An Bord Pleanála

Inspector's Report

ABP-307333-20

Development	Construction of 4 poultry houses together with roofed/enclosed service yard, office, generator store and bin/general purpose store along with all ancillary structures. This application relates to a development which is for the purposes of an activity requiring a Licence under part IV of the Environmental Protection Agency (Licensing) Regulations 1994 to 2013. An Environmental Impact Assessment Report (EIAR) has been submitted with this planning application
Location	Rathescar Middle, Dunleer, Co Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	19469
Applicant	Michael Callan
Type of Application	Permission
Planning Authority Decision	Refuse Permission

Type of Appeal	First Party
Appellant	Michael Callan
Observers	Neil & Aoife Foy Grogan Family Mary & Noel Byrne Michael Johnston Eamon Lundy Joanna Kelly & Sean Johnston
Date of Site Inspection	8th September 2020
Inspector	Dolores McCague

Contents

1.0 Site Location and Description

1.1.1. The site is located at Rathesker Middle, Dunleer, Co Louth in a rural area served by a minor local road which extends from another local road to the west (Corlis Road) to the regional route R169 Collon to Dunleer c1.5km to the east. The local road is narrow, c3m wide, and between the site and the regional road there are two right angled bends. The local road is bounded by clay banks and hedges with little verge width. The site is approximately equidistant from the N2 to the west and the M1 junction 12 to the east.

1.1.2. The site is set back c 250m from the road and although relatively elevated is behind a low ridge, with reference to the minor local road. There are middle distance views of the Irish Sea on the eastern horizon from the site. To the north the land slopes down gently to a river, beyond which is a dwelling of recent construction. To the east, served by the minor road a house is under construction. To the west on the opposite side of the minor road a large site, secured by high perimeter fencing, behind a hedge, is where a Louth County Council landfill, no longer in use, is located.

2.0 Proposed Development

2.1. The application is for permission to construct 4 poultry houses, together with roofed / enclosed service yard, an office, generator/store and bin/general purpose store along with all ancillary structures (to include gas storage tanks, 3 soiled water tanks, 4 meal storage bins and the provision of an on-site waste water treatment system and percolation area and all associated site works (to include new / upgraded site entrance and internal laneway associated with the proposed development.

2.2. The application relates to a development which is for the purposes of an activity requiring a licence under part IV of the EPA (Licensing) Regulations 1994 to 2013. An EIAR was submitted with the application.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided, (2nd April 2020), to refuse permission for 3 reasons:

1. In the absence of an adequate EIAR providing all the information as required under Article 96 and Schedule 6 of the Planning and Development Regulations 2001 (as amended) the proposed development cannot be assessed by the Planning Authority or the public as the possible significant effect on the environment cannot be quantified and thus if harmful effects do exist these cannot be prevented, avoided, reduced or off-set. Thus the proposed development is contrary to the proper planning and sustainable development of the area and it is considered that the proposed development could seriously injure the residential amenities of property in the vicinity.
2. On the basis of the information provided with the application and in the absence of an adequate Appropriate Assessment the Planning Authority cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant adverse effect on Natura 2000 sites (the closest being Stabannon / Branganstown SPA European site no 004091 and Dundalk Bay SPA and SAC (European sites no 004026 and 000455 respectively) in view of the sites' Conservation Objectives. In such circumstances the Planning Authority is precluded from granting permission.
3. The proposed development would generate significant quantities of manure. The disposal of which have the potential to have a significant effect on the quality of waters. Adequate information is not available to complete an environmental impact or an appropriate assessment of this likely significant effect on the environment by virtue of the proposal to spread the manure generated by the proposed development on land that is remote from the application site. The proposed development would therefore be contrary to the proper and sustainable planning of the area and could cause serious water pollution.

3.2. **Planning Authority Reports**

3.3. Planning Reports

3.3.1. There are two planning reports on the file, the first recommending a further information request includes:

- EIAR summary under various headings.
- Relevant provision of the CDP cited.
- The 8 submissions / observations summarised.
- Prescribed bodies IW and IFI observations summarised.
- Re organic fertiliser production & utilisation.
    - All manure produced on the farm will be utilised on agricultural lands as an organic fertiliser and /or in the production of mushroom compost. Customer farmers have the capacity to utilise all of the organic fertiliser from the proposed development in accordance with SI 605 of 2017. The customer farmers have in excess of 1300 ha and these lands will require in excess of 400% of the fertiliser that would be on this site upon completion of the subject development.
    - Due to the mitigation measures to be implemented, the organic fertiliser produced on this site as a result of the proposed development will not have a significant adverse environmental impact on the surrounding area.
    - All of the organic fertiliser from the proposed development will be used by the customer farmers in accordance with SI 605 of 2017.
- Re Surface water and groundwater
    - The farm is located in the catchment of the White River a tributary of the River Dee. Surface and ground waters in the proximity of the site will remain protected due to the separation of clean and soiled waters and the provision of adequate storage facilities.
- Assessment
    - EIA - A number of the submissions have commented upon the lack of robust technical details in support of the application. Further there is no baseline data used and no adequate assessment of the likely impacts on the local dispersed one off housing and the potential impacts on their residential amenity. The EIAR has generic information and statements and there is no evidence that the site surveys undertaken were carried out by competent specialists.

