



An
Bord
Pleanála

Inspector's Report

ABP-305444-19

Development	Demolition of 4 pig houses and 2 manure storage tanks, and construction of 6 replacement pig houses together with all ancillary structures.
Location	Dungummin Lower, Mounthugent, Co. Cavan.
Planning Authority	Cavan County Council.
Planning Authority Reg. Ref.	19250.
Applicant(s)	Kevin Kieran.
Type of Application	Permission.
Planning Authority Decision	To grant.
Type of Appeal	Third Party
Appellant(s)	Sheelin & McCabe Planning Services Ltd.
Observer(s)	None.
Date of Site Inspection	18 th February 2020.
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

- 1.1. The 1.532ha appeal site is situated c. 2km to the south east of Mount Nugent village, in the townland of Dungummin Lower, Co. Cavan. The site lies in a rural area, c.200m to the west of a minor road (L7087-0). Access is by laneway off the minor road. The appeal site is low lying and can be seen from the public road against a back drop of mature woodland (conifer plantation). Mount Nugent GAA Club lies c.500m to the east of the site, on the northern side of the public road.
- 1.2. The appeal site comprises four pig houses, a rectangular effluent tank, cattle housing (photograph 10) and circular slurry storage tank. All of the structures, except for the cattle shed, appear to be disused and in a poor state of disrepair. The buildings are within a larger farmyard complex which includes a disused saw mill, cattle sheds, further pig housing a residential property.

2.0 Proposed Development

- 2.1. The proposed development comprises:
 - The demolition of four no. existing pig houses and two no. manure storage tanks.
 - Construction of six no. replacement pig houses (slatted floor houses with mass concrete storage tanks underneath),
 - Ancillary structures, to include meal bins, wash water tanks and ancillary stores.
- 2.2. The existing gross floor area is 1,458sqm and there will be a net increase of c.2,480sqm to provide a total floor area of 3,940.71sqm. It will have a capacity to rear 250 pigs/week from nursery to market weight over a 22 week period. Pigs will be transferred to the farm at a lower weight than previously and capacity will increase from a c.2,700 places for **weaner/grower** to c. 2,700 for **grower/finisher** pigs. The development will be carried out in two phases with phase 1 comprising the demolition of existing structures and the construction of 4 no. pig houses, to accommodate c.750 piglets, c.2,000 weaners and c.**1,620 grow pigs** (4,370 animals in total). The applicant states that to this point there will be less than 2,000 production pigs on the farm (any pig in excess of 30kg). Phase 2 will provide the 2

remaining pig houses to facilitate a further **1,080 grower/finisher pigs** increasing the total number of **grower/finisher pigs to 2,700**. It is stated that the development will be completed in accordance with the Animal Welfare Regulations (SI No. 311 of 2010 as amended) and the Nitrates Regulations (SI No. 605 as amended).

- 2.3. It is my understanding that the development would accommodate a total of 5,450 animals on site at any one time, which would equate the capacity required for the production of 250 pigs/week over a 22 week cycle (250x22=5,500).
- 2.4. It is stated that the development will produce c.5,834.4m³ of organic waste per annum which will be stored in underground tanks with a capacity of c.9,750m³, in excess of statutory requirements. Manure will be used by customer farmers in accordance with the European Nitrates Directive and national legislation (SI 605 of 2017, Good Agricultural Practices for the Protection of Waters) and replace chemical fertiliser (the location of various customer farmlands is set out in Appendix no. 1). Clean surface water will be directed into surface water drains in proximity to the site. Soiled water will be directed into manure storage tanks, which will be fitted with leak detection systems. On site waste will be stored and disposed of/recovered in accordance with applicable regulations. Staff operating hours will be 6am to 6pm Monday to Friday and 7am to 1.00pm on Saturday and Sunday. Automatic feeding and ventilation systems will be operating outside of these hours. Water supply is stated to be from a private well located/to be located on site and/or adjacent to the site, with subsequent storage in an overground tank (the location of the well is not shown on the plans for the development). The estimated use is 8,000m³ per annum, arising from consumption by animals and high pressure wash down systems. A Construction and Demolition Waste Management Plan is included in Appendix 11 of the application. Waste arising from the development once operational (e.g. pig carcasses, medical waste and paper bags/general waste) will be collected and transported off site by authorised waste contractors and to appropriately authorised installations.
- 2.5. Included with the planning application is an Environmental Impact Assessment Report (EIAR) and Natura Impact Statement (NIS). The development will require a licence from the EPA.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 22nd August 2019 the planning authority decided to grant permission for the development subject to 12 conditions. These include that all of the mitigation measures set out in the EIAR and NIS are carried out in full (condition no. 1(b), 3, 4, 5 and 6). Other conditions deal with sight lines at the entrance to the site (no. 7) and construction practices (nos. 8, 9, 10 and 11).

3.2. Planning Authority Reports

Planning Reports

- 3.2.1. The Planning Report, dated 2nd August 2019, recommends granting permission for the development having regard to:

- The size of the proposed development, its agricultural nature, location in a rural area, on the site of an existing farming operation of similar nature,
- Policies of the County Development Plan which support the sustainable development of the industry, and
- Subject to conditions which include the implementation of mitigation measures set out in the EIAR and NIS.

Other Technical Reports

- Roads – (30th July 2019) – Recommends that hedgerows are set back along the local road at the sight entrance to achieve sight distances.
- Environment (1st August 2019) – Recommends that mitigation measures set out in sections 4.1 (discharge of surface water) and 4.9 (noise) of the EIAR and section 5 of the NIS are included as planning conditions. It also recommends that the application be referred to the EPA and Heritage Section.

3.3. Prescribed Bodies

- None.

