



An
Bord
Pleanála

Inspector's Report PL17.249303.

Development	664sq.m extension to agricultural shed used for storage of sludge / biosolids, construction of a slurry / industrial storage tank and amendment to condition no. 2 of PL17.241695.
Location	Rossmeen, Kells, Co. Meath.
Planning Authority	Meath County Council.
Planning Authority Reg. Ref.	KA170281.
Applicant(s)	Paddy Brady Agri Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party.
Appellant(s)	Johnn Callaghan & Others.
Observer(s)	An Taisce.
Date of Site Inspection	7 th December 2017.
Inspector	Karen Kenny.

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1.0 Site Location and Description

- 1.1.1. The site is located in the townland of Rossmeen, a rural area approximately five kilometres east of Kells and to the north of the R163 (Kells to Slane) Road. The site is setback from the R163 by over 400 metres and is accessed via a dedicated access road.
- 1.1.2. The site comprises a number of buildings including a large shed that is used for the storage of sludge / biosolid fertiliser, a concrete apron and hardcore yard to front (east) of the shed, an underground slatted storage tank to the rear (west) of the shed, a machinery storage shed along the eastern site boundary, a lime silo and a weighbridge at the entrance to the yard. There were wrapped silage bales stored to the north of the shed at time of site inspection. The site is bounded to the south and east by a 3-meter-high earthen berm and has an open drain and hedge along the northern boundary.
- 1.1.3. The sludge storage shed on the site has a stated floor area of 558 square metres. The shed with a stated ridge height of 8.6 metres, comprises 3-metre-high concrete walls at its base with cladding over. The shed and a concrete apron to front (east) drain to the underground slatted tank at the rear of the shed.
- 1.1.4. The area is rural in character with agricultural fields in the immediate vicinity of the site. The closest dwelling is within the subject landholding and is located c. 270 metres south of the shed. There are a number of one off dwellings along the R163 to the south east and west of the site with separation distances of over 350 metres from the shed.
- 1.1.5. The Moynalty River (Owenroe) runs directly along the eastern boundary of the site c. 70 metres from the storage shed and c. 90 metres from the underground slatted tank. The River Boyne and River Blackwater Special Area of Conservation and Special Protection Area are located 2.4 km downstream of the storage shed.

2.0 Proposed Development

- 2.1. Permission is sought to extend an existing sludge / biosolid fertiliser storage facility, as follows:

- Provide new sludge / biosolids storage shed of 664 square metres adjoining an existing shed. The existing and proposed sheds have a total stated floor area of 1,181.5 square metres and a total storage capacity of 3,544.5 cubic metres.
- Provide new over ground slurry / industrial sludge storage tank to the rear of the storage shed. The tank has a stated diameter of 14.5 metres, a height of 5.67 metres and a volume of 931 cubic metres.
- Amend conditions no. 2 (a) of the permission granted by An Bord Pleanála under Ref. PL17.241695 to increase the overall tonnage of sludge biosolid fertiliser accepted at the site from 3,000 tonnes per annum to 15,000 tonnes per annum.
- Amend conditions no. 2 (b) of the permission granted by An Bord Pleanála under Ref. PL17.241695 to allow municipal waste water treatment sludge / biosolid fertiliser to be accepted from all counties in Ireland, as opposed to County Meath only.
- Retain an existing lime silo to front of existing storage shed with a stated height of 6.5 metres.
- The plans and particulars submitted with the application also include proposed amendments to the vehicular entrance from the R163.

2.1.1. The existing facility is authorised by Meath County Council under the Waste Management (Registration of Sewerage Sludge Facility) Regulations, 2010.

2.1.2. The application is accompanied by a Planning Environmental Report that includes a Traffic and Transportation Impact Report, Flood Risk Assessment Report and Appropriate Assessment Screening Report.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Grant permission subject to 18 no. conditions. The following conditions are of note:

Condition no. 4 (a) restricts the tonnage of sludge / biosolid fertiliser to 15,000 tonnes per annum.

Condition no. 4 (b) limits the sludge / biosolid fertiliser accepted to fertiliser from Irish Water managed / municipal Waste Water Treatment Plants only.

Condition no. 5 (a) and (b) requires the storage of fertilisers and all land spreading activities to comply with S.I.610 of 2010 and S.I. No. 31 of 2014 European Union (Good Agricultural Practice for the Protection of Waters), Code of Good Agricultural Practice and Meath County Council's Protocol for the use of biosolids in Agriculture in County Meath. The applicant is also required to comply with the requirements of Section 5 of the Waste Management (Registration of Sewerage Sludge Facility) Regulations 2010 (S.I. 32 of 2010).

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's Report reflects the decision to grant permission.

3.2.2. Other Technical Reports

Transport Section: No objection subject to the entrance being completed in accordance with proposed revisions contained in Appendix B of Planning and Environmental Report.

Environment Section: No objection.

3.3. Prescribed Bodies

DCHG: Direct connectivity to River Boyne and River Blackwater SAC and SPA. Nature of proposed development has the potential to impact on the European Site. In making its determination PA needs to ensure that there is no risk of pollution due to leakage / spillage from the storage of sludge / biosolids and to ensure that potential risk of flooding has been adequately assessed, as there would be potential for severe contamination of the adjoining water course.

- IFI: Object to application. Storage shed is 70 metres from the Moynalty River with a direct connection to the river via a storm water drain taking rainwater from the shed roof. Overland flow from development may discharge to the Moynalty River and Kells Blackwater River, both of which are currently at poor status. The site at Donaghpatrick Bridge (downstream of the appeal site) was reclassified as poor in 2015, down from moderate in 2012 and good in 2009.
- An Taisce: No stated objection, subject to resolution of issues raised under previous application.

3.4. Third Party Observations

- 3.4.1. Two submission were received. The issues raised are similar to those set out in the grounds of appeal summarised in Section 6 below.

4.0 Planning History

- 4.1.1. Details of the planning history associated with the site is summarised below:

Reg. Ref. KA151141: Application for an extension (664 sq.m) to existing agricultural shed used for storage of sludge / bio solid fertiliser and the construction of an over ground slurry / industrial sludge storage tank (capacity of 931 cubic metres) and associated works. Permission also sought to amend terms of condition no. 2 (a) and 2 (b) of permission granted under ABP Ref. PL17.24169 and to retain a lime silo. Permission refused by the Planning Authority. The reason for refusal relates to the following:

1. The increase in traffic numbers and turning movements at the junction of the site and the R163 would endanger public safety by reason of traffic hazard and would be contrary to RD POL 38 and RD POL 39 of the Development Plan, which relate to traffic hazard and unnecessary access onto roads of regional or local importance.