- Natura 2000 sites.
- Sanitary services & flooding matters – known for fluvial flooding.
- Recommendation that further information be sought – which request issued.

3.4. Other Technical Reports

3.5. Environment Section: satisfied with information. Recommending permission subject to conditions.

3.6. Infrastructure Section: Recommending further information, items 3 and 4 of the request which issued.

3.7. Environment – no comment.

3.8. **Further Information**

3.8.1. A further information request issued 9th August 2019 on 4 points:

- 1) It is considered that the submitted EIAR is deficient and does not adequately comply with Article 84, Schedule 6 of the Planning & Development Regulations 2018.

  The applicant is invited to submit additional information so as to make the EIAR compliant with the above legislation. In this regard the applicant is requested to submit additional documentation as follows:

  - (a) Details of the competencies of the consultants who prepared the EIAR are not specified. Their competency to prepare a report dealing with archaeology, ecology, climate change, noise, air quality et al, needs to be expanded upon. If the EIAR consultants have used outside specialists for noise, odour emissions, traffic assessments etc, details of these need to be provided.
  - (b) Description of the features of the development and the measures envisaged to avoid, prevent or off set likely significant adverse effects on the environment have not been outlined.
  - (c) The EIAR does not provide estimate by type and quantity of expected residues and emissions (such as water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste

produced during the construction and operation phase. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without the development has not been provided. The do nothing scenario has not been adequately addressed by the EIAR report.

- In the absence of an adequate EIAR which provides all the information as required under Article 94 and Schedule 6 of the Planning & Development Regulations 2018, the proposal cannot be adequately assessed by the planning authority or the public as the possible significant effects on the environment cannot be quantified and thus if harmful effects do exist these cannot be prevented, avoided, reduced or off-set.
- 2) If additional documentation in response to point 1 is such to alter the conclusions of findings of the Habitat Screening Report this should be reassessed.
- 3) The local road directly servicing this site is the L6270, a local secondary road, which is typically 2.5m wide and therefore cannot easily accommodate two way traffic. The development will result in regular Heavy Goods Vehicles using the road both during construction and operation. The Infrastructure Section has concerns that the existing road infrastructure is not capable of accommodating the development; requesting:
    - (a) Preferred access routes that are safe and appropriate for HGV from the Regional and National Road network to the proposed facility. Where there are long sections of local road which will not accommodate two-way traffic, mitigation measures must be developed to resolve this risk, shown on plan.
    - Such measures may include introduction of a number of lay-bys to facilitate pull in of one vehicle to allow the oncoming vehicle to pass. Such pull in bays must be submitted on revised site layout plan and such works must be within the red line defining the extent of site development.
    - (b) The submitted site plan indicates a sight distance of 70m at the new site entrance onto the local road L6270. The applicant is requested to

revise the site layout plan to show how the proposed access visibility sight triangle is in accordance with the Louth County Development Plan (2015-2021), 75m from a 4.5m set back is required.

- If the provision of sight lines involves work on land outside the applicant's control, evidence of a legal right to carry out such work is required. A formal legal agreement and map showing the extent of the lands so affected and detailing the works to construct the pull in bays, with an undertaking from the landowner's solicitor that the agreement will be entered as a burden against the title of the land.
- (c) Detail how access to the remaining agricultural land is to be resolved and if it requires a new entrance with necessary sightlines.

- 4) Demonstrate that surface water disposal will be managed to minimise storm water runoff, by incorporation of Sustainable Urban Drainage Systems, in compliance with policy WS10 in the CDP.
  - (a) Demonstrate the total impermeable area to be managed by the proposed swale attenuation system.
  - (b) The PFRA indicates a risk of pluvial flood risk to the north west of the proposed swale system. Demonstrate that the proposed swale attenuation system can manage in the event of nearby pluvial flood risk.
  - (c) Outline a swale attenuation inspection and maintenance plan to ensure long term safe operation.
- 5) Submit revised notices

3.9. Further information was received 11th February 2020.

3.10. Further Reports post further information:

3.11. Infrastructure Section – conditions.

3.12. Heritage Officer –

Agrees with the AA report conclusions that if carried out as proposed would not have any significant impact on the integrity of any European site.

Destruction of onsite habitat and loss of connectivity through the site. Internal treelines and hedgerow boundaries within the site will have to be removed. It is not clear if the creation of passing bays along the public road would also require removal of hedgerows.

Article 10 of the Habitats Directive is cited:

Member States shall endeavour, where they consider it necessary, in their land-use planning and development policies and, in particular, with a view to improving the ecological coherence of the Natura 2000 network, to encourage the management of features of the landscape which are of major importance for wild fauna and flora.

Such features are those which, by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems for marking field boundaries) or their function as stepping stones (such as ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild species.

Opposes the removal of hedgerow. It is important to know how much hedgerow removal is proposed. It is possible that bats might be roosting in trees on this site and using the hedgerows as commuting and foraging routes. The use of rodenticides also has implications for the conservation of raptors and owls which might eat poisoned rats.

The structures have long south facing roofs which could support solar panels.

3.13. Environment Section – conditions.

3.14. The second report of the Executive Planner recommending permission, includes:

While it is noted that the applicant has not specifically altered the EIAR in any great manner the responses to the submissions and further points of clarity has improved the understanding of the EIAR submitted and has informed the decision making process.