3.4. Third Party Observations

3.4.1. There is one third party observation on the application made by the appellant.

Issues raised are:

- The proposed development is a multiple of the claimed existing operation.
- The facility has not been in use for a long number of years and is 'Trojan horse' for a significant pig unit with the waste output equivalent to a town.
- The development is in the catchment of Lough Sheelin, an SAC. There is an over intensification of pig units in the catchment (highest density of pigs per square km compared to anywhere in Europe).
- Impact on tourism and the environment.
- Development is contrary to balanced development and contrary to EU Directives governing such developments.
- Impact on local residents.

4.0 Planning History

4.1.1. On file there is reference to three planning applications on the wider landholding. These to the use of the site as a saw mill and are not directly relevant to the appeal (PA ref. 79/10214, 80/11666 and 82/13100).

5.0 Policy Context

5.1. Cavan County Development Plan 2014 to 2020

5.1.1. Section 3.4 of the current County Development Plan sets out policies in respect of agriculture. These include policies and objectives EDP1, EDP2, EDP3, ED01, ED04, ED05, ED06 and ED07 which support the development and diversification of agriculture in the County subject to environmental considerations. Relevant water protection policies are set out in policies NHEP26-31 and objectives NHEO50-53.

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is removed from any site of nature conservation interest (see attachments). The nearest protected site is Lough Sheelin. It lies c. 3km to the west of the appeal site is designated as a proposed NHA (site code 000987) and SPA (site code 004065). To the south of Lough Sheelin, and c. 6km to the south west of the site, is Moneybeg and Clareisland Bogs SAC (site code 002340).

5.3. EIA Screening

- 5.3.1. Section 172 of the Planning and Development Act 2000 (as amended) requires environmental impact assessment of classes of development set out in Schedule 5 of the Planning and Development Regulations 2001 (as amended) where the development would equal or exceed the stated threshold or is sub-threshold but likely to give have a significant effect on the environment. Class 1(e)(ii), Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended) refers to the following:

‘Installations for intensive rearing of pigs not included in Part 1 of this Schedule¹ which would have more than 2,000 places for production pigs (over 30 kilograms) in a finishing unit’.

- 5.3.2. The applicant states that the development will provide more than 2,000 places for production pigs (>30kg). It will, therefore, require requiring environmental impact assessment.

6.0 The Appeal

6.1. Grounds of Appeal

- **Procedural Matters**

- The landowner of the application site, Kiernan Farms, has not given the applicant, Kevin Kiernan, permission to make the application. The permission is therefore granted to a third party who does not own the land.

¹ Class 17(b), Part 1 of Schedule 5 requires an EIA for installations for the intensive rearing of pigs with more than 3,000 places for production pigs (over 30kg).

- The planning permission has been considered on the basis that the site is planning compliant. The buildings on site have been constructed in the last 50 years and do not have the benefit of planning permission. The overground circular slurry storage tank was built in the 1980s and entrance in the recent past.
- The application is predicated on the assumption that this is an existing pig farm operating as a c.2,700 place weaner/grower farm. The buildings have not been in use for a long time. There are no staff on site. No slurry leaves the site and no feed comes into it. There is no IPPC licence in respect of the site.
- The site layout plan is incorrect. The site area is bigger than stated (7.28ha not 1.532ha). The part of the site not depicted encompasses another piggery and cattle sheds also under the control of the applicant or his company. A further 14.11 ha abutting the site are in the control of the applicant (see Appendix 1 and 2 of the appeal for folio maps etc.).
- The description of the development is misleading and purports to convey that the 6 new pig houses are a replacement for the four existing, when the development is of a much large scale. The site is abandoned and contains a lot more buildings than depicted on the plans (Appendix 3). These could be used for the further expansion of the piggery and associated slurry storage. There is no account for cattle slurry storage and disposal from the other buildings on site.
- The site drawings do not show any contours. The site is on bog land and at risk of flooding (see Appendix 4 – extract from OPW flood information maps). The EIAR does not address the risks associated of the development and underground storage tanks in this location.
- No details provided on the private water supply for the development or of the implications of extracting 8-9million litres of the water from the ground water supply. Ingoing water (8-9million litres) is in excess of outgoing slurry (5.834million gallons (*sic*)).
- **Abandonment.** The site is a Greenfield. The Planner classified it as a Greenfield/Brownfield one. The use of the site as a piggery has been abandoned for over 10 years. Any resumption of use would constitute a material change of

use and require planning permission. It could not be argued that there was an intention to resume use, the applicant took ownership of the site in May 2019 (see Appendix 1). If it is accepted that the use has been abandoned then the basis for the EIAR is flawed (i.e. the operation of an existing piggery on the site forms the baseline of the EIAR).

- **Impact of development on tourism.** Impact on use of Local Road L1533 by walkers, development of walking tourism in County Cavan and on local football pitch (north east of site) arising from traffic hazard and odour.
- **Heritage.** The site lies in a largely undisturbed drumlin landscape. Seven protected monuments lie within 800m of the development and four of these within 500m of it.
- **Local residential property.** Impact on property values. The nearest dwelling is <150m from the site and there are 8 properties within 300m of it. The development will produce twice the equivalent of sewage of Cavan Town. The scale of the development is massive and the associated risks to waterways, the water table and the local environment is unfair to local residents.
- **Local flora and fauna.** No reference to bats using the disused piggeries and adjoining saw mill. No information or study to identify the otter, badger or other protected species living in/adjacent to stream and site.
- **Slurry and land spreading.** No information on farmers who will be taking waste slurry.
- **Development Plan.** Conflict with policies of the County Development Plan in respect of agricultural development and the protection of water quality. The EPA's report (2018) on the Inny catchment, identifies Lough Sheelin, and rivers discharging into it, as being 'at Risk' and agriculture is identified as a significant pressure. The stream passing through the site links up with Mounthugent River, which is identified as having a High phosphorus load (Appendix 5). The proposed development will add further to the risk of pollution.
- **Environment.** The area around Lough Sheelin has a high density of pig farming operations and the proposed development, taken in conjunction with existing development, should be refused. The proposed piggery amounts to factory farming and is contrary to sustainable farming practices, good animal welfare

practices, Climate change policies/carbon footprint and contrary to the protection of water ways and the local environment.