ABP Ref. PL 17.241695 / Reg. Ref. KA120937: Application to retain change of use of an existing permitted agricultural shed to use as a unit for storage of sludge / bio solid fertiliser and retention of slatted shed. Permission granted by the Planning Authority. This decision was subject to a **third party appeal** to An Bord Pleanála. An Bord Pleanála upheld the decision of Meath County Council and granted planning permission. The following conditions are of note:

- Condition no. 2: (a) The overall tonnage of sludge / biosolid fertiliser accepted at this facility shall not exceed 3,000 tonne per annum.
- (b) Permitted sludge / biosolid fertiliser shall be restricted to waste from Meath County Council Waste Water Treatment Plants only.
- (c) Details regarding methodology shall be submitted to and agreed in writing with the PA prior to the commencement of development.
- Condition no. 3: The storage of fertilisers and all landspreading activities on lands identified within this application shall comply with SI610 of 2010 (Good Practice for the Protection of Waters) and Meath County Council's Protocol for the use of biosolids in Agriculture in County Meath.
- Condition no. 4: The applicant shall enter into an agreement with the planning authority within one month of the grant of planning permission to ensure full compliance with the requirements of Section 5 of the Waste Management (Registration of Sewage Sludge Facility) Regulations 2010 (S.I. 32 of 2010).
- Condition no. 5: The acceptance and dispatch of material to/from the subject site shall only be between 08.00 and 18.00 on Monday to Friday, and 08.00 to 12.00 on Saturdays. The facility shall be closed on Sundays or public holidays, and material shall not be accepted or dispatched on those days. Deviation from these times will only be allowed where prior written approval has been received from the planning authority.
- Condition no. 9: (b) The lane just inside the road access shall be raised so that the first 20 metres has a grade of no greater than 2%.

(c) The access gate at the entrance shall be recessed sufficiently in order that a trailer can be accommodated between the gate and the road edge.

Reg. Ref. KA100736: Application for construction of an agricultural shed with an area of 885 sq. m, access roadway and all associated ancillary site works.
Permission Granted.

UD14135: Enforcement file relating to noncompliance with condition no. 2 of ABP Ref. PL 17.241695 / Reg. Ref. KA120937. Planner's Report states that no evidence of non-compliance was found.

The Planner's Report notes that a number of additional planning applications were submitted in respect of the subject site but were deemed to be invalid or withdrawn (KA170242, KA120628 and KA120572).

4.1.2. Details of the planning history associated with an agricultural complex located to the north of the appeal site is summarised below:

ABP Ref. PL17.245707 / Reg. Ref. KA150093: Application for retention of use of two agricultural sheds for storage of sludge/biosolids. Permission granted by the Planning Authority. This decision was subject to a **third party appeal** to An Bord Pleanála. An Bord Pleanála overturned the decision of Meath County Council and refused planning permission for 4 no. reasons relating to the following:

1. Prejudicial to public health and risk of environmental pollution. It was considered that the agricultural sheds were not suitable for the handling, storage and treatment of sludge/biosolids.
2. Prejudicial to public health and risk of environmental pollution due to insufficient information in relation to the methods of treatment of sludge. The Board was not satisfied that the applicant has adequately demonstrated that there will be no requirement to store hydrated lime on site for use in the treatment process having regard to the number of deliveries of waste to the site on a weekly basis and the requirement to treat sludge on a weekly basis.

3. Impact on amenities of the area, having regard to the number of houses in the area and the traffic and odours arising from the development, and to the proximity of the subject application site to the current proposal for a similar type facility under Planning Application Reg. Ref. KA15/1141.
4. Board cannot be satisfied that the proposed development would not be likely to have a significant effect on the River Boyne and Blackwater SAC (Site Code: 002299).

The Board noted comments in the Inspector's report in relation to EIA and the provisions of Schedule 5, Part 2 11(d) of the Planning and Development Regulations. Having regard to the substantive reasons for refusal, the Board did not proceed to consider whether, or not, a determination on the matter of a subthreshold EIS would be necessary in this instance.

Referral Ref. PL09.RL2653. Question as to whether the application of sewage sludge on a willow crop is or is not exempted development. An Bord Pleanála concluded that the application of sewage sludge does not come within the definition of works as defined under the Act and the application of sewage sludge is not a material change of use in the land. As such it was concluded that, as neither works nor a material change of use of the land was taking place, the activity does not constitute development.

5.0 Policy Context

5.1. Development Plan

The Meath County Development Plan 2013-2019 is the relevant statutory plan for the area. The site is located in a rural area outside of a designated settlement and is not governed by any specific land use zoning objective. The following policies and objectives are considered to be relevant.

- Core Principle 7: To protect and support rural areas through careful management of physical and environmental resources and appropriate, sustainable development.
- ED POL 20: To normally permit development proposals for the expansion of existing authorised industrial or business enterprises in the countryside where the resultant development does not negatively impact on the character and amenity of the surrounding area. In all instances, it should be demonstrated that the proposal would not generate traffic of a type and amount inappropriate for the standard of the access roads. This policy shall not apply to the National Road Network.
- ED POL 21: To permit development proposals for individual or business enterprises in the countryside where generally the following criteria are met:
 - (i) the proposed use has locational requirements that can more readily be accommodated in a rural location than an urban setting and this has been demonstrated to the satisfaction of Meath County Council;
 - (ii) the development will enhance the strength of the local rural economy;
 - (iii) the resultant development is of a size and scale which remains appropriate and which does not negatively impact on the character and amenity of the surrounding area;
 - (iv) the proposal demonstrates that it has taken into account traffic, public health, environmental and amenity considerations;
 - (v) the proposal is in accordance with the policies, requirements and guidance contained in this plan;
 - (vi) it is demonstrated to the satisfaction of Meath County Council that the proposal would not generate traffic of a type and amount inappropriate for the character of the access roads or would require improvements which would affect the character of these roads. This policy shall not apply to the National Road Network.
- Section 7.17 of the Development Plan relates to waste management. It states that waste management policy is predicated on the EU Waste Hierarchy of prevention, preparing for reuse, recycling, energy recovery and sustainable disposal.

- WM POL 1: To adopt the provisions of the waste management hierarchy and implement policy in relation to the county's requirements under the current or any subsequent waste management plan. All prospective developments in the county will be expected to take account of the provisions of the regional waste management plan and adhere to the requirements of the Plan. Account shall also be taken of the proximity principle and the inter regional movement of waste as provided for under appropriate Minister Directives from time to time.
- WM POL 6: To encourage the development of waste infrastructure and associated developments in appropriate locations, as deemed necessary in accordance with the requirements of the Regional Waste Management Plan.
- WM OBJ 1: To facilitate the provision of appropriate waste recovery and disposal facilities in accordance with the principles set out in the appropriate Waste Management Plan applicable from time to time made in accordance with the Waste Management Act 1996.
- WM OBJ 4: To update the Sludge Management Plan for County Meath and seek to implement the recommendations of that plan.
- WM OBJ 7: To promote the implementation of Waste Management Activities in accordance with 'Best Practice' and national policy.
- WM OBJ 8: To facilitate the implementation of national legislation and national and regional waste management policy.
- WM OBJ 16: To support the development of infrastructural requirements necessary to meet the objectives and targets Meath's Sludge Management Plan having regard to the relevant siting guidelines.
- RD POL 10: To encourage and facilitate agricultural diversification into agri-businesses such as organic foods, rural tourism and small to medium sized enterprises subject to the retention of the holding for primarily agricultural use and the proper planning and sustainable development of the area.
- Chapter 11 sets out Development Standards including standards for agricultural buildings and structures.

