



An  
Bord  
Pleanála

## Inspector's Report ABP-305117-19.

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<b>Development</b>	Construction of a Poultry House and associated works.
<b>Location</b>	Dundonagh, Glaslough, Co. Monaghan.
<b>Planning Authority</b>	Monaghan County Council.
<b>Planning Authority Reg. Ref.</b>	1943.
<b>Applicant</b>	Barry McKenna.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party.
<b>Appellant</b>	1. Eamon and Elish Kelly. 2. Patrick and Leona Kelly.
<b>Observer</b>	Friends of the Irish Environment.
<b>Date of Site Inspection</b>	18 <sup>th</sup> day of November, 2019.
<b>Inspector</b>	Patricia-Marie Young.

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## 1.0 Site Location and Description

- 1.1. The irregular shaped appeal site has a stated area of 2.2478ha and it is located in the Townland of 'Dundonagh', c2.6km to the west of Glaslough village, in rural County Monaghan, and c1.8km to the east of the N2 corridor, both as the bird would fly.
- 1.2. The western boundary of the site follows the curving alignment of a local road (L52071) from which it is also accessed on the south westernmost corner of the red line site area. This road is restricted in its width, of undulating alignment horizontally and vertically with deep drainage ditches containing high levels of water as well as water loving plant species. The stretch of road accommodating the site and the larger field it forms part of has an attractive sylvan character due to the presence of a number of mature indigenous trees.
- 1.3. As indicated the appeal site area forms part of a larger field that extends in a northerly direction beyond the northern boundary of the site. This northern boundary is not demarcated, and the entire field appears to be used for the grazing of bovine livestock.
- 1.4. The site forms part of a picturesque rolling drumlin landscape with the main site area rising towards the eastern and south eastern boundaries of the site. The ground levels continue to rise more steadily on the adjoining land to the east and south.
- 1.5. The site boundary consists mainly of hedgerows with a small number of also present on the southern and eastern boundaries. The site is bound by agricultural land to the north, south and east. There is an agricultural farmstead on the opposite side of the L52071 which contains what appears to be two separate dwellings, one occupied and one unoccupied. This is alongside a number of agricultural buildings and yard areas.
- 1.6. The site contains a number of deep drainage ditches along the western, eastern and southern boundaries of the site. These contained moving and in areas unmoving high levels of water. The ground conditions of the site were poor despite the lack of rain in the days preceding my inspection and there was abundant presence of rushes throughout the site area particularly on the lower ground levels.
- 1.7. The surrounding area is characterised by agricultural land uses, buildings and farmsteads. It also includes a number of one-off detached and a small number of semi-detached dwellings. According to the documentation on file the landholding to

which this appeal site forms part of extends to a stated 13.66ha with this landholding situated in the immediate vicinity of the appeal site.

## 2.0 Proposed Development

2.1. Planning permission is sought for the construction of one poultry house together with all ancillary structures to include meal storage bin(s); soiled water tank(s) and site associated site construction works as well as services including the provision of a new/upgraded site entrance. According to the accompanying planning application form the gross floor space of the proposed poultry house is stated to be 2,012m<sup>2</sup>.

2.2. This application is accompanied by a document titled: “*Description of the Location, Operation and Management of the Proposed Development of 1 No. Free Range Broiler House (to accommodate c.26,000 birds)*” which includes the following details:

- The poultry operations proposed are free-range.
- The proposed poultry house is c99.84m long by c20.13m wide with an overall height of c6m with an integrated general-purpose store and an automated feeding and drinking system incorporated into the house operation design.
- On-site production will be continuous; however, the presence of staff and deliveries/collections would normally be between 06:00 and 20:00hours.
- Ventilation and feeding operations would be continuous on site.
- Water for stock and for washing is to be acquired from a local Group Water Scheme.
- The production system proposed is based on a c10-week cycle with approx.5 cycles per annum.

This application is accompanied by a document titled ‘*Site Specific Flood Risk Assessment*’. This document indicates that the proposed agricultural activities sought under this application relates to a larger than the stated site area in the planning documentation and it indicates that the primary flood risk to the proposed development site can be attributed to potential pluvial flooding with low lying areas of the site due to overland flow the elevated lands to the north and east. It notes that PFRA indicates that there are areas of the site identified as being part of indicative pluvial flood zones

and that the mains site area is indicated as being '*benefiting lands*' which are lands defined as lands that might benefit from the implementation of Arterial (Major) Drainage Schemes and not necessarily areas of existing or historical fluvial or pluvial floods risk. It concludes that the proposed development is not expected to result in a significant adverse impact to the hydrological regime of the area and is not expected to result in an increased flood risk elsewhere; it will not obstruct important flow paths; a stormwater attenuation system to manage runoff from all the hardstanding area within the site is proposed with the soak-holes located outside of the pluvial flood zone; that the proposed development complies with the requirements of the '*Justification Test for Development Management*'; and, in consideration of the recommendations of this Site Specific Flood Risk Assessment the proposed development is considered to be appropriate from a flood risk perspective.

- 2.3. On the 18<sup>th</sup> day of June, 2019, the Planning Authority received the applicant's **additional information response** (See: Section 3.2.1 below and the documentation attached to file). I note to the Board that this response did not require revised public notices and provided additional clarity on a number of the Planning Authority's concerns as it did not include any substantive changes to the proposed development as initially submitted to the Planning Authority on the 18<sup>th</sup> day of June, 2018.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The Planning Authority decided to **grant** planning permission subject to 7 no. conditions including:

Condition No. 2: Sets out that no infilling or raising of the existing levels of the site shall take place where the levels of the site area are below 57m Ordnance Datum except for the area covered by the footprint of the proposed poultry unit building.