6.2. Applicant Response

6.2.1. The applicant makes the following response to the matters raised by the appellant:

- **Procedures** – The applicant is director of Kieran Farms, the registered owner of the subject site (title transferred in May 2019 – see Appendix 1 of appeal), and he is authorised to act on behalf of the landowner. The planning application has been progressed on the basis that the site is a long established pig farm. Agricultural structures were deemed exempted development up until 1978. The farm was certified with Bord Bia until 2019 (certificates in appellant’s submission), is currently destocked and the applicant is entitled to refurbish the existing buildings. There is no evidence to support the appellant’s stocking rate for pigs in the existing buildings. As there were less than 2000 places for production pigs, an IE licence was not necessary. The development will be restricted to the buildings shown in the application drawings which are factually correct. A full contour survey of the site was undertaken and is depicted in the plans submitted. There is no evidence of the site having flooded or is at risk of flooding. The site is not bog land and falls outside of the area referred to by the applicant on the OPWs flood information maps. The new structures will minimise any adverse impacts to a high water table, if it were to arise. The well on site is in control of the applicant. The water requirement is not significant and just approaching the minimum threshold for registration with the EPA. Discrepancy in water usage arises from loss in liveweight and evaporation/respiration from pigs.
- **Abandonment** – Having regard to the number of buildings present on it, the site is brownfield, the applicant operated or maintained the lands for 10-15 years, housing of pigs ceased in 2018 (Bord Bia certificates on file), the site has been actively managed since de-stocking, there have been no other intervening uses on the site and there was always an intention to continue farming on the site. If permission is not granted the applicant would have to refurbished (under section 4(1) of the Planning and Development Act 2000 as amended).

- **Tourism/local residential property** – The existing pig farm is over 50 years old and the applicant has not received any complaints on its under his operation. The development pre-dates a significant amount of the tourism referred to, GAA pitch and a number of dwellings in the area. The closest dwelling to the site (outsider of the farm complex) is c.225m to the north of the development. Organic fertiliser will be managed in accordance with SI 605 of 2017 (Good Agricultural Practices for the Protection of Waters). Due to improved building standards and optimising feeding systems, the increase in slurry production will be c.40% above previous operating levels.
- **Heritage** – The development is proposed on a brownfield site and will result in significant investment and modernisation of the existing farm. It will take place within the boundary of the site (not the wider farm yard complex) and will not impact on the archaeology of the area.
- **Flora and Fauna** – No bats have been observed roosting in the buildings to be demolished. A bat survey could be carried out in advance of any demolition works with any recommendations arising to be agreed with the planning authority.
- **Slurry and land spreading** – There will be no waste spread from the proposed development. Slurry is a valuable organic fertiliser, replacing chemical fertiliser on farms. Slurry will be managed in accordance with SI 605 of 2017 with farmers checked for compliance with nitrogen loading limits. The applicant proposes slurry storage capacity of 20 months, in excess of the statutory 6 month requirement.
- **Development Plan/environment** – The development has been designed to comply with policies of the Plan. Pig farming is a common and traditional farming practice in the County. The site is an existing pig farm and the development represents a significant investment in animal housing and associated structures and will be operated to the highest standards. The modern housing will ensure sustainable farming, good animal welfare, a reduced carbon footprint and the protection of water ways and the local environment. The development is an agricultural one and is suitable to, and should be accommodated within, an agricultural area and is suitably sited.

6.3. Planning Authority Response

6.3.1. The planning authority makes the following response to the appeal:

- **Ownership** – The applicant has indicated that he is the owner of the appeal site and adjoining lands (red and blue lines on application).
- **Planning history** – There is no planning history in respect of the existing piggery which indicates that it pre-dates the 1963 Act. Other permissions referred to are in respect of the adjacent mill enterprise.
- **Use** – The planning assessment, which included a site visit, concluded that there was in principle an established pig farm complex on the site albeit in need of investment and modernisation. No pigs were on site on inspection. Development was assessed on the basis of demonstrated capacity (2,700 pigs). Application states that the pig farming has taken place for >50 years and the applicant has operated it for the past 15.
- **Effect on property values** – The development is in a rural area, is supported by policies of the County Development Plan and would not result in the devaluation of properties.
- **Environment** - Application was referred to Environment Section, who recommended a grant of permission subject to conditions, which have been attached to the permission and to District Engineer who had no objections (traffic).

6.4. Further Responses

6.4.1. In November 2019 the appeal was circulated to the EPA, Development Applications Unit, An Taisce, Inland Fisheries Ireland, The Heritage Council. A response was received from the EPA and it is stated that the proposed development may require a licence under the EPA Act 1992, as amended, and should such a licence be required it would be subject to environmental impact assessment. Further, if granted a licence, subject to appropriate standards. Any application received by the EPA would deal with the development within the site boundary. The management and use of organic fertiliser off site would be subject to the applicable regulations, European Union (Good Environmental Practice for the Protection of Waters)

Regulations, 2017 and Animal By-products Regulations (Regulation (EC) No. 1069/2009).

7.0 **Assessment**

7.1. Having regard to the information on file, the policy context for the proposed development and my inspection of the appeal site, I consider that the key matters for this appeal relate to:

- Procedures.
- Abandonment.
- residential amenity, tourism and community facilities.
- Heritage.
- Flora and fauna.
- Slurry and land spreading.
- Compliance with policies of the County Development Plan.

7.2. **Planning Assessment**

7.2.1. **Procedures.** The planning application is made by Mr. Kevin Kiernan. In response to the appeal it is stated that he is director of Kieran Farms, the registered owner of the subject site, and is authorised to act on behalf of the landowner. I am satisfied, therefore, that the applicant has demonstrated sufficient legal interest in the appeal site for the purposes of the planning application and appeal.