- Meath County Development Plan 2013-2019, Appendix 7 sets out a Landscape Character Assessment for County Meath. The site is located in the Blackwater Valley which is detailed as having a ‘very high value’ and a ‘high sensitivity’.

5.2. **Meath County Council’s Protocol for the Use of Biosolids in Agriculture in County Meath**

5.2.1. The protocol seeks to provide a guide to all wastewater treatment plant operators, sludge handling contractors, consultants and landowners of appropriate standards. The document states that storage facilities for the holding of biosolids shall hold a certificate granted by Meath County Council under the Waste Management (Registration of Sewage Sludge Facilities) Regulations 2010 and that storage facilities for biosolids shall not pose a risk to either surface waters or groundwater or pose a risk to human, animal or plant life. Section 2 states that sewage sludge before being used in agriculture, must be subject to biological chemical or heat treatment. Alkaline stabilisation is listed as a suitable treatment.

5.3. **A Code of Good Practice for Use of Biosolids in Agriculture Department of Housing, Planning, Community and Local Government (DHPCLG).**

The Code of Good Practice states that bio solid producers should provide sufficient volume of storage for biosolids produced between October and February, where conditions will not generally be suitable for spreading.

5.4. **Irish Water - National Wastewater Sludge Management Plan, 2016**

5.4.1. Irish Water produced a National Wastewater Sludge Management Plan (NWSMP) in 2016. The Plan outlines Irish Water’s strategy to ensure a nationwide standardised approach for managing wastewater sludge over a 25-year period. The Plan states that at present over 98% of wastewater sludge is treated to produce biosolids which are reused in agriculture. The Plan also states that there are very limited alternative options currently available in Ireland and that it is important that alternatives are explored to reduce risks associated with depending on agriculture.

5.4.2. While the Plan states that Irish Water is confident in the quality of properly treated biosolids, it notes that an audit has identified variation in the adequacy of lime treatment provided, particularly at offsite installations, with issues around dosing of lime and inadequate monitoring of temperature and pH during treatment. It is proposed to phase out the off-site lime stabilisation in the short-term and actions of the Plan include the setting up of a network of hub treatment sites and satellite dewatering plants for sludge.

5.4.3. Section 9.5 addresses site selection for new sludge treatment infrastructure. It is stated that in general the location of new or upgraded sludge facilities including Sludge Storage Facilities must consider the following environmental siting criteria:

- Avoid, as far as possible, siting sludge infrastructure (including expansion to WWTP, sludge hub or satellite dewatering site) or related infrastructure in areas protected for landscape and visual amenity, geological heritage and/or cultural heritage value. Where this is unavoidable, an impact assessment should be carried out by a suitably qualified practitioner and appropriate mitigation and/or alternatives must be provided.
- Avoid siting sludge infrastructure or related infrastructure in proposed Natural Heritage Areas (pNHAs), Natural Heritage Areas (NHAs), Statutory Nature Reserves, Refuges for Fauna and Annex I Habitats occurring outside European designated sites.
- In order to protect habitats which, by virtue of their linear and continuous structure (e.g. rivers and their banks) or their contribution as stepping stones (e.g. ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild species, these features will be protected as far as possible from loss or disruption through good site layout and design.
- To protect river habitats and water quality, ensure that no sludge facility, including clearance and storage of materials, takes place within a minimum distance of 15 m measured from each bank of any river, stream or watercourse.
- Ensure Sustainable Drainage System (SuDS) is applied to any sludge facility and that site-specific solutions to surface water drainage systems are

developed, which meet the requirements of the Water Framework Directive and associated River Basin Management Plans.

- Avoid development of sludge infrastructure in flood risk areas. Reference should be made to the *Planning System and Flood Risk Management for Planning Authorities* (DECLG/OPW 2009) and the National Flood Hazard Mapping (OPW) while referring to the relevant Flood Risk Management Plan (FRMP).
- Ensure riparian buffer zones (minimum of 15 m) are created between all watercourses and any sludge facilities to mitigate flood risk. The extent of these buffer zones shall be determined in consultation with a qualified ecologist and following a Flood Risk Assessment. Any hard landscaping proposals shall be located outside of these buffer zones.
- To protect river habitats and water quality (including physical habitat and hydrological processes/regimes), ensure that no sludge facilities, including clearance and storage of sludge materials, takes place within a minimum distance of 15 m measured from each bank of any river, stream or watercourse.
- Avoid geologically unsuitable areas including karst where practicable, and areas susceptible to subsidence or landslides. Due consideration should be given to the primary water source of the area and the degree of surface water/groundwater interaction.
- Impact from a transport perspective will be assessed including road access, network, safety and traffic patterns to and from the proposed sludge facility in accordance with road design guidelines and/or relevant LA guidelines in relation to roads.
- Existing WWTP sites and brownfield sites should be considered for any expansions for sludge facilities. Opportunities to integrate sludge treatment with sites that produce sludge needs to be considered ensuring maximum efficiency of sludge processing.
- Ensure strict protocols are applied to prevent the spread of Invasive Alien Species.

5.5. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. One third party appeal has been received. The grounds of appeal can be summarised as follows:

- The development as submitted to the Planning Authority contravenes statutory requirements set out in the Planning and Development Regulations. In this regard the following is stated:
 - Newspaper notice makes no reference to length for which retention permission is sought.
 - No reference to any treatment of sludge or detail of same.
 - Applicant failed to outline the access area to the lands in red despite the application documents proposing works at the access.
 - Contaminated runoff will dispose to a soakaway adjacent to the river. The requirements for disposal of contaminated water have not been met.
 - No evidence of written consent for spread lands or identification of owners, despite increase in scale. Not possible to determine the impact of the proposal without determining where the sludge will be disposed of.
 - Development exceeds the threshold for EIA set out in Schedule 5 Part 2 11 (d) of the Planning and Development Regulations. Public notification requirements under Directive 2011/92/EU for developments that are subject to an environmental impact assessment not met.
- The application fails to adequately describe the nature and extent of the development and to prepare and submit an EIS.
 - The development is described as a biosolids storage development. It is argued that the development includes wider processes including

transporting raw sewerage sludge from treatment plants, unloading and loading activities on site and mixing and lime stabilisation of sludge.