Re. the AA – no AA issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects on a European site.

Having regard to the location within a rural area and the separation distances from residential properties, and subject to compliance with the requirement for an Integrated Pollution Prevention Control licence from the EPA and compliance with

the requirements of the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, SI No 605 of 2017 and the conditions set out below, the proposed development would not have any adverse visual impact, would not be prejudicial to public health and its impact on the road network can be limited by way of setting of specific planning conditions.

3.14.1. There is a final Addendum Planning Report, signed by the Senior Executive Planner & Director of Services, recommending refusal of permission, which includes:

There is no comparable development, in terms of scale and intensity at present located in Co Louth.

The EIAR does not address the following matters to the satisfaction of the planning authority:

Likely significant effects of the project on the environment/description of the features of the project and/or measures envisaged in order to avoid, prevent or reduce and, if possible off-set likely significant effects on the environment.

While the EIAR does include descriptions of aspects of the environment with potential to be significantly affected by the proposed development and adequate assessment and consideration has not been given to the baseline do nothing approach. The Directive requires a baseline scenario to be included. From which possible direct and indirect effects can be determined and mitigation measures be ensured to mitigate potential effects.

Reasonable alternatives – the applicant states that potential sites were looked at; no description of each site and key environmental issues of each site have been included. Having regard to previous planning applications, the applicant owns significant established farm holdings in County Louth so the consideration of alternative sites is pertinent.

Competent experts – the response to the FI request lists people who have contributed to its preparation – information identifying, for each expert, the part or parts of the report for which he or she is responsible his or her competence and experience is scant, non-specific and ambiguous.

Noise – EIAR 7.7 concludes that the impact at nearest dwellings is expected to be within the maximum criteria for construction activities. While the information may be

reliable, no baseline or technical data of existing noise levels have been submitted to allow assessment.

Air quality – the activity within the development would have the potential to affect air quality due to odour and dust particles. Ammonia is an odour emitted from the manure that would be expelled through the ventilation system and also during the removal of litter.

The report has concluded that there are no odour sensitive locations likely to be affected. An odour impact assessment has not been undertaken. The potential for dust particulates has not been addressed. The authority cannot be satisfied that the proposal would not impact negatively on air quality and the amenities of the locality.

Flora, fauna, water, soil – the estimated annual manure production totals 1,575 tonnes. It is proposed that this will be spread on customers farmland. With regard to the potential of land spreading organic fertilisers on customer farmlands the EIS states that this will be allocated and utilised to avoid over enrichment with nutrients, and that sensitive or unsuitable areas will be removed or have a buffer applied to them in accordance with the Regulations. It is detailed that the customer farmlands are in tillage use and therefore the use of the organic fertiliser will represent nutrient substitution rather than addition, since chemical fertilisers are currently utilised on these lands. Appendix 1 identifies 6 customers and indicates approximate locations for a multitude of these farmlands operated by the applicant's customers which extend across county Louth and into county Meath. Appendix 1 details that the extent of these farmlands are such that they could utilise 400% of the fertiliser which will arise.

With the proposed spreading on customer lands there remains a potential for the development to have a significant effect on flora and fauna whether at or downstream of the location where the manure from the proposed poultry houses would be spread. This would arise from the potential impact of spreading on water quality and aquatic habitats. Such a potentially significant indirect effect cannot be assessed in the course of the current application, which hinders the completion of an adequate EIA for the proposed development. Similar concerns arise with regard to the disposal of wash water.

During the closed period there is a prohibition on the application of organic fertilisers to land. It is proposed during this period that litter will be moved to mushroom compost yards by an approved contractor. A letter states the quantity of litter to be removed: 200-250 tonnes up to 7 times per annum, which would appear to amount to the entire litter produced; indicating a lack of clarity.

AA – there are open drains within and along the site boundaries. Surface water drainage will be directed to these drains. It is stated that these are likely to flow south towards the White River some 728m south, and subsequently join the River Dee and flow to Dundalk Bay SAC/SPA at Annagassan.

There is a clear pathway from this development to the sea. An analysis of such effects have not been undertaken. Furthermore the impact of emissions to air has not been addressed. Furthermore in the absence of adequate information to assess the indirect effects of the development on water quality arising from land spreading at remote locations, means that the likelihood of significant effects on Natura 2000 sites, arising from the development, cannot be excluded. Thus the AA screening report is considered to be deficient.

Conclusion – EIAR is inadequate in identifying or describing significant effects on the environment arising from the proposed development. EIAR is inadequate to lead to a reasoned conclusion in respect of significant environmental impacts of the proposed development.

The AA is also deficient.

3.15. **Prescribed Bodies**

3.15.1. Department of Culture, Heritage and the Gaeltacht - recommending archaeological monitoring.

3.15.2. IFI

No objection

Conditions.

All effluent and soiled water to be disposed of by land spreading shall be carried out in accordance with the EU (Good Agricultural Practice for Protection of Waters) Regulations 2014. The EPA's Pollution Impact Potential Maps should be referred to

in relation to land spreading locations for this facility. These maps indicate the risk of phosphorus entering surface waters rather than being retained in the soil and subsoil. Therefore, it is vital that any land spreading carried out is strictly controlled and ideally should be carried out in low risk areas in order to protect surface waters.