Condition No. 3: Deals with the matter of pollution, soiled water, surface water and the like.

Condition No. 4: Deals with the proposed entrance.

Condition No. 5: Deals with hedgerows and trees as well as requires additional landscaping and hedgerow provision.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The **initial Planning Officer's report** concluded with a recommendation for additional information. The additional information can be summarised as follows:

Item 1: Clarification on entrance and sightlines for the proposed entrance.

Item 2: Revised site layout plan required with it to have regard to the Preliminary Flood Risk Assessment (PFRA) OPW maps.

Item 3: Required the provision of revised plans and details of storm water attenuation to restrict run-off discharge from the site.

Item 4: Requires comment on 3<sup>rd</sup> Party submissions received.

The **final Planning Officers report** considered that the applicant had adequately addressed their concerns and recommended a grant of permission.

#### 3.2.2. Other Technical Reports

- **Senior Executive Planner's report** concludes with no objection subject to the inclusion of a condition that requires no filling or raising of existing levels of the site shall take place where the site levels are below 57m Ordnance Datum except for that covered by the footprint of the proposed poultry house.
- **Environmental Technician's report** concluded with no objection subject to the inclusion of recommended conditions.

### 3.3. Prescribed Bodies

3.3.1. **Inland Fisheries** submission raised no objection to the proposed development provided the following limitations are adhered to:

- The number of birds housed shall not exceed that in the application.
- Effluent, soiled water and solid wastes shall be stored on site in adequately sized and sited watertight structures.

- All effluent and wash waters to be disposed of by land spreading shall be carried out in accordance with the EU (Good Agricultural Practice for the Protection of Waters) Regulations 2014 and the EPA's Pollution Impact Potential Maps should be referred to in relation to land spreading locations for this facility.
- Only clean, uncontaminated storm water shall be discharged to a soakway system or to surface water.
- The site is located in the Mountain Water River Catchment and the current status of this waterbody is poor. It contains salmonid spawning, nursery habitats and supports stocks of brown trout and other species. It is important to ensure that the proposed development does not have a negative impact on this aquatic habitat.

### 3.4. **Third Party Observations**

- 3.4.1. I consider that the 3<sup>rd</sup> Party submissions received by the Planning Authority raise concerns that correlate with those raised by the appellants and observers in their submissions to the Board.

## 4.0 **Planning History**

### 4.1. **Appeal Site**

- 4.1.1. None relevant.

### 4.2. **In the Vicinity**

- 4.2.1. **P.A. Reg. Ref. No. 16/360:** On the 23<sup>rd</sup> day of May, 2017, planning permission was **granted** subject to conditions for a development consisting of the construction a Poultry House (for Broiler Chicken Fattening) complete with Associated Meal Bins, Underground Washings Storage Tank and concrete aprons, also upgrade site access lanes and site entrance and all associated site works. Under this application the number of livestock indicated to be house in the proposed poultry house was stated to be 39,950 broiler chickens in a building with a stated overall footprint of 2,638m<sup>2</sup> and on a site area of 1.55ha. At the time of my site inspection I observed that it had not been implemented and that the location of this site was uphill of the appeal site.

## 5.0 Policy and Context

### 5.1. European and National Context

- Commission Implementing Decision (EU) 2017/302 establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the intensive rearing of poultry or pigs.
- ‘*Best Available Techniques (BAT) Reference Document for the Intensive Rearing of Poultry or Pigs*’ (2017), issued following EU Directive above.
- EU Good Agricultural Practices for the Protection of Waters Regulations (2017) S.I. 605, as amended by S.I. No 65 (2018), and associated Nitrates Explanatory Handbook for Good Agricultural Practice for the Protection of Waters Regulations 2018, published by Department of Agriculture, Food and Marine, and Department of Housing, Planning and Local Government.

### 5.2. Local Planning Provisions

5.2.1. The appeal site is not zoned under the Monaghan County Development Plan, 2019 to 2025, and there are no local objectives, road proposals or other specific designations affecting the site as well as its immediate setting.

5.2.2. Section 4.6 of the said Development Plan states: “*where an area of land is outside a development limit and is not otherwise zoned as part of this Plan, the use of such land shall be deemed to be primarily agricultural*”; and, that: “*primarily agricultural zoning provides for the agricultural use of the land and any ancillary uses, including residential*”.

5.2.3. Relevant Policies include:

Policy AGRP 1: “*To promote the agricultural industry, appropriate rural development and diversification. In this regard, proposed development should consider potential environmental, heritage and landscape impacts and where required identify mitigating measures to alleviate negative impacts.*”

Policy AGRP 3: Control of effluent spreading on land.

Policy AGRP 4: Provision for the collection, storage and disposal of effluent produced from agricultural developments.



Policy WPP 7: Agreement of land spreading arrangements for manures or sludge arising from intensive agricultural development.

Policy WPP 11: Protection of Water Environment.

Policy AGP 2: Information required for assessing poultry units.

Policy RCP 3: Minimise loss of hedgerow and trees.

Policy AAP 1: Requirement for Appropriate Assessment.

### 5.3. Natural Heritage Designations

- 5.3.1. Within a 15km radius of the site there is one Natura 2000 site. This is the Special Protection Area: Slieve Beagh SPA (Site Code: 004167) with the appeal site located 8.1km to the east of it.