- Extent of activity. Applicant purports to store 3,000 tonnes and to collect 9,000 tonnes of sludge per annum. With 15,000 tonnes storage would equate to collecting close to 45,000 tonnes.
- Reliance on assessment of dryness of biosolids conducted in a previous application as basis for not undertaking EIS raises procedure difficulties. Material is brought to site as a wet untreated product prior to treatment and hence requirement for EIS.
- Treatment cannot function without spreading lands, and project splitting will arise if elements of a related process are considered separately (case law referenced).
- Prejudice to members of the public will arise if parts of the permitting process are not subject to public notice and public participation.
- The failure in screening does not adequately identify risks and to acknowledge those risks.
- The proposal is not coherent with the principles set out in Irish Water's National Waste Water Sludge Management Plan 2016.
 - The National Wastewater Sludge Management Plan identified Meath as having the highest concentration of naturally occurring Nickel and Cadmium Levels in soil nationally rendering it unsuitable for land spreading of sewerage derived biosolids.
 - Primitive equipment used at the Brady Site where raw sewerage sludge is moved by loading shovel for mixing provides risks of spillage and of the odour becoming airborne. The level of odour experienced in area is not consistent with effective adequate lime dosing. Following enquiries, no adequate explanation in relation to how sludge conveyed to fields from Navan and other treatment plants is treated.
- History of nuisance caused by existing facility and use set out.

- Fyanstown Community Group (FCG) established to represent serious concerns in the community in relation to sewage sludge business at Fyanstown.
- Group have received complaints in relation to noxious odours, sickness, noise and traffic.
- Restrictions imposed by ABP under Reg. Ref. PL17.245707 are regularly breached.
- Meath County Council is a user of the facility rather than an independent arbiter.
- Under SI No. 787 of 2005, European Communities (Waste Water Treatment) (Prevention of Odours and Noise) Regulations 2005, nuisance is prohibited from waste water treatment plants. Facility is an extension of a WWTPs. It is obvious that best practice is not being proposed in the expansion of the facility and that nuisance will not be avoided let alone mitigated.
- Failure to identify reasonable alternatives to this proposed development. Table 5.2 of the NWWSSMP identifies a range of options.
- Grounds of objection submitted in response to application are reiterated in appeal. The key issues raised that are not already set out above can be summarised as follows:
 - No duration for development. Current licence expires in September 2018.
 - Attempt to classify sludge as 'non wet' sludge to avoid requirement for EIA and AA.
 - Machinery shed is claimed to be exempted development. Can be no exempted development where EIA is engaged. Treating sewage sludge is a chemical process as opposed to an agricultural one.
 - Risks associated with waste water discharges to Owenroe River or Moynalty River or Borora River, a tributary of the Kells Blackwater, draining to the Boyne.

- Impact on River Boyne and Blackwater SAC / SPA.
- Question of jurisdiction of Meath County Council to determine the application. Could be considered to be a Strategic Infrastructure Development (SID) based on categories set out in the Seventh Schedule of the Act.
- Development involves the processing of hazardous and toxic waste with chemical treatment. Contrary to requirements of Waste Water Treatment Directive.
- No record of pre-planning consultations undertaken with PA.
- ABP under PL17.245707 found that there were precluded from granting permission for a sub 5,000 tonne wet sludge deposition project in absence of a NIS. Board noted inspectors comments in relation to requirement for EIA under Schedule 5 Part 2 11 (d) of the Regulations, but based on the substantial reasons for refusal did not proceed to determine this issue.
- Concerns raised with regard to the details submitted for the treatment of sludge.
- Concerns raised in relation to traffic impacts and associated risks.
- Concerns raised in relation to Flood Risk and the adequacy of the Flood Risk Assessment.

6.2. Applicant Response

- The application has been completed to meet compliance with all aspects of the Planning and Development Regulations.

Article 18.1(d)(ii) - In response to the issues raised in relation to the description of the nature and extent of the development in the newspaper notice, the response sets out details of the processes to be undertaken on the site.

Article 22.2 (b) (I) - In response to issues raised in relation to the site location map and extent of the red line boundary, the response states that Meath County Council have instructed that additional works to the wall along the R163 are undertaken at the entrance and that these works form part of the planning application.

Article 22.2 (c) – In relation to the disposal of wastewater from the development the response states that there are no proposed surface water emissions onsite except for uncontaminated storm water runoff that enters a soakpit. The slatted tank is emptied as required and the leachate land spread on pre-approved tillage landbanks. During the closed season, contents may be tankered to a suitable municipal wastewater plant if required. A power washer is used to clean vehicles prior to exiting the facility to prevent debris being carried to the public roads.

Article 22.2 (g) – In relation to the requirement to include written consent from the owner where the applicant is not the legal owner of lands or structures concerned, the response states that the applicant land spreads biosolids in accordance with pre-approved Nutrient Management Plans for the landspreading of the biosolid, in accordance with the European Communities (Good Agricultural Practice for Protection of Waters Regulations, 2014 (S.I. 31 of 2014), Waste Management (Use of Sewage Sludge in Agriculture) Regulations 1998 and Amendment 2001, and the Protocol for the Use of Biosolids in Agriculture in Co. Meath (2011). Landbank map, soil and sludge analysis and aquifer vulnerability assessments for each individual landbank were submitted and approved by Meath County Council during 2017.

- In response to issues raised in relation to the requirement for an Environmental Impact Assessment the response states that activities do not come under any statutory limits for EIS set out in Schedule 5 (Part 2) of the Regulations. The response states in relation to Class 11 (b) and 11 (d) there will be no 'disposal' on site as part of the activity, rather all treated sludge/biosolids will be land spread and recovered as an organic fertiliser on tillage lands. The response states that there is no EIS threshold for the recovery of biosolids / industrial sludge /slurries and refers to the delineation between 'deposition' and 'recovery' in the Waste Framework Directive and

EPA Codes. The response also argues that the materials stored on site do not constitute 'wet sludge'.

- In relation to the development description the response states that the permission accurately reflects the planning permission required and characterisation of the project. The response states that permission is sought to increase the overall tonnage of sludge / bio solid fertiliser accepted from 3,000 tonnes per annum to 15,000 tonnes as opposed to the amount stored. The reference to collection of 45,000 tonnes is incorrect.
- In relation to project splitting, the application relates to the site at Rossmeen. The areas used for landspreading change yearly and are managed and controlled through Nutrient Management Plans.
- In relation to alignment with Irish Waters Sludge Management Plan, the response states that landspreading of lime stabilised sewage sludge is recognised as a treatment process. Although the spatial distribution map of lands that are unsuitable for sludge landspreading shows a large area of central Ireland as red, the map is vague and unspecific to actual sites. Testing of soil and sludge is undertaken as part of the Nutrient Management Plan to determine metal concentrations in soil and sludge and to determine suitability of lands. The issue of groundwater vulnerability is also considered as part Nutrient Management Plan.
- No complaints have been received directly by the applicant from residents of Fyanstown regarding odour issues. Complaints received by Meath County Council were investigated and the Council determined that no odours were present.
- The facility has been operating in line with the conditions specified in the planning application. No complaints have been received in relation to working hours, increased traffic, noise or odour and no issues have been raised by Meath County Council during their site inspections.
- S.I. No. 787 of 2005 EC (Waste Water Treatment) (Prevention of Odours and Noise) Regulations 2005 is not relevant to this application as the facility is not a waste water treatment plant.