7.2.2. The application lands include the subject site (red line) and directly adjoining lands (blue line). I do not consider that it is necessary to provide further information on the applicant's wider landholding to satisfy the requirements of section 22(2)(ii) of the Planning and Development Regulations, 2001 (as amended).

7.2.3. It is evident from OSI's aerial photography that there has been a pig farm on the appeal site and entrance from the public road to, in its current location, since at least 1995 (see attachments). Further, there is no evidence by any party of non-compliance with planning law.

- 7.2.4. The application before the Board is for the demolition of 4 no. pig housing and associated structures, with their replacement with 6 no. pig houses and associated structures. It is evident from my inspection of the appeal site that existing pig houses have not been used for a considerable period. The applicant states that previous operation was below threshold that required a licence from the EPA (i.e. <2,000 places for production pigs). There is no evidence on file to support or contradict this claim. Therefore, I consider the merits of the proposed development having regard to the previous use of the site and the overall scale proposed here.
- 7.2.5. Any development outside of the appeal site boundary falls outside the scope of this appeal and would be subject to the Planning and Development Act 2000 (as amended) and associated regulations. In this regard, I note that the applicant has stated that notwithstanding that there are additional structures within the adjacent farmyard/building complex, all pig farming activities will be carried on within the identified boundaries.
- 7.2.6. The plans submitted in respect of the proposed development indicate contour levels and FFL of buildings (see Proposed Site Plan, drawing no. PL02). Risk of flooding and water supply are discussed in the EIA section of this report below.
- 7.2.7. **Abandonment.** From my inspection of the appeal site it is evident that the buildings on the site are in a state of poor repair and it is difficult to envisage how these would have been actively used two years ago. Notwithstanding this, buildings on the site have remained on site in their original form, there has been no intervening use and there is no evidence of any intention not to resume the use of the buildings i.e. there is little evidence of abandonment. Regardless of this, the issue of abandonment is not directly relevant to the proposed development as the applicant is not seeking to resume a use.
- 7.2.8. **Residential property/tourism and community facilities.** The appeal site is removed from any designated scenic or walking route. At the time of site inspection the local road serving the site was a quiet rural road with little traffic with no observed pedestrian traffic. Mounnugent GAA Club grounds lies c. 500m to the south east of the appeal site and nearest houses lie to the north and east of the site, with the nearest c.220m from the site (c.8 properties lie within 300m of the development). I examine the issue of slurry production, odour and the risk of water pollution in the

Environmental Impact Assessment section of this report and I conclude that, subject to implementation of mitigation measures, no significant impacts are likely to arise. The development, therefore, is unlikely to detract from the amenity of the local area, residential property, tourism initiatives, the GAA grounds or property values.

- 7.2.9. With regard to traffic, this is also dealt with in the EIA section of my report and I have concluded that the development would increase the number of HGV movements on the local road but that these would be relatively small in number, c.28 HGV movements a week (in the fertiliser/manure spreading season) with additional movements of materials, staff and visitors. In a rural area where there is frequent movement of large agricultural vehicles, I do not consider this volume to be significant or to detract from the amenity of the public road or use of the GAA grounds.
- 7.2.10. **Heritage.** The proposed development is located in a rural landscape where there are a number of archaeological monuments (attachments). The development would be situated within an existing farm yard complex, on lower lying land than the public road and against a backdrop of mature confers. The proposed pig units will have a larger footprint than the existing buildings and will be marginally greater in height (including the dry store and feed silos). Within this context, I do not consider that the proposed development would be visually obtrusive or likely to detract from the archaeological monuments which are present in the area, either individually or collectively.
- 7.2.11. **Flora and fauna.** This matter is addressed in the EIA section of this report.
- 7.2.12. **Slurry and land spreading.** Slurry spreading in the State is a matter which falls under and is regulated by the Nitrates Regulations. The Nitrates Regulations comprise the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, as amended. The Regulations give effect to the EU's Nitrates Directive and local authorities are responsible for their enforcement.
- 7.2.13. In this instance, the planning application provides details of customer farmland where slurry spreading is proposed to take place. The planning authority has not raised any issues, in principle, with regard to the proposals and the Board has no role in assessing the environmental efficacy of the activity.

7.2.14. **Compliance with policies of the County Development Plan.** The proposed development is consistent with policies of the County Development Plan which in principle support agricultural development, subject to environmental safeguards. Environmental effects are considered below.

7.3. **Environmental Impact Assessment**

7.3.1. The Environmental Impact Assessment Report (EIAR) is structured into three parts, a Non-Technical Summary, the main report providing a technical assessment of environmental effects and appendices. I have examined the contents of the report against the requirements of Section 94 of the Planning and Development Regulations, 2001 (as amended) and consider that it adequately contains:

- The information specified in paragraph 1 of Schedule 6, including a description of the proposed development, the likely significant effects on the environment, mitigation measures and reasonable alternatives for the following parameters:
 - population and human health,
 - biodiversity,
 - land, soil, water, air and climate,
 - material assets, cultural heritage and landscape and the interaction of these.
- As necessary, additional information specified in paragraph 2 of Schedule 6, relevant to the specific characteristics of the development and to the environmental features likely to be affected.
- A summary in non-technical language, and
- References detailing the sources used for the descriptions and assessments included in the report.

7.4. The NTS identifies the experts (page 1 NTS) who contributed to the report but there is little information on their competence/experience. Further, aside from the Natura Impact Assessment, few technical assessments have been carried out (e.g. survey of flora, fauna, ambient noise levels). I comment on these matters in my assessment of the individual environmental topics below. I do not consider that the subject

development is particular at risk of major accident or natural disaster e.g. earthquake etc. The risk of flooding is considered under 'Water'.