### 5.4. EIA Screening

- 5.4.1. Having regard to Environmental Impact Assessment, the relevant threshold of development in this instance is Class 1(e)(i) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended. This class relates to installations for intensive rearing of poultry which would have more than 40,000 places. As the proposed poultry is stated to accommodate 26,000 places for poultry, the development is sub-threshold and does not require a mandatory EIS.

### 5.5. Built Heritage

- 5.5.1. The western boundary of the appeal site is located c228m to the east of National Monument – MO 00076 which is classified as a “Rath” and described as follows: *“located at the W summit of a small E-W ridge. This is a circular grass-covered area (diam. 46m E-W; 42.6m N-S) defined by a slight earthen bank or scarp (at E: H 1.8m) with outer facing stones and a hedge. There are entrances at NW and ENE (Wth at top 4.5m), but the latter is probably original”*. (Note: this description is taken from ‘Archaeological Inventory of County Monaghan’ (Dublin: Stationery Office, 1986).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. The 2 no. 3<sup>rd</sup> Party appeals are summarised collectively as follows:

### **Deficiency in Documentation**

- There is insufficient information given on the potential impacts of the proposed development on the established amenities of properties in the area, public health and other associated nuisances from the type of development proposed.
- It is questioned that the appellants properties would be under the accepted limits for ammonia, noise and odour if the proposed development were to be granted. This is based on the limited information provided by the applicant on these matters.
- There are multiple air ventilation exhausts proposed. No information has been provided on the level of noise that these would generate and the noise relative to sensitive receptors. Neither has any assessment been carried out on air quality.

### **Consideration of such applications in agricultural land**

- The applicant refers to the old guidelines and more or less implies that the new guidelines allow for the construction closer to the 400m previously advised for this type of development.
- Just because land is agricultural land it doesn't mean that any type of agricultural development should be approved on it.
- Such applications require a more encompassing assessment so as to ensure that other properties in its vicinity are protected against deterioration in their air quality, noise levels and noxious odours.

### **Drainage**

- The proposed development, if permitted, would exacerbate the localised flooding on site and in this area.
- The existing drain cannot deal with the level of rainfall that this area receives, nor can it deal with the scale of development proposed.
- The applicant obviously has concerns about flooding as he proposes to elevate the poultry house itself. This is not a benefit to the general area as the increased hard stand plus surface area of the poultry house roof will mean that the rainfall will get to the drain quicker.

### **Visual Amenity**

- Elevating the poultry house will mean that the development will be more visible in its landscape context and it would be clearly visible from the appellants properties.
- There is no linkage of the proposed poultry building with other farm buildings, thus making it more visible within its landscape setting.

#### **Other**

- The Board is sought to refuse permission for the development sought under this application.

### **6.2. Applicant Response**

- 6.2.1. None received.

### **6.3. Planning Authority Response**

- 6.3.1. None received.

### **6.4. Observations**

- 6.4.1. The observation received by the Board can be summarised as follows:

- The proposed development is objected to on flood risk grounds, the distance from neighbouring dwellings and the Planning Authority's failure to assess the cumulative impact of the increase in the intensification of poultry farming, the failure to assess the emissions of ammonia from the operations of the plant, its impact on the natural environment and its contribution to climate change.
- Monaghan County has the highest number of poultry producers in Ireland and produces 80% of the poultry in the Border region. Recent developments have been greater in scale than previously and the cumulative impact of any additional production units must be considered.
- Minimisation of odour emissions and compliance is one of the requirements of the BATNEEC Guidance Note for Intensive pig and poultry production units. In order to comply with this requirement poultry units should be sited at least 400 meters from any odour sensitive location. It would appear that the Council have disregarded this advised separation distance and rely on a separation distance of

100m instead. But this measurement is confined to the distance from the poultry house structure and not from the 2ha free range area where 5% of the animal manure will be deposited on. To rely on the structure as the single point from which the 100m limit is measured is inappropriate in the context of a free-range poultry operation.

- Reference is made to Development Plan Policy AFP2.
- The 2ha of free-range grazing land which would be populated by birds did not form part of the public notices.
- The central portion of the proposed site is vulnerable to pluvial flooding and this area is subject to poor water quality.
- The suggestions that the displaced flood waters will be contained within the site is not supported by any calculations of potential flood attenuations through soak pits on waterlogged ground.
- The poultry unit building was relocated to address the flood issue in relation to the structure itself but the free-range area for grazing on a field which is described by the Planning Authority's Planning Officer as waterlogged was not. Under flood conditions the 5% of the bird manure that would be produced in this area would become water born pollution.
- The flood risk maps show not only the existing drainage system on the site but also the pathway to the River Blackwater and ultimately Lough Neagh.
- It is necessary that the characteristics and the location of the proposed development must be considered.
- Cumulative Impact is critical as Ireland has obligations under the revised National Emissions Ceiling Directive to achieve progressive reductions for ammonia by 2020 and 2030 of 1% and 5% based on the 2005 baseline. Yet ammonia emissions in Ireland have increased.
- Excessive nitrogen deposition can lead to significant biodiversity loss through loss of plant species and changes in ecosystem structure and function.

- Ammonia emissions are associated with acid deposition and the formation of secondary particulate matter. The latter is associated with adverse human health impacts.
- Studies have shown that more than 97% of Natura 2000 sites in Ireland have been adversely impacted by ammonia deposits.
- The Board is sought to refuse permission for the development sought under this application.