- In response to reference to alternatives for the treatment of sludge, the current application seeks to continue the sludge treatment process that has been successfully operating since acquiring the initial permission.
- A letter detailing the structural integrity of the existing sludge storage shed and ancillary infrastructure is included with the response.
- Correspondence between the applicant's agent and Meath County Council in relation to EIS screening is included with the response.

6.3. **Planning Authority Response**

The PA considered the principle of this type of economic enterprise in a rural area in the context of the policies and objectives of the Development Plan and its development management standards, whether previous refusal reasons were addressed, the issues raised in submissions / observations, responses from prescribed bodies and internal departments, the design, siting and intensification considerations, modifications to access arrangements and traffic movements to and from the enterprise, the requirement of the EIA Directive with regard to tonnes of sludge and its state, wastewater / effluent management, residential amenities, flood risk assessment and management, the requirements of the Habitats Directive, the applicants response to issues raised in the submissions received and other matters contained in the applicants response to the request for further information. Notwithstanding the issues raised by the appellant, it is considered that the proposed development is generally consistent with the policies and objectives of the Development Plan and therefore, ABP is respectfully requested to uphold the decision of Meath County Council.

6.4. **Observations**

An observation has been received from An Taisce. The issues raised can be summarised as follows:

- Increase in traffic numbers and turning movements would endanger public safety by reason of traffic hazard.

- Condition no. 2 of the permission granted under ABP Reg. Ref. PL17.241695 restricted the development. Development would represent a fivefold increase in overall tonnage capacity per annum.
- The Planners Report under ABP Reg. Ref. PL17.241695 raised issues in relation to visibility at the junction with the R163 and in relation to the lack of doors on the shed and odour management.
- Letter from Rowan Engineering in relation to integrity of structure is based on a visual assessment and does not address proposed expansion.
- The response to third party submission does not address compliance with conditions, including restricted hours of operation.

6.5. Further Responses

None.

7.0 Assessment

7.1.1. I have read the entire contents of the file, visited the site in question and have had particular regard to the issues raised in the grounds of appeal and in the observation. I consider that the key issues in determining the current application and appeal before the Board are as follows:

- Nature and Extent of Operations
- Principle of Development
- Suitability of Site for the Storage and Treatment of Sludge and Biosolids
- Traffic and Transportation
- Impact on Amenity and Character of the Area
- Flood Risk Assessment
- Procedural Issues
- Other Issues
- Environmental Impact Assessment

- Appropriate Assessment

7.2. Nature and Extent of Operations

- 7.2.1. The details submitted with the application state that sludge / biosolids produced at municipal Waste Water Treatment Plants (WWTPs) in County Meath have been accepted and managed at the appeal site since 2010. The submitted details state that dewatered sludge cake is transported to the site using a tractor and trailer unit with roll-on and roll off skips. On arrival at the site the sludge is loaded to a mobile mixing unit for lime stabilisation (a requirement for the use of wastewater sludge in agriculture) and following mixing the biosolid is tipped and conveyed by loading shovel and stockpiled in the storage shed before removal for landspreading for agricultural benefit. The facility is authorised by Meath County Council under the Waste Management (Registration of Sewage Sludge Facility) Regulations 2010 and landspreading of materials stored at the site is subject to a Nutrient Management Plan that is agreed by Meath County Council.
- 7.2.2. The site comprises a number of buildings including a sludge storage shed (558 sq. metres) with concrete apron and leachate collection drain to front, an underground slatted storage tank, a hardcore yard area, a machinery storage shed, a lime silo and a weighbridge and cabin at the entrance to the yard. An Bord Pleanála granted permission under ABP Ref. PL 17.241695 / PA Ref. KA120937 to retain the use of an existing permitted agricultural shed for the storage of sludge / biosolids. Condition no. 2 of the permission restricts the overall tonnage of sludge / biosolid fertiliser accepted at the facility to 3,000 tonnes per annum and to sludge / biosolids from Waste Water Treatment Plants in County Meath.
- 7.2.3. It is proposed to expand the established facility. Permission is sought to construct a new storage shed adjoining the existing shed and to increase the total storage capacity in the sheds from 1,552.5 cubic metres to 3,544.5 cubic metres, to construct an over ground slurry / industrial sludge storage tank with a volume of 931 cubic metres, to increase the overall tonnage of sludge / biosolid accepted at the facility from 3,000 tonnes per annum to 15,000 tonnes per annum and to allow for municipal WWTP sludge / biosolids to be accepted from any county in Ireland.

7.3. Principle of Development

- 7.3.1. The site is located in a rural area outside of a designated settlement and is not governed by any specific land use zoning objective. The landspreading of treated biosolids fertiliser on agricultural lands is accepted practice under both EU and National Legislation and is regulated by the Waste Management (Use of Sewage Sludge in Agriculture) Regulations, 1998, as amended in 2001.
- 7.3.2. Policy ED POL 20 of the Development Plan is to normally permit development proposals for the expansion of existing authorised industrial or business enterprises in the countryside where the resultant development does not negatively impact on the character and amenity of the surrounding area or generate traffic of a type and amount that would be inappropriate to the area. WM POL 6 seeks to encourage the development of waste infrastructure and associated developments in appropriate locations in accordance with the requirements of the Regional Waste Management Plan, whilst Objective WM OBJ 16 is to support the development of infrastructure requirements necessary to meet the objectives and targets of Meath's Sludge Management Plan having regard to relevant siting guidelines.
- 7.3.3. Given the permitted commercial use on the site relating to the storage of wastewater sludge / biosolids prior to its reuse in agriculture, I consider that the development falls within the terms of Policy ED POL 20 of the Development Plan. I also consider that the facility is directly connected to the agricultural use of lands in the vicinity and is suited to a rural area. On the basis of the foregoing I consider that the development is acceptable in principle at this rural location. However, I would note that Policy ED POL 20 does not in itself suggest a positive presumption towards a grant of permission, as this must be tempered by the fact that the policy clearly requires the resultant development to be of a nature and extent that remains appropriate to the area. The nature and extent of the development, the suitability of the site for the development and the resulting impacts on the character and amenity of the area and on traffic are key considerations.

7.4. Suitability of Site for the Storage and Treatment of Sludge and Biosolids

- 7.4.1. The appeal site is located in a rural area that is characterised by agricultural activities and sporadic one off housing. The site is set back from the public road by

over 400 metres and the closest residential dwelling is c. 270 metres to the south of the storage shed and within the landholding. The closest third party dwellings are located over 350 metres from the site. There is an open drain along the northern eastern site boundary that flows into the Moynalty / Owenroe River. The site also adjoins the channel of the Moynalty / Owenroe River.