7.5. Baseline

- 7.5.1. The EIAR refers to the existing pig farm as the baseline environment. However, as previously stated it was clear from inspection of the site that the current buildings are in no state to accommodate a working pig farm. Consequently, in my assessment I have had regard to the principle of a pig farm operating previously on the appeal site and to the likely effects of the development as a whole.

7.6. Difficulties Encountered

- 7.6.1. It is stated that no difficulties were encountered in the preparation of the EIAR as the processes and technology involved in the construction and management of the proposed development are standard for agricultural, and in particular pig farm, developments. This conclusion seems reasonable.

7.7. Alternatives

- 7.7.1. Schedule 6 of the Planning and Development Regulations, 2001 (as amended) requires consideration of 'reasonable alternatives' which are relevant to the proposed development. In this instance, the proposed development comprises the re-development of a disused pig farm which is situated in a rural area, and removed from immediate neighbouring residential development. Alternative sites are, therefore, not considered by the applicant and this approach is reasonable and would facilitate the re-use of the existing site and its services. Alternatives to the proposed development, in terms of its design, scale and treatment of organic waste is considered in section 5.2-5.5 of the EIAR (these include reference to potential centralised anaerobic digestion as an alternative to land spreading of manure). It is evident from the information presented that the resultant development has been designed to meet current standards and practices within the industry, the use of available technology, the confines of the site and to integrate with the applicant's existing farming activities. The applicant has therefore adequately considered alternatives to the proposed development for the purposes of EIAR.

7.8. Population and Human Health

- 7.8.1. Impacts on population and human health are dealt with in the individual topic sections of this report (below). The proposed development is an agricultural development in a rural area, at reasonable distance from nearby properties (c. 220m) and there is no evidence to indicate that the development will give rise to significant effects by way of noise, dust, traffic, visual or landscape or other effects which could individually or in combination impact on the population or human health.

7.9. Biodiversity

- 7.9.1. There is no assessment of the habitats and species occurring on or in the vicinity of the appeal site. Notwithstanding this, the appeal site comprises existing, albeit disused, farm buildings and the proposed development will generally be confined to the existing footprint of the farm yard. It is stated that a small area of coniferous forest will be included in the development footprint, but this area is not clearly identified on the plans. Notwithstanding this, impacts on biodiversity as a consequence of land take from a small area of coniferous woodland are unlikely to be significant. The applicant also refers to the presence of badger in the 1km grid square of the proposed development. Badgers are generally found in deciduous or mixed woodlands, near farmland or open ground, with setts in dry ground. The appeal site, comprising established buildings and hardstanding is unlikely to provide suitable habitat for this species.
- 7.9.2. With regard to bats, bats and their roosts are protected by Irish and EU law, and it is possible that bats use the structures on the site (although there is no evidence to this effect). If the Board are minded to grant permission for the development I would recommend that this be subject to condition that an application be made to the National Parks and Wildlife Service for a derogation licence in advance of any construction works. In seeking a licence to carry out the development the applicant is required to demonstrate that there is no satisfactory alternative and that the action will not adversely affect the favourable conservation status of the bats, the NPWS may also refuse an application. Subject to this condition, therefore, I do not consider that there will be a significant impact on bat species. Indirect effects on biodiversity as a consequence of the disposal of water are considered below and potential

effects on European sites are considered in the appropriate assessment section of this report.

7.10. **Land, Soil, Water, Air and Climate**

- 7.10.1. **Land and soil.** The proposed development relates to a small site of modest land take (c.1.5ha). The proposed development will largely take place within the established footprint of the existing buildings and yard area, foundations are unlikely to be excessive and impacts on land, soil, sub-soil and geology are therefore unlikely to be significant.
- 7.10.2. **Water.** Water supply to the site is stated to be from a private well located on the farm but outside of the site boundary. There is no information on the location of this well or whether it lies within the overall landholding. The Board may wish to address this matter prior to any grant of permission or by condition. It is stated that c.8,000m³ will be required per annum by the development. There is no assessment of the likely effects of this requirement on the underlying water body. However, no party to the appeal has raised any concerns regarding this, which would suggest that the water consumption is unlikely to give rise to significant effects.
- 7.10.3. The appeal site lies above a bedrock aquifer which is identified as being LM, Locally Important and Generally Moderately Productive, and of moderate vulnerability. Manure arising on site and contaminated surface water (e.g. from cleaning) will be directed to the applicant's underground storage tanks with effluent removed from the site to farmlands for disposal under the Nitrates Directive. The applicant proposes tanks with a capacity of c.9, 750m³, against a 6 month storage requirement of c.3,000m³. The tanks will be designed to Department of Agriculture requirements and will include leakage detection systems and annual groundwater monitoring. Subject to these arrangements, no significant impacts on groundwater are likely to arise.
- 7.10.4. It is stated that uncontaminated water from roofs and clean paved areas within the farm will be collected separately and discharged to the existing and/or upgraded storm water drainage system which will be regularly inspected. Plans for the development (Drawing no. PL02) indicate perforated drains around the perimeter of the building directed via a silt trap to an open drain that runs along the southern

boundary of the site. This field drain is stated to flow into Aghawonan Stream to the west of the site, which ultimately discharges via the River Inny into Lough Sheelin (c.3km due west of the appeal site). Aghawonan Stream (Aghawonan_010) has an 'unassigned status' in the WFD Status report 2013-2018, the Inny River (Inny 040) has a poor status and Lough Sheelin is identified as 'At Risk' of not meeting good quality status by 2021. Significant pressures on Lough Sheelin are identified as agricultural and peat (see attachments).