## 7.0 **Assessment**

### 7.1. **Introduction**

- 7.1.1. This is appeal against the decision of Monaghan County Council to grant planning permission for the construction of a poultry house and associated site works at a 2.2478ha appeal site in the Townland of 'Dundonagh', in rural County Monaghan, with the appellants seeking that this decision is overturned primarily due to the adverse impact it would have on their established amenities alongside visual amenity and public health concerns. The Board has also received an Observation similarly seeking that this decision is overturned for similar reasons but also on the potential of the proposed development, if permitted, to give rise to significant environmental impacts.
- 7.1.2. The proposed development sought under this application which consists of the construction of a free-range poultry house accommodating 26,000 places together with all associated site works is agricultural in its nature and would be in keeping with the predominant land use in this locality which is also agricultural.
- 7.1.3. The type of development proposed requires registration with the Department of Agriculture, Food and the Marine with guidelines available regarding the spreading of litter, egg production, control of diseases, biosecurity and the like which operators are required to accord with. In addition, the Department of Agricultural, Food and the Marine have adopted a 10-year plan for the agri-food sector. This is titled 'Food Wise, 2025', and, it indicates that there are opportunities in the poultry sector to increase modern housing facilities.

7.1.4. Having regard to the provisions set out in the County Development Plan, in particular Policy AGRP 1, which indicates that the Council will seek to promote agricultural development and diversification; Policy AGP 1 which indicates that the Council will consider development on established agricultural holdings subject to safeguards; and, Policy AGRP 2 which like Policy AGRP 1 also indicates that the Council will consider proposals for farm diversification scheme, which I note is the case in relation to this farmstead, I consider that the general principle of the proposed development is acceptable at this rural location by reference to these policies.

7.1.5. Based on the above and having regard to the documentation on file alongside an inspection of the site and its immediate context I consider that the substantive planning issues that arise are:

- Residential Amenity Impact
- Visual Amenity Impact
- Waste Management and Water Quality
- Pollution of Groundwater from Poultry Manure in Range Area
- Environmental Impact Assessment
- Screening for Appropriate Assessment
- Traffic & Access

7.1.6. I also note to the Board prior to the de novo assessment of the proposed development that this application is accompanied by a Soakaway Design Report; a letter from Chicken Litter Re-cycling Co OP Society Limited which indicates that they will be collecting the litter generated from the proposed poultry house; a letter from College Group indicating that they would be willing for the applicant to open account with them for the regular collection for their rendering facility; that the applicant is served by a connection to the 'Glaslough Tyholland Group Water Scheme'; a document titled: "*Description of the Location, Operation and Management of the Proposed Development of 1 No. Free Range Broiler House*" prepared by C.L.W. Environmental Planners which includes an assessment of flood risk.

7.1.7. I further note to the Board that the following assessment is based on the proposed development as revised by way of the applicants further information response which

essentially provided additional clarity on sightlines from the proposed entrance serving the poultry house operations; revised location of the poultry house on site having regard to a required preparation of a Flood Risk Assessment of the site based on OPW maps; through to revised plans to deal with the matter of storm water attenuation.

## **7.2. Residential Amenity**

- 7.2.1. The proposed development would be located approximately 119m to the nearest habitable dwelling. This is located to the west of the southernmost portion of the proposed poultry house. There is a 2-storey traditional period dwelling that forms part of a farmstead within 100m of the proposed poultry house but this dwelling does not appear to be in use as a habitable dwelling at present and would be in partial use for storage though one of the 3<sup>rd</sup> party appellants indicate that it is their intention that its habitable use will be resumed. In addition to this the northernmost portion of the poultry house would be located approximately 135m to the south east of another dwelling house and there are several detached dwellings within the immediate environs of the site despite the rural location of the site and the predominance of open pastureland within this rolling drumlin landscape.
- 7.2.2. This application is accompanied by information which indicates that a number of measures are proposed in order to minimise adverse impact of the proposed development on the established residential amenities of properties in its vicinity.
- 7.2.3. These measures include manure and carcass management, flock and feed management, house design in a built form typical of such agricultural buildings with site appropriate external colouring to reduce its visual impact on its localised landscape setting, ventilation and cleaning.
- 7.2.4. The Councils Planning Officer in their assessment noted the proximity of dwellings to the proposed development and considered that for the nearest dwelling that it would be visible from its front gardens as well as from its windows. They also noted that the operations related to the poultry house unit would operate in excess of 18 hours per day and 7 days a week.
- 7.2.5. However, I am cognisant that Policy AFP 2 of the Development Plan, indicates favourable consideration will be given to this type of development subject to it is not being located within 100m of any residential properties, which the I note that the Planning Officer considered is the case in terms of the development sought under this

application. They also considered having regard to the screening measures proposed, that they were of the view that no adverse impact by way of noise, smell, pollution or general disturbance would arise for properties in the vicinity and the Planning Authority's notification to grant permission includes a number of conditions to abate any undue adverse impact arising on residential amenities of properties in the vicinity of the site but I consider further more robust conditions could be imposed to deal with noise, hours of operation, lighting and other potential nuisances that this type of development are generally accepted have the potential to give rise too.