- 7.4.2. The existing structures on site are modern and appear on the basis of a visual inspection to be in a good state of repair. Leachate waters from the shed and concrete apron drain to an open slatted tank to the rear of the shed and surface water from roofs and hardcore areas drain to a soakaway.
- 7.4.3. I would note that Irish Water's National Wastewater Sludge Management Plan, 2016, recommends that sludge facilities (including storage facilities) maintain a setback of 15 metres from a watercourse for reasons including the protection of river habitats and water quality. The existing facility directly adjoins the riverbank. The existing storage shed is located c.55 metres from the river while the slatted tank is located c.90 metres from the River. A machine shed and weigh bridge on the site (not detailed on the site layout plan) are within 15 metres of the river channel. The lime silo to be retained, the proposed storage shed and the proposed slurry / sludge tank would be in excess of 15 metres from the bank of the river.
- 7.4.4. The drainage characteristics of the existing shed and associated concrete apron appear fit for purpose with all impermeable concrete areas draining to the underground tank. However, during site inspection, which followed a period of heavy rainfall, I noted that there was soiled effluent and ponding across the gravel yard to the east of the storage shed and on the access route. I consider that the observed conditions on site at time of inspection represent a significant environmental threat having regard to the close proximity of the Moynalty River which adjoins the eastern site boundary and the access driveway. I am concerned that the submitted details fail, in any meaningful way, to address the potential for increased leachate run off from the extended facility or to demonstrate that the existing drainage system and slatted tank (stated capacity of 67 cubic metres) are adequate to cater for the proposed development. The applicants appeal response states that during the closed season the contents of the slatted tank may be tankered to a municipal wastewater plant if required. In addition to leachate arising from the handling and treatment of sludge / biosolids, I would note that the slatted tank is not covered and

that there is uncontrolled water egress to the tank, thereby exacerbating the quantity of effluent created within the site. I would consider that this approach to be contrary to the EU Waste Hierarchy which advocates waste prevention in the first instance.

- 7.4.5. In terms of the lime stabilisation process, it is clear from the various guidelines and protocols that the treatment of sludge / biosolids is a necessary pre-requisite prior to any landspreading and is widely practiced. However, the submitted details describe the process in general terms and lack site specific detail. The process involves the addition of lime to raise pH and an accompanying rise in temperature to stabilise the waste. The application states that a 'mobile mixing unit' is used on the appeal site. It is unclear whether the mixing unit is transported to and from the site, where the mixing unit is located during treatment and whether there would be a risk of pollution arising from the transfer of sludge / biosolid and lime to and from the unit or from the operation of the unit. While it is clear that significant quantities of lime would be required to facilitate the treatment of 15,000 tonnes of sludge / biosolids there are no details on the file in relation to the storage capacity of the existing lime silo to be retained and the quantity of lime required.
- 7.4.6. I consider it to be imperative that all waste is contained on the appeal site (including contaminated surface water) and is managed to prevent run-off. Article 7 of S.I. 31 of 2014 (Good Agricultural Practice) for the Protection of Water Regulations (while relating to agricultural waste as opposed to biosolid/sludge are nevertheless relevant in my opinion as they highlight the importance of minimising environmental pollution), require that storage facilities "*shall be maintained free of structural defect and be maintained and managed in such a manner as is necessary to prevent run-off or seepage directly or indirectly into groundwater or surface water or such substances*". The secure management of waste is particularly important given the proximity of the site to an adjacent watercourse and the potential for downstream impacts on Natura 2000 sites, as discussed in more detail in Section 8 below. I would draw to the Boards attention the fact that the EPA has classified the Moynalty and Kells Blackwater Rivers at poor status. The monitoring site at Donaghpatrick bridge located c. 400 metres downstream of the site has been classified as poor in 2015, down from moderate in 2012 and good in 2009.
- 7.4.7. Having inspected the site and reviewed the details submitted with the application to include a structural report in relation to structures on site, I am satisfied that the

existing structures on site are suitable for the handling, storage and treatment of a suitable quantity of sludge / biosolids and that effluent arising can be contained within the site with good management practices. However, based on the observed conditions on site at time of site inspection, I am not satisfied that good management practices are followed at all times. I am also not satisfied, on the basis of the information on the file, that the proposed development includes adequate infrastructural capacity to manage a development of the nature and extent proposed and to contain effluent within the site without risk of environmental pollution. For this reason, I recommend that permission be refused.

- 7.4.8. If the Board are minded to grant planning permission for the proposed development, I would recommend that prior to determining the application further details are submitted regarding the capacity of drainage infrastructure (including storage tanks) to contain and store effluent / leachate arising from the proposed development. I recommend that further information is sought in relation to the treatment of sludge within the facility. The Board will be aware that lime with its characteristically high pH can in itself cause considerable environmental damage if it is not stored and handled properly within the facility. I would also recommend that a robust and comprehensive site management plan is obtained prior to the consideration of granting permission for the proposed facility.

7.5. Traffic and Transportation

- 7.5.1. The site is served by an access from the R163 at a point where the 80 km/hr speed limit applies.
- 7.5.2. The application is accompanied by a Traffic and Transport Impact Report. Traffic movements to and from the site would include car, HGV and Tractor movements. The existing facility accepts an overall tonnage of 3,000 tonnes per annum and the Traffic and Transport Impact Report states that this equates to appropriately 188 loads per annum to and from the site. For the proposed increase to 15,000 tonnes per annum the Traffic and Transport Impact Report assumes a worst case scenario of 5 HGV movements into and out of the site during the PM peak period (Section 3.2 refers). The Report concludes that the net traffic increase is likely to have a negligible cumulative impact on the capacity of the road network. Having regard to

the capacity of the R163 and its Regional classification I would concur with this assessment.

- 7.5.3. A number of design improvements are recommended in the vicinity of the entrance to reduce potential conflict. I would note that condition no. 9 of the previous permission (ABP Ref. PL.17.241695) required the applicant to raise the level of the access lane over 20 metres and to recess the entrance. These works do not appear to have been completed. The details submitted with the application propose to recess the entrance to improve sightlines at the road edge. I would note that recommendations in relation to wheel wash facilities at the public road and advanced warning signs are not incorporated within the application.
- 7.5.4. The horizontal and vertical alignment of the local road network, is in my opinion adequate to support traffic movements associated with the development. I consider that the local regional road network is suitable for the nature and scale of traffic that would be associated with the commercial facility on the appeal site and that subject to the proposed alterations at the entrance to the facility, the entrance is suitable to accommodate the level of turning movements associated with the development. However, the proposed works to the site entrance are not included within the site boundary and are not referenced in the public notices. I therefore consider that the proposed works fall outside of the scope of the subject application and appeal. The works do fall within the ownership boundary outlined in blue on the site layout plan and as such, in the event of a grant of permission a condition could be attached requiring the upgrade works to be completed prior to the commence of the approved development.