Only clean, uncontaminated storm water shall be discharged to a soak-away system or to surface water both during and following the construction phase.

The site is located in the White River catchment, which is a sub-catchment of the River Dee. These rivers are important from a fisheries perspective as they contain valuable habitat and support stocks of salmon, trout, lamprey and eel among other species. Salmon and lamprey are listed as Annex II species under the Habitats Directive.

The ecological status of the waterbodies at this location White (Lough)_010 and White (Lough)_020, is good and poor respectively. It is important to ensure that there is no deterioration of the existing conditions, in accordance with Article 5 of the EC Environmental Objectives (Surface Waters) Regulations 2009 (SI 272 of 2009); and in this regard there is reference to the responsibility of public authorities.

3.15.3. Further observations post further information:

IW – conditions.

Department of Culture, Heritage and the Gaeltacht - recommending archaeological monitoring.

3.16. Third Party Observations

3.16.1. Third party observations on the file have been read and noted.

4.0 Planning History

None given.

5.0 Policy Context

5.1. National Planning Framework, 2018 (NPF)

5.1.1. The NPF is the Government strategic plan to shape the future growth and development of the country up to 2040. Relevant provisions include:

Agriculture - The agri-food sector continues to play an integral part in Ireland's economy and is our largest indigenous industry, contributing 173,400 direct jobs and generating 10.4% of merchandise exports in 2016. Agriculture has traditionally been the most important contributor to rural economies and it remains important as a significant source of income and both direct and indirect employment. However, it must adapt to the challenges posed by modernisation, restructuring, market development and the increasing importance of environmental issues. Much of the economic benefits in the agri-food sector are dispersed throughout the country making it particularly vital to rural areas and economic development generally. Continued development of the agri-food sector will be supported through the implementation of Food Wise 2025.

Food Wise 2025 has five cross-cutting themes: sustainability, human capital, market development, competitiveness and innovation. Sustainability is key to the strategy, which states that: "environmental protection and economic competitiveness are equal and complementary – one cannot be achieved at the expense of the other". Food Wise also supports technology and processes that result in a more efficient use of resources.

5.2. Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES) 2019-2031.

5.2.1. This is a strategic plan and investment framework to shape the future development of our region to 2031 and beyond.

The strategic vision is to create a sustainable and competitive Region that supports the health and wellbeing of our people and places, from urban to rural, with access to quality housing, travel and employment opportunities for all.

In relation to agriculture; it states that agriculture is a key sector in the Region, but one which faces challenges from encroaching urbanisation, Brexit and CAP reform

and in meeting climate obligations. There is an opportunity to support more sustainable farming practices in the Region such as local agri-food, biomass, permaculture, agri-forestry and anaerobic digestion to produce renewable energy from farm wastes, and to develop on farm and on farm activities as part of a unique tourism and leisure offer.

5.3. Development Plan

5.3.1. Louth County Development Plan 2015-2021, is the operative plan.

Relevant provisions include:

Within an overall Common Agricultural Policy, the Rural Development Programme Policy in the period 2014 to 2020 is intended to contribute towards the following objectives:

- The competitiveness of agriculture,
- The sustainable management of natural resources and climate action,
- A balanced territorial development of rural areas.

Policy

ENV 2 To pursue the precautionary and the polluter pays principles in relation to permitted development in the County.

ENV 3 To promote and maintain the highest achievable standards of air, noise and water quality in the County.

ENV 6 To implement the Louth County Council Noise Action Plan 2013-2018 in order to avoid, prevent and reduce the harmful effects, including annoyance, due to environmental noise exposure.

RD 3 To secure vibrant and viable rural communities by promoting sustainable development and settlement patterns in rural areas, environmentally friendly agricultural practices and the protection of natural resources, environment, sensitive landscapes and landscapes of the countryside.

RD 13 To ensure that agricultural buildings are designed and appropriately sited to integrate into the landscape.

RD 14 To ensure that agricultural developments provide adequate waste collection and storage facilities and adhere to all legislation on water quality including the Water Framework Directive, Nitrates Directive and Phosphorus Regulations.

RD 15 To ensure that agricultural developments are designed and constructed in a manner that will ensure that watercourses and sources of potable water are protected from the threat of pollution.

Table 3.2: Strategic Objectives for Development Zones 1 to 6

Zone 5 (where the subject development is located) objective to protect and provide for the development of agriculture and sustainable rural communities and to facilitate certain resource based and location specific developments of significant regional or national importance. Critical infrastructure projects of local, regional or national importance will also be considered within this zone.

Zone 5 encompasses an extensive area of land outside the greenbelts, extending from the eastern section of the Cooley Peninsula in the north, to the western boundary of the county, Drogheda in the south and the Irish Sea to the east. Over the past number of years, this area has been subject to increasing pressure for development of one-off rural housing and other commercial and industrial type developments due to proximity to Dublin and access to the M1 motorway. This area is extensively farmed and contains some of the finest agricultural land in the county.

It is an objective of this Plan, from both social and economic perspectives, that agricultural activity and local communities should be protected and permitted to develop and prosper in this area. This area also affords opportunities for certain resource based and location specific developments and critical infrastructure projects of significant regional or national importance. Such development proposals will be subject to the provision of adequate environmental and landscape protection and provisions relating to Interchanges (Chapter 6 Economic Development Tourism & Retail).