- 7.2.6. Having visited the area and having regard to the nature of rural activities, I observed that this rural area has a low ambient noise level despite the presence of a farmstead on the opposite side of the road with cattle already housed and being fed for the winter due to the poor drainage that appears to be characteristic of this area. There were no considerable odours present from this agricultural operation. Nor was there any apparent noise or odours from other farmsteads and/or agricultural activity in the immediate and wider vicinity including the farmstead opposite where livestock were already housed for the winter in slatted sheds and there were various food stock including silage for winter feeding present. The only low level of odours that were present were within the field from where there was manure present from previous grazing activities and along the field ditches where visible water in places had a stagnant smell.
- 7.2.7. I am cognisant that the documentation submitted with this application sets out a number of proposed measures in order to minimise and mitigate against adverse impacts arising on residential amenities of properties in its vicinity. These include proper manure and carcass management, flock and feed management, qualitative house design with appropriate ventilation and cleaning. These all appear to be in accordance with accepted best practices for this type of development.
- 7.2.8. The grounds of appeal and the submission made by the observer raise concern that the residential amenity of properties in this area would be seriously impacted in an adverse manner by way of noise, odours and other nuisances that would arise from the proposed development if it is permitted.
- 7.2.9. In relation to noise I consider that the proposed development has the potential to give rise to noise in several ways including but not limited to from the ventilation systems



through to noise associated with traffic generated by the overall operations of the poultry house such as collections, deliveries, waste management, maintenance and the like. I note that this application is not accompanied by a noise impact assessment nor is there clarity on what on what abatement measures are included within the overall design of the poultry house building itself through to there is no clarity in terms of whether or not the various noise generators relating from the proposed development either individually or cumulative would be of dB level that could give rise to nuisance to properties in its immediate vicinity. In particular, the nearest habitable dwelling which has a lateral separation distance of 119meters from the poultry building. Further, there is no clarity provided on whether the 2-storey farmstead dwelling which is also located to the west but I observed is currently not in use as such, but is in a good state of condition and repair, would as a result of this development being permitted, become unsuitable for its reinstatement due to adverse noise levels and other nuisances arising from proximity to the proposed poultry house and ranging area. This building is within 100m of the proposed poultry house.

7.2.10. As this application is not accompanied by any robust noise impact assessment and/or adequate information relating to noise generators, measures to abate noise, that relate specifically to the proposed development sought and its site context I am not satisfied that it can be determined that no adverse impact would arise for properties in the vicinity of the site irrespective of whether the nearest dwellings that are habitable are above the 100m threshold referenced in Policy AFP 2. Whilst I note that Section 4.3 of the document titled 'Integrated Pollution Control Licensing – Batneec Guidance Note for Poultry Production Sector document' recommends a separation distance of preferably not less than 400m it is in my view reasonable to assume that dwellings within this radius of such a development can be sensitive to the introduction of such a building into their setting. Moreover, there is also potential for such operations to have cumulative impact with other permitted and/or existing activities as well. Particularly having regard to the potential for cumulative adverse impact to arise should the grant of permission for the construction of a poultry house (accommodating 39,950 broiler chickens) under P.A. Reg. Ref. No. 16/360 be implemented.

7.2.11. The Board received no response from either the applicant or the Planning Authority to the two issues raised by the two separate 3<sup>rd</sup> Parties in their appeal submissions to the Board.

- 7.2.12. The appeal site and its surrounding lands are not subject to any specific land use zoning objective under the Monaghan County Development Plan, 2019 to 2025. This is the applicable Development Plan affecting the site.
- 7.2.13. Concerns are raised on the matter of odour, the documentation includes a number of measures including management of poultry manure with this to be removed off site by an authorised contractor; high levels of cleanliness of the poultry house, appropriate management of carcasses through to assurance that relevant codes/standards would be adhered to throughout the operations of the poultry house. Though the assurances provided are generic in nature, having regard to the nature of the proposed use and the rural location of the site, I consider that odour generation from the proposed facility subject to appropriate management systems being in place when operational would not be significant or such that it would cause serious injury to residential properties in its vicinity.
- 7.2.14. Further I consider that any odour generation within the ranging area would be less intense than that generated within the poultry house due to the ranging area having greater space for the birds to roam and feed. Moreover, I do not consider the odours associated with the ranging area would be any more noxious than the grazing of cattle on this land which is the present use of the site. Notwithstanding, I acknowledge that there are other associated nuisance that arise from poultry ranging area, the poultry house and its associated infrastructure include but are not limited to pests and hazardous emissions, in particular ammonia, volatile organic compounds and hydrogen sulphide at a greater rate than that currently associated with the grazing of the land on the western side of the proposed poultry house for bovine livestock.
- 7.2.15. As previously discussed, the surrounding area is rural in its overall character with the proposed use being agricultural in its nature. The proposed development is a land use that is generally appropriate subject to safeguards in this type of landscape setting. However, I consider that as there are several dwellings within a 400m radius of both the poultry house and the poultry range and it as a concern that the applicant as part of this application has not provided much clarity on how they propose to mitigate against potential adverse nuisances that could diminish the established amenity of residential properties in its vicinity, particularly considering these are vulnerable and sensitive to change. Further, the applicant has provided no site

justification that demonstrates that at this location the proposed development would rise to the least adverse impact on more sensitive to change land uses.

### **7.3. Visual Amenity Impact**

- 7.3.1. The site and its setting are situated within an attractive rural landscape setting whose character is informed by its rolling drumlin topography, its patchwork of agricultural fields separated by indigenous hedgerows and trees together with farmsteads and one-off housing along the county road.
- 7.3.2. Despite its attractiveness it is not designated as being of the highest scenic amenity value nor could it be considered especially sensitive to development as views within this area are generally localised except for on the higher points on the drumlin relative to the direction of the rolling nature of the land.
- 7.3.3. The proposed poultry house is undoubtedly a significant man-made built insertion into this local landscape setting considering its overall dimensions which are stated as being c99.84m long; c20.13m wide; and, a gross floor area of 2,012m<sup>2</sup> together with its placement of this c6m in height building placed on a modified ground level plinth. The latter being a measure required to deal with the potential for flooding on this site and the high-water levels.
- 7.3.4. While I acknowledge that the proposed building is not particularly high despite its artificially engineered as well as elevated ground level and that its agricultural purpose would be readily apparent from its built form, its palette of materials, its overall appearance siting, its associated built infrastructure through to its position within its landscape setting despite it being remote from other buildings that form part of the applicants landholdings. Moreover, its visual impact would be reduced by the retention of existing mature trees and hedgerows in its existing western, southern as well as eastern boundaries alongside the localised landscape that it forms part of which I have previously described as a rolling drumlin landscape.
- 7.3.5. I therefore consider that subject to appropriate conditions that ensure appropriate landscaping, protection and reinforcement of natural features i.e. trees and hedgerows, through to appropriate palette of materials with these agreed in writing prior to the commencement of any development I consider that the proposed development is a type of development that is not uncommon in a rural landscape and would not result in any undue diminishment of visual amenities. I do not considered