7.6. Impacts on Amenity and Character of the Area

- 7.6.1. The grounds of appeal argue that there is a history of odour, noise and traffic arising from the development. I consider that the noise and impacts associated with the development would not impact unduly on the amenities of dwellings in the vicinity due to the significant separation from third party dwellings.
- 7.6.2. The structures on site (existing and proposed) are agricultural in character and would not impact significantly on the surrounding rural landscape.

7.7. Flood Risk Assessment

- 7.7.1. The OPW Preliminary Flood Risk Assessment flood maps for the area indicate that a portion of the eastern section of the site may be susceptible to flooding. I would note that the OPW CFRAMS flood extent maps do not include detail for this area. The application is accompanied by a Site Specific Flood Risk Assessment, in accordance with the requirements of the Flood Risk Management Guidelines, 2009. The assessment includes a hydrological analysis to predict estimated flood flows in the Moynalty River channel at two locations adjacent to the site. The assessment concludes that the risk of flooding is low, as the river channel has adequate hydraulic capacity to convey a 1 in 100-year flood event. The report states that the hydraulic capacity may be slightly exceeded during a 1 in 1000-year floor event. However, it is expected that any channel exceedance would impact the left (eastern) bank lands as they are lower than the lands on the right (western) bank. I consider, on the basis of the submitted Flood Risk Assessment and on the basis of the assessments detailed therein, that the probability of flooding on the appeal site is low.

7.8. Procedural Issues

- 7.8.1. The grounds of the third party appeal highlight a number of perceived procedural problems associated with the application submitted and the Planning Authority's assessment on the application. While some of the issues raised are matters for the planning authority and cannot be addressed by the Board the main issues raised in respect of procedural issues are dealt with below.
- 7.8.2. The ground of appeal contend that the description of the nature and extent of the development is not in accordance with the requirements of the Planning and Development Regulations. I am satisfied that the development description provides an adequate description of the nature and extent of the development as required by the regulations and that the details submitted with the application. As such, I consider that the appellant's rights in respect of submitting observations or appealing the decision of the Planning Authority to An Bord Pleanála have not been compromised or prejudiced as a result of any potential contravention of the Regulations.

- 7.8.3. The ground of appeal contend that the application does not comply with the requirements of Article 22.2 (c) of the Regulations as details for the disposal of wastewater are not shown. In this regard I would note that no surface water emissions are proposed from the site, except for uncontaminated storm water runoff that enters a soakpit.
- 7.8.4. The grounds of appeal contend that the application does not comply with the requirements of Article 22.2 (b) (l) of the Regulations as works to the boundary wall adjoining the R163 are outside of the red line boundary. I would concur with the appellants. As discussed in Section 7.5 above, the works fall outside the red line boundary of the site and as such, I consider that the works do not form part of the application, but that this issue can be addressed by condition having regard to the location of the entrance within the landholding.
- 7.8.5. The grounds of appeal contend that the application should have been assessed under the terms of the Planning and Development (Strategic Infrastructure) Act 2006. I do not consider the development to fall within the terms of this legislation.

7.9. **Other Issues**

- 7.9.1. An issue raised in the grounds of appeal is that the applicant has not submitted evidence that the land on which the spreading of slurry is to take place is suitable for such landspreading and furthermore that the applicant has not received or demonstrated the consent from landowners for such landspreading. It is a requirement of the applicant and any farmers in the vicinity which are in receipt of treated sludge/biosolids from the subject facility to fully comply with the requirements set out in S.I. 31 of 2014 (European Union, Good Agricultural Practice for the Protection of Waters) Regulations 2014. As the Board is aware, these Regulations are very prescriptive in relation to storage, nutrient management and application of biosolids on farmlands. All farmers are obliged and required to comply with the above Regulations which are deemed to constitute good agricultural practice and farming management associated with the handling, management and spreading of manure. It is unlikely that there would be any undue environmental implications arising from the landspreading of materials from the site, as the applicant or any recipient farmers are required to comply with their lawful obligations as required under the above Regulations. The spreading of sludge/slurry on agricultural lands

are a matter of a separate specific regulatory regime and the applicant is required to comply with Regulations as set out under these other statutory regimes.

- 7.9.2. The grounds of appeal suggest that the proposal is not coherent with Irish Waters, National Wastewater Sludge Management Plan, 2016 as the Plan shows that most of County Meath is unsuitable for landspreading due to the level of metals in the soil (Figure 8.2 refers). I would concur with the applicant's response in this regard. Although the spatial distribution map of lands that are unsuitable for sludge landspreading shows a large area of central Ireland as red, the map is vague and unspecific to actual sites. Testing of soil and sludge is undertaken as part of the development of the Nutrient Management Plan to determine metal concentrations in soil and sludge and to determine suitability of lands. The issue of groundwater vulnerability is also considered as part Nutrient Management Plan.
- 7.9.3. In relation to issues raised in respect of the handling of Hazardous Waste on the appeal site, I would note that sludge / biosolids are not classified as Hazardous Waste under the Waste Management Acts.

7.10. Environmental Impact Assessment

- 7.10.1. The grounds of appeal argue that the application should be subject to Environmental Impact Assessment. Schedule 5 of the Planning and Development Regulations 2001, as amended, sets the thresholds for projects which would require an EIS. The following provisions of Schedule 5 of the Planning and Development Regulations 2001 (as amended) are considered to be relevant:
- Schedule 5, Part 2 11(b) of the Planning and Development Regulations, 2001 in respect of installations for the disposal of waste with an annual intake greater than 25,000 tonnes, and
 - Schedule 5, Part 2 11(d) of the Planning and Development Regulations, 2001 in respect of sludge deposition sites where the expected annual deposition is 5,000 tonnes of sludge (wet).
- 7.10.2. The applicant's response in relation to Class 11 (b) and 11 (d) states that there will be no disposal or disposition of waste or sludge as part of the activity, as all treated sludge / biosolids will be recovered in agriculture. The response states that there is no EIS threshold for the recovery of biosolids, industrial sludge or slurries. This

response relies on the differentiation between 'deposition' and 'recovery' under Annex I and II of the Waste Framework Directive. However, I would draw to the Boards attention to the fact that for the purposes of the EIA Directive, there is no differentiation between 'disposal' and 'recovery' and that the term 'disposal' is interpreted to include 'recovery'. The response also argues in relation to Class (d) that the sludge stored on site is 'dry sludge' and does not therefore fall under Class 11 (d), which refers specifically to 'wet sludge'. However, the response does not consider the proposal to store wet 'slurry and industrial sludge' in a proposed over ground storage tank on the site or detail the quantum to be stored annually. I consider that this aspect of the development falls within the description of 'wet sludge'. On the basis of the foregoing, I consider the proposal to be sub-threshold by reference to Class 11 (b) and Class 11 (c) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended. Accordingly, I propose to screen the proposal for the purpose of environmental impact assessment as follows:

7.10.3. Characteristics of the proposed development

The proposed development consists of the provision of a sludge / biosolid storage facility with a capacity for up to 15,000 tonnes of sludge / biosolid fertiliser. The subject proposal concerns the extension of a 'stand-alone' development within the confines of its own site. There is potential for the generation of effluent, noise and odour arising out of on-site activities. I would consider that there is a risk of accidents, having regard to the substances to be handled on site and processes undertaken (i.e. the transfer, storage and treatment of sludge).