Policy

RD 39 To consider developments falling within the following categories; limited one-off housing, agricultural developments, extensions to existing authorised uses and farms, appropriate farm diversification projects etc

RD 40 Multi-unit residential, conventional industrial and commercial development appropriate to existing settlements, developments directly adjacent to rural motorway interchanges would not be considered appropriate within this zone.

Entrances - The provision of suitable and safe entrances is essential to facilitate traffic flow and movement and to protect the safety of road users.

5.4. County Louth Local Economic & Community Plan 2016 – 2022

5.4.1. Under the Local Government Act 2014, each Local Authority is obliged to develop a Local Economic & Community Plan (LECP). Economic Goal No 7 Agriculture, food and fisheries, is to establish Louth as a premier producer in the Agri-Farming, Food and Fisheries sector.

5.5. European Union (National Emission Ceilings) Regulations 2018.SI. No. 232/2018 -

These are regulations to limit emissions of sulphur dioxide (SO_2), nitrogen oxides (NO_x), non-methane volatile organic compounds (NMVOC), ammonia (NH_3), and fine particulate matter ($PM_{2.5}$) in accordance with the emission reduction commitments specified for each pollutant in tables A and B of Schedule 2, in accordance with the timeframe specified in those tables.

In order to give effect to Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants.

Schedule 2

Table B Emission reduction commitments for ammonia (NH_3) and fine particulate matter ($PM_{2.5}$). (The reduction commitments have the year 2005 as base year, and for road transport, apply to emissions calculated on the basis of fuels sold).

NH_3 reduction compared with 2005 - for any year from 2020 to 2029, 1%; for any year from 2030, 5%. $PM_{2.5}$ compared with 2005 - any year from 2020 to 2029, 18%; for any year from 2030, 41%.

Schedule 3 - content of national air pollution control programmes referred to in regulations 6 and 9.

Part 2

A. Measures to control ammonia emissions

1. A national advisory code of good agricultural practice to control ammonia emissions shall be established, taking into account the UNECE Framework Code for Good Agricultural Practice for Reducing Ammonia Emissions of 2014, covering at least the following items:

nitrogen management, taking into account the whole nitrogen cycle

b) livestock feeding strategies;

c) low-emission manure spreading techniques;

d) low-emission manure storage systems;

e) low-emission animal housing systems;

f) possibilities for limiting ammonia emissions from the use of mineral fertilisers

3 (c) promoting the replacement of inorganic fertilisers by organic fertilisers.

4 Ammonia emissions from livestock manure may be reduced by using the following approaches:

(a) reducing emissions from slurry and solid manure application to arable land and grassland, by using methods that reduce emissions by at least 30% compared with the reference method described in the Ammonia Guidance Document and on the following conditions:

(i) only spreading manures and slurries in line with the foreseeable nutrient requirement of the receiving crop or grassland with respect to nitrogen and phosphorous, also taking into account the existing nutrient content in the soil and the nutrients from other fertilisers;

(ii) not spreading manures and slurries when the receiving land is water saturated, flooded, frozen or snow covered;

(iii) applying slurries spread to grassland using a trailing hose, trailing shoe or through shallow or deep injection;

(iv) incorporating manures and slurries spread to arable land within the soil within four hours of spreading;

(*b*) reducing emissions from manure storage outside of animal houses, by using the following approaches:

(i) for slurry stores constructed after 1 January 2022, using low emission storage systems or techniques which have been shown to reduce ammonia emissions by at least 60% compared with the reference method described in the Ammonia Guidance Document, and for existing slurry stores at least 40%;

(ii) covering stores for solid manure;

(iii) ensuring farms have sufficient manure storage capacity to spread manure only during periods that are suitable for crop growth:

(c) reducing emissions from animal housing, by using systems which have been shown to reduce ammonia emissions by at least 20% compared with the reference method described in the Ammonia Guidance Document

(d) reducing emissions from manure, by using low protein feeding strategies which have been shown to reduce ammonia emissions by at least 10% compared with the reference method described in the Ammonia Guidance Document.

5.6. **European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, SI No 605 of 2017**

This deals with requirements as to manner of application of fertilisers, soiled water etc.

5.7. **Dead Birds and Poultry Litter:**

5.7.1. Legal Obligations and Good Practice Guidelines for Poultry Farmers**,** Department of Agriculture, Food and the Marine, 2014, includes:

Water used for cleaning poultry houses should be captured and disposed of in accordance with environmental and nitrates legislation. Water used for cleaning poultry houses should not be spread on land used for grazing livestock or on land adjacent to water courses or to grazing animals.

5.8. **Commission Implementing Decision (EU) 2017 / 302,** 15th February 2017

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, includes:

BAT 2 proper location of the plant/farm and spatial arrangements of the activities in order to:

- reduce transport of animals and materials (including manure),
- ensure adequate distances from sensitive receptors requiring protection,
- take into account prevailing climatic conditions (e.g. wind and precipitation),
- consider the potential future development capacity of the farm,
- prevent the contamination of water.

BAT 10 &13 - ensure adequate distances between the plant/farm and the sensitive receptors, to prevent / reduce noise and odour emissions.

