European Site. Furthermore the EIS submitted, taken together with the further information submitted, demonstrated that the development will not have any likely significant impacts on the environment that would justify a refusal of planning permission on this instance

20.0 Recommendation

20.1. On the basis of the above planning assessment, environmental impact assessment and appropriate assessment, I recommend that the Board approve the application for the proposed development for the reasons and considerations and subject to the conditions set out below.

21.0 Reasons and Considerations

21.1. Having regard to:

- (i) The written submissions made in respect of the application
- (ii) The established nature of the existing Dairygold Development on the appeal site, the detailed nature, scale and form of the development and its location relative to nearby sensitive receptors,
- (iii) Mitigation measures which are proposed for the construction and operation phases of the development,
- (iv) The provisions of the Cork County Development Plan 2014 and the East Cork Local Area Plan 2017
- (v) The nature of the landscape and the absence of any specific conservation or amenity designation for the site,
- (vi) The pattern of development in the area including the proximity to the existing Dairygold facility and the separation distance of the site from existing dwellings,
- (vii) The submissions on file including those from prescribed bodies and the Planning Authority
- (viii) The documentation submitted with the application, including the Environmental Impact Statement and Natura Impact Statement

21.2. It is considered that, subject to compliance with the condition set out below, the proposed development would be in accordance with the provisions of Local Policy, would not seriously injure the residential amenities of the area, would not be prejudicial to public health and would be acceptable in terms of traffic safety. The proposed development would, therefore be in accordance with the proper planning and sustainable development of the area.

22.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars including the mitigation measures specified in the Environmental Impact Statement, lodged with the application as amended by the further plans and particulars submitted on 8th December 2016, 9th January 2017, 30th January 2017, 30th May 2017 and 12th June 2017 and by the further plans and particulars received by An Bord Pleanála on the 21st September 2017 and 2nd October 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Monitoring of the construction phase shall be carried out by a suitably qualified competent person to ensure that all Environmental mitigation measures contained in the documentation which accompany the application are fully implemented. A designated member of the company's staff shall interface with the Planning Authority or members of the public in the event of complaints or queries in relation to environmental emissions. Details of the name and contact details and the relationship to the operator of this person shall be available at all times to the Planning Authority on request whether requested in writing or by a member of staff of the Planning Authority at the site.

Reason: To safeguard the amenities of the area.

3. All environmental mitigation measures set out in the Environmental Impact Statement and associated documentation submitted by the developer with the application and by way of further information shall be implemented in full except as may otherwise be required in order to comply with the conditions of this order.

Reason: In the interest of clarity and to protect the environment during the construction and operational phases of the development.

4. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

5. A noise management plan which should include a monitoring programme shall be put in place by the developer in respect of the construction phase of the development. The nature and extent of the plan and the monitoring sites shall be agreed in writing with the planning authority prior to commencement of the development. The results of the programme shall be submitted to the planning authority on a monthly basis.

Reason: To protect the residential amenities of the area.

6. During construction the wheels of all trucks shall be washed prior to their exit from the site in a wheel wash facility. Details of the construction, installation and operation of this facility shall be agreed in writing with the Planning Authority prior to commencement of any development.

Reason: To safeguard the amenities of the area.

7. All 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 the Planning Authority. In any case no such wastes shall be stored on the site except within the confines of the buildings on site. Adequate on-site arrangements for the storage of recyclable materials prior to collection shall be made to the satisfaction of the Planning Authority.

Reason: To safeguard the amenities of the area

8. All wastewater pump sumps or other chambers from which spillages might occur shall be fitted with high-level alarms. The alarm systems contain an audible and visible alarm, and shall relay via GSM dial out to a responsible person. There shall be no emergency overflow arrangements from any such sump. Adequate storage shall be provided to ensure there is no emergency overflow from this sump. Levels shall be set and controlled so that risk of odour nuisance is minimised, and contents are conveyed for treatment as expeditiously as practical.

Reason: To safeguard the amenities of the area, and prevent water pollution.

9. All lighting within the site curtilage shall be directed and cowled so as not to interfere with, or cause any glare or additional light spill to adjoining residential property.

Reason: To minimise light interference.

10. Prior to any construction work commencing (including site clearance, grading, well boring, levelling, water course crossing etc.) at the proposed development site in Mogeely, or any associated site works from Mogeely to Rathcoursey, appropriate surface water management controls shall be in place to prevent the discharge of sediment contaminated water to adjacent water courses. Unregulated slopes shall be temporarily scarified during construction to minimise runoff velocities. Controls shall be inspected daily and maintained regularly, and achieve a discharge standard of less than 25mg/l suspended solids.

Reason: To prevent water pollution.