7.10.4. Location of the proposed development

The appeal site is located in a rural area outside of a designated settlement. There is an established sludge / biosolid storage facility on the site. Lands in the vicinity are in agricultural use and the site is well separated from residential or other such sensitive receptors. The area is identified as a high amenity area in the Development Plan but is not subject to any specific amenity designations under the applicable Development Plan. While the site is not located in an area protected under legislation, (e.g. SPAs, SACs or other statutory designation), the Moynalty River (Owenroe) runs directly along the eastern boundary of the site. This river flows

into the River Boyne and River Blackwater SAC and SPA c. 2.4 km downstream of the site.

I consider that noise and odour impacts arising from the development can be managed and mitigated through adherence to best practice during the operation of the facility. However, I am not satisfied that the proposal incorporates adequate environmental mitigation measures to offset the risk of environmental pollution. This is particularly relevant given the sensitivity of the receiving environment due to the proximity of the Moynalty River, the River Boyne and Blackwater SAC and SPA and populated areas further downstream of the site.

7.10.5. Magnitude and Complexity of Impact

I consider that the significance of potential impacts on the water environment need to be considered in this instance. Given the potential for environmental pollution, and the pathway offered by the Moynalty River I consider that the extent of impact could extend to a large geographical area and impact a range of receptors (e.g. fauna, flora, human beings and protected sites) over a long time period. I consider that significant effects on the environment cannot be ruled out and that EIA cannot be screened out in this instance.

7.10.6. Overall Conclusion

Having regard to the criteria to be taken into account in considering whether or not a development would be likely to have significant effects on the environment, I consider that the potential for significant effects on the environment cannot be screened out in this instance. With regard to the requirement to carry out an environmental impact assessment, if the Board are minded to grant planning permission for the proposed development it could consider requesting a sub-threshold EIA under the provisions of Schedule 5, Part 2 11 (b) and 11(d) of the Planning and Development Regulations, 2001.

8.0 **Appropriate Assessment**

- 8.1.1. The grounds of appeal contend that the proposed development could have significant effects on European Sites. There are a number of Natura 2000 sites within 10kms of the site as follows:

- The River Boyne and River Blackwater SAC (Site Code: 002299)
- The River Boyne and River Blackwater SPA (Site Code:004232)

- 8.1.2. The application is accompanied by a screening report for Appropriate Assessment (AA) dated March 2017 and updated July 2017.
- 8.1.3. Permission is sought to extend an existing sludge storage facility. The site is relatively flat and is dominated by buildings and artificial surfaces. The boundaries include treelines and hedgerow and lands in the vicinity are improved agricultural grassland.
- 8.1.4. The site Moynalty River adjoins the eastern site boundary and there is a land drain along the northern boundary which drains into the Moynalty River. While this river is not designated as a European Site, it flows into the River Boyne and Blackwater SAC (Site Code: 002299) approximately 1.7 kilometres to the south of the site or c. 2.2 metres downstream of the site. The River Boyne and Blackwater SPA (Site Code: 004232) is also approximately 1.7 kilometres to the south of the site or 2.2 metres downstream.
- 8.1.5. The site comprises disturbed ground and grassland so there would be no loss of significant habitat. I would suggest that in terms of potential impacts effluent / surface water impacts arising during the construction and operational phases of the development are most relevant. I have outlined above that the proposed development could pose an environmental risk to the surrounding area including the Moynalty watercourse by reason of the failure to adequately contain effluent within the site. The features of interest associated with the River Boyne and Blackwater SAC downstream of the Moynalty watercourse include alkaline fens, alluvial forests and perhaps more importantly aquatic species including River Lamprey, Salmon and Otter. The latter aquatic species are particularly sensitive to changes in water quality. The feature of interest associated with the River Boyne and Blackwater SPA is Common Kingfisher (*Alcedo Atthis*), which can also be vulnerable to changes in water quality. I therefore consider that the proposed development could be prejudicial to the receiving environment and that likely significant effects on the integrity of the qualifying interests associated with the River Boyne and Blackwater SAC and the River Boyne and Blackwater SPA cannot be ruled out.

8.1.6. On the basis of the foregoing, I am not satisfied that sufficient information exists to reach a conclusion that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the River Boyne and River Blackwater SAC (Site Code: 002299) and The River Boyne and River Blackwater SPA (Site Code:004232), in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

9.0 Recommendation

9.1.1. Arising from my assessment above, I consider the proposed development to be contrary to the proper planning and sustainable development of the area and I therefore recommend that planning permission be refused for the reasons set out below.

9.1.2. If the Board however, do not concur with the above conclusion and are minded to grant planning permission for the proposed development in this instance, I recommend that as a minimum prior to determining the application the Board requests the following additional information.

- Details of the lime stabilisation process to be undertaken on site to include details of the mixing unit and the amount of lime to be used and stored on site for the treatment of sludge.
- Details regarding the adequacy of effluent / leachate collection infrastructure. This might include details in relation to the frequency, method of emptying and disposal of effluent in the liquid collection pit on site. The Board should also consider requesting the applicant to submit details of the covering of the slatted storage tank to avoid water egress and odour abatement.
- Details of a robust and comprehensive site management plan for the containment of all effluent within the site.
- A sub-threshold Environmental Impact Assessment Report.
- A full Natura Impact Statement in respect of the proposed development.

10.0 Reasons and Considerations

1. The Board is not satisfied on the basis of the information submitted with the application and appeal that there is adequate provision within the site for the storage of effluent arising from the proposed development and that all effluent will be sufficiently contained within the site. The use of the structures and site for the storage of sludge/biosolids would therefore give rise to a risk of environmental pollution and be prejudicial to public health.
2. It is considered that insufficient information has been submitted with the planning application detailing the methods involved in the treatment of sludge on site. The Board is not satisfied that adequate detail has been submitted in relation to the storage of lime and the use of a mobile mixing unit on the site. In the absence of such details, it is considered that the use of the site for the storage and treatment of sludge/biosolids is prejudicial to public health.
3. On the basis of the information provided with the application and appeal and the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans and projects would not be likely to have a significant effect on the River Boyne and Blackwater SAC (Site Code: 002299) and the River Boyne and River Blackwater SPA (Site Code:004232), in view of the site's conservation objectives. In such circumstances the Board is precluded from granting retention of planning permission for the facility in question.

Karen Kenny

Senior Planning Inspector

9th January 2018