5.9. **Integrated Pollution Control Licensing, Batneec, Guidance Note for the Poultry Production Sector, EPA 1998**

A guidance note for poultry rearing installations, where the capacity exceeds 100,000 units (whether within the same complex or within 100 metres of that complex), which includes:

BATNEEC for the siting of poultry units is based on the following hierarchy:

• A mass balance of nutrients within a control area.

• Protection of both surface and groundwater resources in the vicinity of the site and landspreading areas.

• Avoidance of nuisance due to malodours for dwellings in the vicinity of the site.

• Protection of the environment in the event of the de-stocking of the unit due to an emergency, e.g. an outbreak of a Class A disease.

The management of poultry manure should be based on a mass balance of nutrients within a control area, whether the area be a farm, group of farms or a region. Thus, poultry units should preferably be sited in close proximity to either mushroom compost production areas or suitable landspreading areas such as land used for tillage crop production in which they can operate as ‘back to back’ enterprises to:

• Facilitate the utilisation of manure for mushroom compost or crop production.

• Avoid a surplus of manure prevailing within a region.

• Reduce manure transportation costs.

In order to protect both surface and groundwater resources in the vicinity of the site and landspreading areas a site investigation is essential and it is generally advisable that it be carried out by a qualified hydrogeologist. The site investigation should provide information on:

• Depth to water table (if shallow).

• Depth to bedrock (if shallow) and details of bedrock outcrops.

• Subsoil and bedrock type and quantitative assessment of permeability.

• Presence or absence of karst features - caves, swallow holes etc. - if bedrock is limestone.

Aquifer classification and groundwater vulnerability in accordance with the provisions of 'Groundwater protection schemes in Ireland: A proposed approach', (Daly, 1995).

• Private wells within 200 metres and all public wells within 1 kilometre of site and 300 metres of the landspreading areas.

• Direction of groundwater flow.

• Baseline information on surface and groundwater quality.

• Location of all watercourses adjacent to the site and landspreading areas.

In addition the investigation should include information on soil types and nutrient status.

Poultry units should be sited a distance of preferably not less than 400 metres from the nearest neighbouring dwelling and all operations on site shall be carried out in a manner such that air emissions and/or odours do not result in significant impairment of or significant interference with amenities or the environment beyond the site boundary.

Poultry units should be sited such that in the event of an outbreak of disease requiring de-stocking there is an appropriate site available for the construction of a lined carcass disposal site for the disposal of all carcasses. The carcass disposal site shall be appropriately constructed in order to avoid any detrimental impacts on

both surface and groundwater quality in accordance with the provisions contained in 'Class A disease outbreak - a multi-disciplinary approach', (Duggan, O'Laoide and Finn, 1995.)

5.10. Natural Heritage Designations

5.10.1. The nearest Natura sites are Stabannan-Branganstown SPA (004091) c7.5km straight line distance to the north, Dundalk Bay SAC 000455 c10.5km straight line distance to the north east and Dundalk Bay SPA 004026 in excess of 12km straight line distance to the north east.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appeal by CLW Environmental Planners Ltd, on behalf of the applicant, against the planning authority's decision to refuse permission, includes:

- BATNEEC guidance states that units should be sited preferably not less than 400m from the nearest neighbouring dwelling. Now out of date, and guidance only, the guidance note has been superceded by Commission Implementing Decisions (EU) 2017/302, that this was not an absolute requirement has been recognized by An Bord Pleanála in other planning decisions.
- BATNEEC Guidance note has been superceded by Commission Implementing Decisions (EU) 2017/302 establishing best available techniques (BAT) conclusions under Directive 2010/75/EU for the intensive rearing of poultry or pigs establishing best available techniques (BAT) conclusions under Directive 2010/75/EU for the intensive rearing of poultry or pigs. This has been in draft format for a significant period and was considered extensively in the preparation and consideration of the proposed development. These BAT conclusions make no reference to a 400m distance, but take a more encompassing view of a proposed site, with a view to a change from set separation distances to spatial planning, local conditions (including topography, aspect, climate/weather, advances in farm design, layout and

management. The location of sensitive receptors in relation to prevailing weather conditions were considered in the proposed development.

- The current BREF guidance with replaces the 20 year old BATNEEC guidance takes into account significant changes in construction/operation which ensure that modern poultry farming has a minimal impact on surrounding areas:
- House design
- Operating systems particularly heating and ventilation
- Bird genetics and improved efficiency
- Improved feed formulation and the use of improved feed formulation to improve performance and minimise wastage and excretion of nutrients, and the utilisation of feed additives to maximise performance and minimise odour and nutrient excretion.
- Current BAT
    - Reduce transport of animals and materials including manure – similar distance to Manor Farm's premises at Shercock as the traditional poultry farming areas of NW Monaghan.
    - Ensure adequate distances from sensitive receptors requiring protection – residential areas, areas where human activities are carried out – schools day care centres, recreational areas, hospitals or nursing homes; sensitive ecosystems/habitats; > c400m from closest residences. Additional studies particularly in the areas of noise, odour and ammonia have confirmed that the proposed development will not have any adverse impact on these locations.
    - Take into account the prevailing climatic conditions: > c400m from closest 3rd party dwellings.
    - Consider the potential future development capacity of the farm: the requirements of Manor Farm, capacity of the applicant to manage the proposed development and similar scale to other farms supplying Manor Farm which are operating without adverse impact.