that the proposed development would unduly interfere with the character of the landscape but further improvements to the landscaping by way of providing more robust landscaped shelter belts around all boundaries of the site including the northern boundary which is currently not demarcated would significantly reduce its impact as appreciated from existing residential properties and from the public domain of the local road that would serve it.

- 7.3.6. On final comment I also note that the provision of such shelter belts would also fulfil a function of helping to contain odour emissions and is one of the mitigation measures indicated under Section 4.5 of the EPA's document titled: '*Integrated Pollution Control Licensing – Batneec Guidance Note for the Poultry Production Sector*'. In addition, landscaping can also be used to visually screen and does have the capacity to a limit extent the impact of light, noise through to dust nuisance where designed to abate such nuisances.

#### **7.4. Environmental Impact Assessment - Screening**

- 7.4.1. Having regard to the proposed development sought under this application and the matter of Environmental Impact Assessment (EIA), the relevant threshold of development is Class 1(e)(i) of Part 2 of Schedule 5 of the Planning & Development Regulations, 2001, as amended, I note that this Class relates to installations for the intensive rearing of poultry which would have more than 40,000 bird places. This development relates to a standalone enterprise with 26,000 bird places. This is therefore below the EIA threshold.
- 7.4.2. In considering any requirement for a subthreshold EIA, I have had regard to the criteria for determining whether a development would or would not be likely to have significant effects on the environment as set out in Schedule 7 of the Planning & Development Regulations, 2001, as amended.
- 7.4.3. Considering the characteristics, location and potential impacts of the development sought, i.e. the construction of a poultry house, ranging area and associated works with a given 26,000 bird places, the proposals for managing waste in accordance with best accepted practices and standards; minimising pollution in accordance with best accepted practices and standards; the measures that are proposed to deal with the nuisances and the potential for conditions to deal with any deficit in mitigation measures for dealing with nuisances; the significant lateral separation distance

between the site and the nearest Natura 2000 site; the lack of any demonstrated connectivity between the two, the ability of the landscape setting to absorb any pollution and/or contamination events should they occur at the site or indeed at the poultry enterprise granted under P.A. Ref. Reg. No. 16/360 is such that any pollution and/or contamination would be assimilated without any adverse impact occurring on any Natura 2000 site due to the significant c8km separation distance and the complexity of the landscape in between (Note: Special Protection Area: Slieve Beagh SPA (Site Code: 004167) which is located c8.1km way from the site).

7.4.4. On this basis I am satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have significant effects on the environment and that an EIA of the proposed development is not required.

#### 7.5. **Waste Management and Water Quality**

7.5.1. The submitted documentation indicates that the poultry manure generate would be removed off site by an authorised contractor on behalf of the operator and it would be carried out in a manner compliant with S.I. 605 of 2017, as amended. It also indicates that soiled water generated where applicable will be collected in a dedicated soiled water collection tank that are indicated as being located at the end of the proposed poultry house and that this would be applied to farmland also in a manner compliant with S.I. 605 of 2017, as amended.

7.5.2. On this matter the documentation indicates that the soiled water would amount to c25 to 30m<sup>3</sup>/annum with and will be removed off-site for use on the applicant's lands which total 13.66ha. A total of 3ha of this land is indicated as also being dedicated to free-range poultry production and that in the event of a grant of permission that the applicant proposes to ensure that his farming activities are adjusted to ensure compliance with S.I. 605 of 2017. Of concern the waste management details provide little reference to the site-specific characteristics of the grounds at this location which appear to suffer from a high-water table, vulnerable to fluvial flooding, they form part of benefitting lands, they form part of the Mountain Water River Catchment. In addition, available meteorological data for this area correlates with the appellants contentions for high levels of rainfall.

7.5.3. I am cognisant that the surrounding area also contains a number of pNHA which are areas considered important for the habitats present or which hold species of plants

and animals that are considered to need protection. These tend to generally be associated with the loughs and lakes contained in this area but are removed from the site with the land in between likely to have very slow movement of groundwater due to its topography, the heaviness of the soil conditions observed, the proliferation of water loving plant species throughout this landscape, particularly on more low lying of the drumlin areas through to the lack of water movement and stagnation in the deep ditches with those along the roadside boundary of the subject site containing high levels of water. However, no percolation characteristics have been provided with this application to make any reasonable definitive conclusions on the same. I therefore raise a concern with the potential for contamination of surface and ground water. I also raise a further concern in relation to the manner in which residential and agricultural properties in this area obtain potable water with it appearing that it is likely that this may be by way of a proprietary well.