11. (a) Continuous TON and Ammonia monitoring shall be provided to the satisfaction of the Planning Authority on the outlet from the WWTP prior to forward feed to the holding tank at Rathcoursey, with automatic shutoff valves in the event trigger limits are reached. Trigger limits shall be agreed with the Environmental Protection Agency. Appropriate storage shall be provided on site to ensure out of specification wastewater is not accidentally discharged.

(b) A remotely actuated valve shall be incorporated at the end of the proposed treated effluent pipeline before the connection to the Irish Water discharge chamber. This valve shall be closed immediately on detection of any non compliance in the quality of the treated effluent.

Reason: To safeguard the amenities of the area, and prevent water pollution

12. The site shall be landscaped and planted in accordance with a scheme to comprise predominantly native and naturalised hedgerow, shrub and tree species reflecting those species naturally occurring in the locality. This plan shall be prepared with input from an ecologist. Full details (including drawings) shall be submitted in a landscape plan to be agreed in writing with the Planning Authority prior to commencement of development. It is desirable that the plan will reflect the principle of no net loss of native trees or hedgerows.

Reason: In the interests of protecting the biodiversity value of the site.

13. Prior to the commencement of development, the developer shall enter into a connection agreement with Irish Water. The agreement shall provide for an inspection of the diffuser at the end of the Rathcoursey discharge pipe and for measures to address any deficiencies found.

Reason: To safeguard the amenities of the area, and prevent water pollution.

14. The following traffic and village improvement mitigation measures shall be implemented before the proposed development comes into operation. Revised drawings shall be submitted to the planning authority for agreement in writing providing for the following:

- a) A 2.0m wide footpath shall be constructed to the satisfaction of the Planning Authority along the full length of the eastern and northern boundaries of the site. Footpath to be provided with public lighting and drainage, lighting to be capable of lighting the entire road width;
- b) Road and cycle path on the road fronting the applicant's site to the north shall be reduced in width to comply with the requirements of

the Design Manual for Urban Roads and Streets (DMURS);

- c) Kerb radii on the junction of the road to the north of applicant's site with the road to the east of applicant's site shall comply with the requirements of DMURS;
- d) Proposed layby on the road fronting the applicant's site to the north shown on applicants drawings as "Existing Lay-by to be retained and upgraded" shall be removed as it is likely to impede sight distance at the applicant's vehicular exit on this frontage;
- e) The full length and width of the public road fronting applicant's site to the north shall be strengthened and resurfaced to the satisfaction of the planning authority.

Reason: In the interests of public realm improvement and traffic safety.

15. Prior to commencement of development, revised drawings shall be submitted to the planning authority for agreement in writing indicating the following:

- a) The public road fronting the site to the north shall be strengthened and resurfaced along its full width and full length to the satisfaction of the Planning Authority before the development comes into operation.
- b) The public road fronting the site to the east shall be strengthened and resurfaced across its full width for a distance of 100 m on either approach to applicant's vehicular entrance. Works to be completed to the satisfaction of the Planning Authority before the development comes into operation.

Reason: To address structural damage to roads.

16. 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

17. The developer shall pay the sum of €70,000.00 (seventy thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of works proposed to be carried out, for the provision of upgrade of junction in Mogeely village and towards pedestrian facilities at N25 junction in Castlemartyr. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

18. At least one month before commencing development or at the discretion of the Planning Authority within such further period or periods of time as it may nominate in writing, the developer shall pay a contribution of €218,116.80 to Cork County Council in respect of public infrastructure and

facilities benefiting development in the area of the Planning Authority. The value of this contribution is calculated in accordance with the Council's Development Contributions Scheme on 04/08/2017, and shall be increased monthly at a rate of 8% per annum in the period between the date on which this value was calculated, and the date of payment.

Reason: It is considered appropriate that the developer should contribute towards the cost of public infrastructure and facilities benefiting development in the area of the Planning Authority, as provided for in the Council's Development Contributions Scheme, made in accordance with Section 48

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

Mary Crowley

Senior Planning Inspector

29th March 2018

23.0 Appendix A – Third Party Observers to Cork County Council

- 1) David Fitzgerald
- 2) Anne Marie Sheridan
- 3) Brian Byrne
- 4) David & Dianne McCondon
- 5) Louise Walsh
- 6) Patricia Triggs-McCarthy & Denis McCarthy
- 7) Patricia Fitzgerald
- 8) John & Gertie Foley
- 9) Mary Leahy
- 10) Mary Theresa Hynes
- 11) John Dineen
- 12) Pansy Fitzgerald
- 13) Aghada Running Club
- 14) John Dineen
- 15) Marie O'Leary
- 16) Robert Fitzsimmons
- 17) Charles Hayes
- 18) John B Ahern
- 19) Jennifer & Alex Dineen
- 20) Jennifer Murphy (Letter from Irish Water dated 14th December 2016)
- 21) Joan Harrington Hayes
- 22) Louise & Denis O'Regan
- 23) Patrick & Jackie Smyth
- 24) Mary & Michael Dewane
- 25) Karen Jordan
- 26) Ike & Nuala Remo
- 27) Rose & Brendan Ryan
- 28) Peter Klemencic