- Prevent the contamination of water: the proposed development by its nature (dry litter and inert nature of the production system), and the capacity of the customer farmers to assimilate all of the organic fertiliser in accordance with SI No 605 of 2017 as amended, will ensure that the proposed development poses no risk to ground or surface water. The specific studies have identified that the proposed development will not cause an adverse noise or odour impact and there will be no adverse impact on residential amenities in the area.

- The site is owned by/available to the applicant. The existing farm and the site adjoins the public road on c 4.923ha. The objective is to develop a sustainable farm diversification enterprise that can integrate with the existing farming activities to the benefit of the overall farming enterprise, and by association the farming enterprises of the customer farmers. The scale will be designed to maximise the economies of scale, while keeping within a scale that the applicant can manage to a high level. The scale is linked to:
  - The resources available to the applicant in terms of the site, labour and capital.
  - The requirement from Manor Farm for a consistent supply of fresh Irish produced chickens to meet increasing customer demand as a result of population growth, country of origin labelling, etc.
  - The customer farmer's requirement for organic fertiliser to replace imported organic chemical fertiliser, thus increasing the efficiencies within their existing tillage farming activities.
- The location is within a significant tillage farming area, maximising the area of available land, minimising manure transport distances.
- All manure produced on the farm will be utilised on agricultural lands as an organic fertiliser by customer farmers to produce wheat and barley and other crops for the Irish animal feed industry, to be used to feed farms such as the proposed development.
- The type of house proposed is a closed building of steel and pre-fabricated panel construction on a concrete base, thermally insulated with a forced

computer controlled ventilation system and artificial lighting; similar to elsewhere in the country.

- Further reports have been commissioned out of an abundance of caution:
  - A site specific Noise Impact Assessment
  - A site specific Odour Impact Assessment
  - A site specific Ammonia Dispersion Model
  - Natura Impact Statement.

  Which support the EIAR as previously submitted.
- An EIAR addendum is submitted

Reason No 1

Differences in terminology between the refusal reason and Schedule 6 are pointed out: possible impacts as distinct from likely significant impacts. Schedule 6 requires the applicant to demonstrate 'a description of the likely significant effects on the environment of the proposed development; which had been appropriately demonstrated.

Reason no 2

A NIS supported by an ammonia impact assessment report has been submitted which re-affirms that the proposed development will have no adverse impact on Natura 2000 sites.

Reason no. 3

'The proposed development would generate significant quantities of manure. The disposal of which have the potential to have a significant effect on the quality of waters. Adequate information is not available to complete an environmental impact or an appropriate assessment of this likely significant effect on the environment by virtue of the proposal to spread the manure generated by the proposed development on land that is remote from the application site. The proposed development would therefore be contrary to the proper and sustainable planning of the area and could cause serious water pollution.'

Organic fertiliser is not disposed of, it is not a waste.

Louth Co Co has not been requested to **complete an environmental impact or an appropriate assessment of this likely significant effect on the environment by virtue of the proposal to spread the manure generated by the proposed development on land that is remote from the application site**, nor is it appropriate to do so in the context as presented to them in this refusal, as this assumes that this is a new practice (or a practice that would not otherwise be carried out) arising as a result of the proposed development, which it is clearly not.

What is considered more appropriate to assess is to complete **an assessment of this likely significant effect on the environment by virtue of the proposal to allocate organic fertiliser generated by the proposed development to customer farmers for use as an alternative fertiliser source in line with the requirements of SI 605 of 2017, as amended, as part of a fertiliser substitution programme.**

The Louth Co Co position fails to recognize:

- That this is an existing authorised practice,
- This practice is a normal part of farming activity already carried out by the customer farmers,
- Customer farmers in this area (and country wide) have been using organic manure (including poultry manure) for millenia,
- All farmers are entitled to use organic fertiliser source in accordance with the applicable guidelines, and the customer farmer list is only a sample list of customer farmers, submitted to demonstrate that the organic fertiliser management can be carried out in a managed and sustainable manner in line with applicable legislation. The application and details submitted, including that the proposed development can only supply < 23% of the customer farmers fertiliser requirements, should leave no doubt but that the application of organic fertiliser from the proposed development by customer farmers to replace existing fertiliser sources can be carried out in an environmentally friendly (in accordance with SI 605 of 2017, as amended), and sustainable manner and without adverse environmental impact.

- Specific legislation (i.e. SI 605 of 2017, as amended) is in place in relation to this practice and enforced by The Department of Agriculture Food and The Marine.
- The proposed development will support nutrient substitution rather than nutrient addition (i.e. replacement of imported chemical fertiliser or organic fertiliser from further away with local organic fertiliser). Given that the organic fertiliser will be allocated to tillage lands, which have no organic manure production on farms, the proposed development will have significant benefits to the land in terms of organic matter, trace elements etc: improving soil structure, maximising yields and minimising leaching, soil erosion and improving plant nutrient uptake.
- Customer farmers are entitled to use a fertiliser source of their choice and are required to farm within the limitations of SI 605 of 2017, as amended.
- The application of fertiliser to land is an essential part of agricultural activity. Customer farmers do not require planning and or any other authorizations for the use of fertilisers including organic fertilisers on their lands and are free to source their fertiliser requirements from wherever they deem appropriate.
- The applicant submitted significant detail in relation to a select number of customer farmers in the local area to demonstrate that there was a requirement for this fertiliser and that same could be utilized in a sustainable manner and in accordance with the requirements of SI 605 of 2017, as amended. This does not preclude any other customer farmers from seeking a supply of fertiliser.
- It is a requirement of the applicant and any farmers in the vicinity which are in receipt of the manure and fertiliser from the proposed development, to fully comply with the requirements set out in SI 605 of 2017, as amended. As the Board are aware, these regulations are very prescriptive in relation to farmyard manure management capacity, storage requirements and facilities for organic fertiliser, and nutrient management in terms of spreading slurry. There is nothing to suggest that the applicant or the farmers in question will not comply with their lawful obligations. The Board is under a general

obligation to assume that a person will comply with their lawful obligations; 240879 is cited in this regard.