- 7.5.4. I am cognisant that any spreading of poultry manure would be required to be in accordance with the provisions of SI No.605 of 2017 - European Union (Good Agricultural Practice for Protection of Waters) Regulations, 2017, as amended by SI 65 of 2018, in order to ensure that surface water and groundwater resources in the wider area are not polluted as a result of the land spreading activities.
- 7.5.5. In addition, the proposed poultry building is also required to be constructed in accordance with S101 – Minimum Specifications for Agricultural Buildings and SI 605 of 2017, as amended.
- 7.5.6. The documentation indicates that soiled water will be collected in a dedicated soiled water collection tank and will be applied in accordance with the Nitrates Directive. Having looked and the calculations with regard to nutrient loadings of N and P the calculations appear reasonable to me and will not result in any excessive loadings on the lands. I am also cognisant that the applicant is required to comply with the Nitrates Directive regardless and in their response to the grounds of appeal that they contend that the proposed development as put forward will not result in any contamination of lands or otherwise.
- 7.5.7. It is important to note that Policy AGP 1(e) of the Development Plan requires that this type of proposed development will not result in a pollution threat to sources of potable water, water courses, aquifers or ground water.

- 7.5.8. In my view it is imperative that the disposal of soiled water complies with current standards, guidelines and best practices. With this to the fore should the Board be minded to grant permission I recommend that it include robust conditions that deal with the matters of disposal of manure, land spreading, capturing of pollutants including hydro chemicals from vehicles and that it also ensures that surface water runoff from paved areas, access road of the site alongside any water associated with cleaning should be directed to soiled water tanks. In the absence of such conditions that requires the development to deal with all soiled waters in accordance with S.I. 605 of 2017, as amended.
- 7.5.9. This concern is further added to that part of the site and its immediate setting contain pockets of land identified in the OPW Draft Flood Mapping for extreme pluvial flooding as well as pluvial 1%AEP (100 year) Event: 50 and that the landscape setting of this appeal site forms part of the Mountain Water River Catchment, a water body whose current waterbody status is classified as being 'Poor' and a river system that contains salmonoid spawning and nursery habitats alongside supports stocks of brown trout. On this point I am cognisant that the Water Framework Directive 2000/60/EC sets out clear objectives for all European Waters in relation to salmonoid spawning grounds and I am further cognisant of the protection provided for this fish species under Directive 92/93 Annex IIV Berne Convention Annex III Directive 78/659 Article 1.
- 7.5.10. Based on the precautionary principle I am not satisfied based on the information provided on file that the proposed development would not be prejudicial to public health and give rise to contamination of surface as well as ground water over and above the existing situation.

## **7.6. Pollution of Groundwater from Poultry Manure in Range Area**

- 7.6.1. The appeal site and range area is currently utilised for grazing cattle, and that this activity will be replaced by the proposed poultry operation.
- 7.6.2. At the time of my site inspection I observe that the ground was saturated, soft underfoot with each footstep I would take the water within the heavily saturated ground would quickly fill. I also observed a high-water table with significant levels of water laying in the field ditches and with reeds as well as other water loving plants growing on site and along the field boundaries. In addition, in various areas I observed water

ponding and, in relation to the water laying in the ditches along the roadside boundary of the site these had of being stagnant. They also had a noxious odour.

- 7.6.3. Having regard to the sloping topography of the site, with an east west rolling direction, the ground conditions where it is proposed to have the range area was particularly poor and it was characterised with an abundance of reeds.
- 7.6.4. The lowest points within the site were not walkable due to them being heavily saturated. It was not possible to walk to the higher ground levels of the field to the location where it is proposed to site the poultry house itself due to these ground conditions acting as a significant barrier. These higher levels of the field did not have the same level of observable water loving plants as in this area. It is within these higher levels of the site that the poultry building is to be sited. Having regard to the east west rolling nature of the site and the characteristics of the immediate landscape around it is more than probable that the movement of water would flow downwards into the lower lying and flat ground levels where the applicant proposes to site the range area.
- 7.6.5. The information submitted with this application indicates that the birds would deposit c5% of the total manure that they produced in the range area, with the remaining 95% removed in the litter from the poultry house. It estimates that 5% to be deposited by the birds to be 57.8 kg N and 31.6kg P/tonne and indicates that it would be equivalent to 1,100kg N and 600 kg P/10,000 birds per annum. The calculations provided appear to demonstrate that the organic nitrogen and phosphorus deposited will be compliant with the Nitrates Directive requirements. I am cognisant that such a development requires compliance with this Directive, but I have no data to make any determination on what cumulative impact such a development would have on cumulative Nitrates levels and whether or not it would be such to result in a breach of these.
- 7.6.6. The appeal site is currently utilised for grazing cattle but at the time of my inspection wintering of cattle was already evident in the surrounding area.
- 7.6.7. While the weather was still relatively mild proceeding my visit, with limited rainfall, it would appear the heavy ground in this area which also appeared to give rise to low quality grass levels were not suitable for bovine grazing all year round, which I acknowledge may not be the situation with poultry due to their modest size.



- 7.6.8. Having regard to the conditions observed during my inspection of the site, in particular the high levels of water I observed in the roadside ditches, having regard to the proceeding spell of dry weather prior to my inspection of the site, the fact that the soil and ground conditions are such that cattle were already overwintering, the lack of clarity on properties in the vicinity's potable water supply I am not satisfied beyond doubt that the proposed development would be in accordance with Policy AGP 1(e).
- 7.6.9. Further, I am also not satisfied that the level of soiled water to be attenuated from the ranging area for the birds would be the same or less when compared to the lands current use as grassland for bovine grazing and I am of the view that the level of soiled water is most probably going to be higher due to the intensity of bird numbers; the number of cycles indicated within a year cycle of this proposed poultry enterprise and the likelihood that the birds would be using this ranging area throughout a larger period of the year due to the fact that they are less likely due to their diminutive size to have issues with moving around in this type of ground conditions.
- 7.6.10. Moreover, as previously discussed above the proposed development includes a pocket of land that is identified in the OPW Draft Flood Mapping for extreme pluvial flooding as well as pluvial 1% AEP (100year) Event: 50 with the land that is sensitive to flooding being indicated as forming part of the ranging area. Together with the poor ground conditions observed including the saturation of the soil, the prevalence of water loving plants within the ranging area, through to the lower level site boundaries containing high stagnant water I am not satisfied based on the information provided with this application that the proposed development would not be prejudicial to public health and that it would not give rise to the same or less potential of pollution or contamination of surface and ground water when compared to the existing situation.