- 7.10.5. Having regard to the obligations placed on the Board by the Water Framework Directive and the Surface Water Regulations, it is important that the quality of downstream water bodies be protected from any deterioration in water quality. If the Board are minded to grant permission for the development, I would recommend that the detailed design of the surface water management system is agreed with the planning authority in advance of construction with details to include arrangements for monitoring water quality in the open drains into which the site will discharge. This should include monitoring of the baseline status of water quality in the discharge field drain. (This matter may ultimately be superseded by an Industrial Emissions Licence from the EPA, once the threshold for production pigs is triggered).
- 7.10.6. The OPW's Drainage Maps indicate under the 'Benefited land' layer, that land was drained as part of an arterial drainage scheme. The drainage schemes were carried out to improve land for agriculture and to mitigate flooding. The appeal site lies alongside, possibly cutting into benefiting lands (see attachments).
- 7.10.7. In the course of the application, the applicant states that the appeal site has been made up. This may be consistent with lands that were previously drained. Notwithstanding this, there is no evidence on file, from my inspection of the site or from the OPW's flood information site the site has been flooded or is at risk of flooding. From the information available, I would consider that the site is not at risk of flooding or that the development is likely to give rise to flooding.
- 7.10.8. **Air and Climate.** There is no baseline information on air quality in the EIAR. The site lies in the Rural East and is classified by the EPA as having 'good' air quality. Pig farming poses a potential risk for air quality arising from odour associated with the storage and movement of manure and to a lesser extent from the animals themselves and carcasses. (The application of organic fertiliser to land outside the

installation is not subject to control by the planning system or the IED licence). In this instance the site lies to the south and south west of a small number of residential properties (c.220m to nearest property) and to the west of Mountnugent GAA grounds.

- 7.10.9. The EIAR states the fact that well maintained, properly ventilated, slatted floor pig farms are '*practically odour free*'. However, there is no scientific basis of the conclusion and pig farms can be the source of significant odour nuisance. Section 7.4 of the Report states that the houses will be continuously washed, disinfected and rested between batches, stock at optimum levels and adequately ventilated. Carcasses will be stored in sealed containers and manure will be removed by vacuum such that there will be no odours created during manure withdrawal. The measures reflect recommendations set out in the EPA's research document 'Odour Impacts and Odour Emission Control Measures for Intensive Agriculture, Final Report', EPA, 2001'. If the Board grant permission for the proposed development, an application will be made to the EPA for Industrial Emissions Licence. If the EPA decide to licence the facility, the controls put in place under licence will provide for the detailed management of the facility, emission limits values and prescribe arrangements for monitoring and reporting.
- 7.10.10. The Board may wish to seek further information in respect of odour, however, having regard to the information provided in the EIAR and the subsequent requirement for a IE licence from the EPA, I do not consider that there is a risk of serious odour emissions, sufficient to cause significant impacts on the local community. I note also that there are no other pig farms in the immediate area of the site and therefore little risk of cumulative impacts on air quality.
- 7.10.11. The matter of climate is considered in sections 6.5 and 7.5 of the EIAR. It acknowledges that the large livestock operations contribute to greenhouse gas emissions but provides no quantification of likely emissions. Use of energy is referred to in section 4.9.1 and includes use of energy efficient lighting devices and supplementary heating systems, high insulation standards and computerised control of ventilation systems. Again there is no quantification of emissions. Notwithstanding this, the development would comprise a small proportion of the national pig herd (84 in 2018, National Pig Herd Performance Report, Teagasc) and is subject to standard emission controls and practices within the sector. The

development is unlikely to be vulnerable to changes in climate e.g. sea level, storm events, but may be vulnerable in its capacity to adapt to the impacts of climate change (e.g. if policy changes impact on the industry).

7.10.12. **Noise and Vibration.** Section 4.9.1 and 6.7 of the EIAR deal with noise. Table 4.9.1 sets out typical noise arising from the type of equipment that would be used to build the proposed development. At a distance of 150m from the noise source, predicted noise levels are <65dB LAeq. Standard noise mitigation measures are set out on page 46 of the report and nearest properties to the development are c.225m. Having regard to short term duration of construction works, predicted noise at 150m from the site and mitigation measures, construction is unlikely to be significant.

7.10.13. Operational noise is dealt with in section 7.7 of the EIAR. It will arise from the operation of ventilation equipment, blowers on feed delivery trucks and from the animals themselves. Appendix 15 of the EIAR sets out typical noise levels recorded at other pig farms and indicates that levels are not significant. The EIAR states that having regard to these findings and the proposed methods of operation, noise resulting from activities at the site should not exceed 55dB(A)Leq during the day and 45dB(A)Leq at night. From the information presented on file, and my experience of other pig farms, this conclusion is not unreasonable.

7.11. **Material Assets, Cultural Heritage and the Landscape**

7.11.1. **Material assets.** Principle wastes arising from the proposed development will be from the demolition of existing structures (construction phase), pig manure, animal carcasses, veterinary waste, general packaging etc (operational phase). Appendix 11 of the EIAR contains a Construction and Demolition Waste Management Plan for demolition works and indicates that materials arising from demolition will be segregated and re-used, recycled or disposed of to appropriate contractors. Slurry will be stored on site in underground storage tanks, built to Department of Agriculture specification. Capacity of the tanks is indicated to be c.18-20 months manure production (the statutory requirement is stated to be 6 months). Manure from the farm will be used by customer farmers in accordance with the Nitrates Directive and associated national requirements. Other operational wastes arising will be disposed

of/recovered in accordance with relevant regulations. Subject to these measures, no significant impacts should arise as a consequence of waste emissions arising from the construction or operation of the development.