- 29) East Ferry Rowing Club
- 30) Eileen Triggs
- 31) Deirdre Klemencic
- 32) Jason & Lynda Colbert
- 33) Edmund & Mary Butler
- 34) Gunter Roebke
- 35) Gwenda Young
- 36) Ken & Gillian McIlreavy
- 37) Rosin Cuddihy
- 38) Cobh Tidy Towns
- 39) Eoin & Fiona Pomphrett
- 40) Cobh Tourism
- 41) Eleanor O'Dwyer
- 42) Faolan MacGearailt
- 43) Deborah Hayes
- 44) Tom Foley
- 45) Deirdre Triggs
- 46) Sara Nylund
- 47) Cllr Danielle Twomey
- 48) Redmond & Rose Walsh
- 49) Liam O'Connor
- 50) Tim Hayes
- 51) Declan & Kay O'Brien
- 52) Jerry & Stella O'Brien
- 53) Ronan Dewane & Rachel Crowley Dewane
- 54) Albert Muckley
- 55) Noel & Clare O'Sullivan
- 56) Frances & Shirley Roberts
- 57) Gerard O'Keefe

- 58) Richard Fitzgerald & Dr Lynn Noel
- 59) Sean O'Keefe
- 60) Anne Wilson
- 61) Declan O'Flynn
- 62) Atlantic Shellfish Ltd
- 63) Allen Brady
- 64) Angus Thomas
- 65) Miriam & Christian Montagne
- 66) Paul Murphy & Ursula Cutler
- 67) Joyce & Alan Pomphrett
- 68) Frances O'Regan
- 69) Trish & Paddy Condon
- 70) John J Kenny
- 71) Brian Walsh
- 72) Colman, Clodagh, Lorraine & Kyle McCarthy
- 73) Jerome Murphy
- 74) Rostellan Development Association
- 75) Fergal & Bridget Condon
- 76) Michael & Eileen Hartnett
- 77) Sinead & Trevor O'Brien
- 78) Barry Ahern
- 79) Evelyn O'Brien
- 80) Laura O'Regan
- 81) Eamonn Aherne
- 82) Dr Tom Doyle
- 83) William Walsh
- 84) Saleen & District Residents Association
- 85) East Cork Harbour for a Safe Environment
- 86) Dan & Lynda MacFarlane

- 87) Robin & Phyl Triggs
- 88) Fota Oyster Farm Ltd
- 89) Joan Rockley
- 90) Utterly Oysters Ltd
- 91) Natasha Harty
- 92) Jennifer Hayes
- 93) Daithi & Sheona O'Mahony
- 94) John & Jennifer Tierney
- 95) Brian Lawton
- 96) Brian Murphy
- 97) William & Ann Maria Russell
- 98) Aine Woods
- 99) CHASE – Cork Harbour Alliance for a Safe Environment
- 100) Robert & Yvonne Fitzsimmons
- 101) Dr Edward Doyle
- 102) Paul Whelan
- 103) Raphael & Mary Ferris
- 104) Mogeely Development Community Council
- 105) Deirdre Mehigan
- 106) Pat & Vera Foley
- 107) Rob Rutledge
- 108) Dr Gordon Reid, Green Party & Caitriona Reid
- 109) Catherine Sheridan & Others
- 110) Brendan Hennessy & Family

24.0 Appendix B – Third Party Observers to Cork County Council Post Further Information

- 1) Tom Ryan
- 2) John Foley
- 3) David Fitzgerald
- 4) Gerard O'Keeffe
- 5) Sean O'Keeffe
- 6) Mary Hynes
- 7) Ike & Nuala Remo
- 8) John Dineen
- 9) David M Condon
- 10) Saleen & District Application Sub-Committee
- 11) Gunter Roebke
- 12) East Cork Harbour for a Safe Environment
- 13) Natasha Harty
- 14) Richard Fitzgerald & Dr Lynn Ballard
- 15) Jerry & Stella O'Brien
- 16) Atlantic Shellfish Ltd

**25.0 Appendix C - Copies of the conservation objectives site synopsis
(Source: NPWS) for the following Natura 2000 sites:**

- **Ballycotton Bay SPA**
- **Ballymacoda Bay SPA**
- **Ballymacoda (Clonpriest & Pillmore) SAC**
- **Cork Harbour SPA**
- **Great Island Channel SAC**
- **Blackwater River (Cork/Waterford) SAC**
- **Blackwater Estuary SPA**