## **7.7. Screening for Appropriate Assessment**

- 7.7.1. This appeal site is located c8.1km to the east of the Special Protection Area: Slieve Beagh SPA (Site Code 004167).
- 7.7.2. The conservation objectives for this site is listed in Table 1.

**Table 1**

<b>Special Protection Area: Slieve Beagh SPA</b>		
<b>Objective:</b> To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:		
<b>Bird Code</b>	<b>Common Name</b>	<b>Scientific Name</b>
A082	Hen Harrier	<i>Circus cyaneus</i>

- 7.7.3. The European site is extensive in area and a significant lateral separation distance away from the appeal site. There is no evidence of any connection between the two and I consider it is unlikely that the Hen Harrier would feed, nest or otherwise at the appeal site.
- 7.7.4. From examination of available information it would appear that the proposed development is not directly connected with or necessary to the management of these designated European Sites and the nearest pathway to the aforementioned designated sites from the appeal site is a land drain along the western and southern boundaries of the site, which the surface water from the proposed shed and hard surface areas would ultimately be discharge to.
- 7.7.5. It is however likely that the interconnectivity of the ground and surface water of this drumlin landscape, its soil conditions and the porous bedrock that characterises this landscape setting that during the construction or operation of the proposed development, were it permitted, that there could be a potential for emissions and pollutants to arise.
- 7.7.6. However, I am cognisant that the scale and extent of the groundworks and building despite it requiring amendment to the ground levels to accommodate the poultry house building itself is not unusual for this type of development in recent decades and subject to appropriate conditions I raise no substantive issue on this particular matter.
- 7.7.7. Having regard to the information on file in relation to how the foul effluent generated and the like in the proposed poultry house are to be managed with it being fully contained and transported off-site by a licensed contractor, the surface water discharge arrangements details provided together with the significant separation

distances between the appeal site and the nearest European sites, I am satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the Special Protection Area: Slieve Beagh SPA (Site Code 004167) or any other European site in view of the sites' conservation objectives and, therefore, a Stage 2 Appropriate Assessment and submission of an Natura Impact Statement is not required.

## **7.8. Traffic and Access**

7.8.1. While I acknowledge the relatively small number of vehicles that would be associated with this proposed agricultural development; that the sightlines from the proposed improved access onto a local road appear to be adequate and that the fact that the site is located c2.1km by road to the N2, I do raise a concern with regards to the level of development that depends on what is a restricted in width, meandering in horizontal and vertical alignment, with deep drainage ditches country road. Despite this concern having regard to the low volume of traffic I observed on this road and the surrounding roads at the time of my inspection and having regard to the predominant agricultural use of the sites setting as well as the wider area subject to safeguards I do not consider that the traffic as well as the type of traffic generated would give rise to a significant hazard on this local road and the neighbouring local road network. I also do not consider this concern of substantive merit in itself for the proposed development permitted.

## **7.8.2. Other Matters Arising**

- **pNHAs:**

There are a number of pNHAs in the surrounding area with the nearest being the pNHA of Emy Lough. Like any other such water body it would be prone to pollution and eutrophication; notwithstanding, the separation distances between the appeal site and this water body is c2.2km as the bird would fly.

In addition, the nature of this rolling drumlin landscape together with its overall geological characteristics through to soil coverage would mean that the hydrological link between the two would be much greater.

The proposed poultry house and the proposed associated ranging area would not be located contiguous to any water course and it is not altogether clear that there

is any direct hydrological connection between the site and this lake on the information provided with this application.

Notwithstanding, the dilution and dispersion rates between the site and this pNHA would be sufficient along this convoluted surface water pathway.

I therefore consider that groundwater does not provide a realistic pathway between the two.

- **Devaluation of Property In Vicinity:**

In relation to the proposed development I consider that there is some merit that the proposed development, if permitted, would adversely impact on the re-occupation of an existing dwelling house that lies within 100m of the proposed poultry house; notwithstanding, the lack of any substantive evidence to demonstrate otherwise. The proximity of less than 100m between the two is less than the 100m threshold referenced in Policy AFP 2, is likely within such a proximity to give rise to nuisance and is therefore contrary to the same.

## 8.0 Recommendation

8.1. I recommend that planning permission be **refused** for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

1. The site includes land and adjoins land at risk of pluvial flooding. On the basis of the submitted documentation, the Board is not satisfied that the applicant has provided sufficient information to demonstrate that the proposed development would not, therefore, constitute an unacceptable risk of flooding and be prejudicial to public health as well as the environment in such an event. The proposed development would therefore be, contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the proposed development in close proximity to residential dwellings, the Board is not satisfied on the basis of the information submitted with the application and the appeal, that the proposed development

would not seriously injure the amenities of properties in the vicinity by reason of noise and general disturbance, and depreciate the value of properties in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Patricia-Marie Young  
Planning Inspector

5<sup>th</sup> day of May, 2020.