- 7.11.2. **Traffic.** Traffic impacts are addressed principally in section 6.8 and 7.8 of the EIAR. It is estimated that traffic associated with the development will comprises a maximum c.28 HGV trips a week during the slurry spreading season (3 loads feed, 8 loads manure, c.2 loads pigs – section 7.8) plus transport of materials, staff and ancillary traffic, such as vets, advisors and waste (unquantified). The site lies in a rural area where there is already regular movement of substantial agricultural vehicles. Within this context, the estimated increase in traffic associated with the development (including the unquantified trips), is not of itself significant and is unlikely to give rise to traffic hazard. The EIAR acknowledges that during construction there will be a temporary increase in traffic on local roads. The volume of traffic is not quantified, and effect of construction traffic is not assessed in the EIAR. However, given the scale of the development and the likely temporary nature of construction works impacts are unlikely to be significant and could be controlled by traffic management plan.
- 7.11.3. **Landscape.** The proposed development lies in a rural landscape, outside of or removed from any protected landscape or landscape feature e.g. High Landscape Area/Major Lake, walking route, scenic route, viewing point. The site is low lying, compared to the more elevated public road passing the site, and is c. 200m from it. The development is also viewed against a backdrop of mature trees. Within this context I do not consider that the proposed development would significantly impact on landscape character or its amenity.
- 7.11.4. **Cultural Heritage and Tourism.** The proposed development will be principally constructed with the footprint of the existing farmyard. Sites of archaeological interest lie outside of the site and at distance from it (nearest is c.300m to the west of the site). Given the limited visual impact of the proposed development, discussed above, significant impacts on archaeological heritage are therefore unlikely. Potential effects of the development on the amenity of the local area have been discussed above, notably, the risk of noise, odour and traffic on local roads. For the reasons stated, I do not consider that the development will give rise to significant effects for these parameters or, therefore, on local tourism (e.g. walking on the public

road) or Mount Nugent GAA grounds. Cumulative impacts are unlikely to arise due to the absence of similar development in the immediate area of the site.

7.12. Interactions

7.12.1. I have reviewed the main interactions identified in section 8.1 of the EIAR and consider that all of these have been assessed in the individual topic reports and considered in this assessment.

7.13. Reasoned Conclusion

7.13.1. Having regard to the examination of environmental information contained above, in particular to the EIAR and submissions on file it is considered that the main significant direct and indirect effects of the development on the environment and measures to avoid, prevent or reduce such effects are as follows:

- **Water and Biodiversity:** Potential impacts on groundwater, surface water and downstream water dependent habitats and species arise from the generation, storage and discharge of organic waste and soiled water from the site. Measures to avoid potential impacts include the provision of an adequate storage capacity, leak detection systems and disposal off site of organic waste, in accordance with the requirements of the Nitrates Directive, and the separate management of storm water and soiled water (to be directed to slurry storage tanks)
- **Air:** Potential impacts on air quality could arise from odour generated by the pig farm, with indirect effects on people and material assets. Mitigation measures to avoid, prevent or reduce such effects include continuous washing, disinfecting and resting of housing between batches, optimum stocking rates, adequate ventilation, storage of carcasses in sealed containers and removal of manure by vacuum and management of the farm in accordance with the requirements of an Industrial Emissions Licence.

7.13.2. Having regard to the foregoing, I am satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment.

7.14. Appropriate Assessment

7.15. The application for the proposed development includes a Natura Impact Assessment (NIS). It examines the likely effect of the development on European sites and concludes that, following mitigation, the proposed development does not have the potential to affect the conservation objectives of any such site.

7.15.1. **European sites.** The subject site lies in a rural area, that is generally removed from European sites. However, the field drain into which it is proposed to discharge uncontaminated surface water which ultimately discharges into Lough Sheelin, c.3km due west of the appeal site. The appeal site also lies within the same groundwater body as the Lough (the Inny groundwater body, IE_SH_G_110). Lough Sheelin is designated as a Special Protection Area (site code 004065). The subject site is therefore hydrologically connected to this European site.

7.15.2. Moneybeg and Clareisland Bog SAC (site code 002340) lies c.5km to the south west of the appeal site. It is identified in the NIS as potentially connected to the appeal site via atmospheric pollution. This seems unlikely given the distance of the site from the appeal site and the prevailing direction of wind. Notwithstanding this, I have included an assessment of these potential effects of the development from a conservative perspective. Other European sites in the wider area are substantially removed from the subject site (>10km) and are not hydrologically connected to the appeal site. They are also unlikely to be affected by air pollution due to their greater distance from the appeal site and likely atmospheric dispersion effects. (Impacts of the spreading of slurry on land is governed by the Nitrates Directive and falls outside the scope of this assessment).

7.15.3. Qualifying interests of European sites are:

European Site	Qualifying Interests	Distance
Lough Sheelin SPA (site code 004065)	Great Crested Grebe (<i>Podiceps cristatus</i>) Pochard (<i>Aythya ferina</i>) Tufted Duck (<i>Aythya fuligula</i>) Goldeneye (<i>Bucephala clangula</i>) Wetland and Waterbirds	c.3km west.

Moneybeg and Clareisland Bogs SAC (site code 002340)	Active raised bogs Degraded raised bogs still capable of natural regeneration Depressions on peat substrates of the Rhynchosporion	c.5km south west.
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7.15.4. **Conservation objectives.** Conservation objectives for Lough Sheelin are generic, to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interest. Conservation objectives for the SAC are to restore the favourable conservation condition of active raised bogs with regard to specific attributes, measures and targets (no specific measures are set for remaining qualifying interests).

7.15.5. **Potential Effects.** Potential effects arise from the following components of the proposed development:

- Run off of contaminated water (e.g. with sediments and petrochemicals) from the site arising during demolition and construction, with potential impacts on water quality and indirect effects on protected species in Lough Sheelin.
- Discharge of soiled water from the operational farm, for example, from the underground storage tanks to ground or from surface water, contaminated with organic waste, sediments or petrochemicals, to the nearby field drain, again with the risk of downstream effects.
- Potential atmospheric depositions, of ammonia and nitrogen, on protected sites, with the consequential loss of biodiversity.

7.15.6. Risk to mobile species is limited by virtue of the existing brownfield nature of the subject site and the absence of any protected species observed on it. There is no potential for dust, noise or activity arising on site during construction or operation to affect either of the European sites, given the distance of the European sites from the appeal site. The proposed development is situated in a rural area where there is a risk of other discharges to water bodies from the agricultural industry. There is therefore a risk of in-combination effects on water quality.

7.15.7. **Mitigation.** Mitigation measures are set out in section 5 of the NIS and include:

- The construction and operation of the farm yard to comply with European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2017, as amended, and the Department of Agriculture's associated Handbook of Good Agricultural Practice.
- Low protein diets for pigs to reduce ammonia and nitrogen emissions.
- Construction of farm structures, and storage facilities for slurry, manure and soiled water, to Department of Agriculture standards, with integrity/leak detection testing prior to use and regular inspection for deficiencies.
- Site works to be confined to the development site only with works to standard best practice measures.
- Works to conform to all Inland Fisheries Ireland guideline documents for the protection of fisheries habitats.
- Discharge of clean surface water from hard core areas etc. via a soakpit or serviced sediment and oil interceptor.
- Appropriate disposal of excavated materials, construction practices for concrete and aggregate management and storage of hydrocarbons on site.
- Protection of hedgerows and treelines during the bird nesting season, protection of riparian verges and planting of indigenous species.

7.15.8. Likely effects (direct, indirect and cumulative).

7.15.9. The proposed mitigation measures are standard industry and construction practices. In some instances, the proposed measures are not detailed e.g. surface and foul water management systems or are unclear e.g. discharge of surface water via a field drain or a soakpit. However, these matters are not substantial and could be addressed by condition. Further, if the development is constructed and managed in accordance with these arrangements, impacts on groundwater and surface water are unlikely to arise.

7.15.10. The applicant's NIS examines the level of atmospheric emissions likely to arise as a consequence of the development, with the results of this set out in Table 4a and 4b of the Report. There is limited information to indicate how the conclusions set out have been derived. However, there are no submissions on file which challenge the assessment and the conclusion drawn seems reasonable i.e. that the

predicted volume of emission will add little to the background concentration for either Lough Sheelin SPA or Moneybeg and Clareisland SAC and that the prevailing wind direction will not typically direct emissions towards the protected sites (Figure 6.5).

7.15.11. **In combination effects.** If the proposed development is operated in accordance with the mitigation measures set out in the NIS and EIAR, no impacts on water quality and negligible impacts on air quality will arise. Consequently, there is little risk of significant in combination effects.

7.16. **Appropriate Assessment Conclusion**

7.16.1. Having regard to the above, I consider that it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Lough Sheelin SPA (site code 004065), Moneybeg and Clareisland Bogs SAC (site code 002340) or any other European site, in view of the sites' Conservation Objectives.

8.0 **Recommendation**

8.1. Having regard to the foregoing, I recommend that the Board grant permission for the development subject to conditions.

9.0 **Reasons and Considerations**

Having regard to:

- (a) the established use of the appeal site as a piggery,
- (b) its location in a rural area, generally removed from residential development,
- (a) the nature of the proposal which is to provide for animal welfare and good environmental management of the facility,
- (b) the fact that the proposed development will be subject to licence by the Environmental Protection Agency, and
- (c) the provisions of the Cavan County Development Plan 2014-2020,

It is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not give rise to an undue risk of water pollution, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The mitigation and monitoring measures set out in section 4 and 7 of the environmental impact assessment report and in Section 5 of the Natura Impact Statement submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p>Reason: To protect the environment.</p>
3.	<p>Water supply and drainage arrangements for the site, including the disposal of surface and soiled water shall comply with the requirements of the planning authority for such works and services. Surface water run-off shall be discharged via an appropriately designed silt trap/petrol interceptor into the field drain. All contaminated and soiled waters shall be directed to the manure storage tanks located on site. All drainage details and the location of the water supply to the development shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of environmental protection and public health.</p>

4.	<p>Prior to the commencement of development, detailed design of the entrance to the site shall be submitted to the planning authority for written agreement and the hedgerow alongside the local road (L7087-0) shall be set back in accordance with these details.</p> <p>Reason: In the interest of traffic safety.</p>
5.	<p>Prior to the commencement of development, a survey of the site for the presence of bats shall be carried out by a suitably qualified specialist and submitted to the planning authority, and if necessary, an application made to the National Parks and Wildlife Services for a derogation licence.</p> <p>Reason: In the interest of maintaining and safeguarding biodiversity.</p>
6.	<p>The proposed pig farm shall run be in strict accordance with the requirements of the European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2017 (S.I. 605 of 2017), as amended, and shall provide at least for the following to the planning authority prior to the commencement of development:-</p> <p>(a) details of the number of livestock to be housed at the development at any one time,</p> <p>(b) the arrangements for the collection, storage and disposal of all effluent generated from the facility, and</p> <p>(c) the arrangements for the cleansing and disinfecting of buildings and structures including the public road where relevant.</p> <p>Reason: In order to avoid pollution and protect residential amenity.</p>
7.	<p>All liquid effluent and other contaminated run-off generated by the proposed development in the farmyard shall be conveyed through properly constructed channels to the proposed storage facilities and no effluent or other contaminated run-off shall discharge or allowed to be discharged to any stream, river, watercourse or public road.</p> <p>Reason: In the interest of public health.</p>
8.	<p>Slurry generated by the proposed development shall be disposed of by spreading on land or other acceptable means to be agreed in writing with the planning authority. The location, rate and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in</p>

	<p>accordance with the requirements of the European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2017 (S.I. No. 605/2017), as amended.</p> <p>Reason: To ensure the satisfactory disposal of waste material in the interest of amenity, public health and to prevent pollution of watercourses.</p>
9.	<p>Details of the colour of all external finishes shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
10.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This plan shall be prepared in accordance with “Best Practice Guidelines on the Preparation of Waste Management Plans for the Construction and Demolition Projects” published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provisions of the Waste Management Plan for the region of which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
11.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and means to protect the public road.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
12.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided</p>

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

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

Deirdre MacGabhann
Planning Inspector

28th April 2020