The customer list as identified has calculated organic fertiliser allowance for each customer farmer, based on the lower of their organic Nitrogen (limit 170 kg/Ha) or phosphorus requirements, and thus provides an appropriate basis for assessment. In relation to the customer list as supplied, the organic N loading on each customer farmer is taken on an annual basis. This is a cumulative figure of all livestock on the farm but as the current customer farms are tillage lands the on-farm organic N/manure is 0. The area identified for the receipt of organic fertiliser relates to agriculturally farmed areas and excludes any unsuitable areas.

The fertiliser plan as completed will result in an average application rate of c1.2 tonnes/ha, if all of the manure were destined for the identified customer farmers (0 to the alternative route of composting).

It will return:

- 13.2 Kg N (7.8% of the 170Kg organic N limit (SI 605 2017 as amended), and
- 7.2 Kg P (28.8% of the P required for the predominant cereal crops, or <10% of the P required for potato crops).

The applicant has clearly demonstrated that there is a significant excess demand in this area for the organic fertiliser.

The applicant has provided a secondary potential use – mushroom compost. The contractor can remove up to 7 times per annum, which would be equivalent to the entire annual production.

6.2. NIS

The NIS submitted includes:

Land spreading – these are productive agricultural lands currently being fertilised with organic and inorganic fertilisers from a wide variety of sources, which may include poultry manure from existing poultry farms. If the development proceeds, the customer farmers will be able to use locally produced organic fertiliser in replacement of imported chemical fertiliser or organic fertiliser from further away.

As assessment of adverse impact on water quality is limited to utilisation of this organic fertiliser as a replacement of existing fertiliser and not an assessment of the customer farmers overall farming activity.

Sites considered:

004091 Stabannan-Braganstown SPA

002299 River Boyne and River Blackwater SAC

004232 River Boyne and River Blackwater SPA

004026 Dundalk Bay SPA

000455 Dundalk Bay SAC

004080 Boyne Estuary SPA

001957 Boyne Coast and Estuary SAC

001459 Clogher Head SAC

Potential Impacts Considered:

- Deterioration of water quality in designated areas arising from pollution from surface water run-off during site preparation and construction.
- Deterioration of water quality in designated areas arising from pollution during operation.
- Impacts on designated sites arising from atmospheric emissions.
- Potential impacts on water quality associated with the use of organic fertiliser.

This potential is being screened in, out of an abundance of caution, principally as it was a refusal reason, as the customer farmers that receive the manure are not party to or subject to any decision arising from the application.

- Cumulative impacts.

004091 Stabannan-Braganstown SPA

Impacts considered:

- On vegetation due to atmospheric emissions from the site.

- On water quality with use of organic fertiliser.

Similarly sites 002299 River Boyne and River Blackwater SAC & 004232 River Boyne and River Blackwater SPA.

000455 Dundalk Bay SAC

Impacts considered:

- On vegetation due to atmospheric emissions from the site.
- On water quality from construction/operation.
- Given the downstream distance (18km) and the resultant dilution effect along with the inert nature of the proposed development which entails the indoor rearing of poultry with no significant storage of liquid effluents on site, it is considered that the conditions where an event of magnitude could arise and give effect to the SPA are unlikely.
- On water quality with use of organic fertiliser.

004026 Dundalk Bay SPA similar to site 000455.

004080 Boyne Estuary SPA

Impacts considered:

- On vegetation due to atmospheric emissions from the site.
- On water quality with use of organic fertiliser.

001957 Boyne Coast and Estuary SAC similar to site 004080.

001459 Clogher Head SAC

Impacts considered:

- On vegetation due to atmospheric emissions from the site.

Potential impacts considered further:

Per screening report possible impacts on Dundalk Bay SAC/SPA:

- Deterioration of water quality in designated areas arising from pollution from surface water run-off during site preparation and construction.
- Deterioration of water quality in designated areas arising from pollution during the operation of the proposed development.
- Impacts on designated sites arising from atmospheric emissions,
- Deterioration of water quality in designated areas arising from pollution / eutrophication caused by land-spreading of the manure stored at the site.
- Risk to annex 1 habitats or annex II species associated with the site.
- Cumulative impacts.

Deterioration of water quality in designated areas arising from pollution from surface water run-off during site preparation and construction:

Hydrologically connected to Dundalk Bay SPA/SAC. In the absence of mitigation and in the case of a large scale pollution event, considered on its own or in combination, there is the possibility that water quality in the River Fayne and downstream ecological receptors may be negatively impacted – possible direct impacts include pollution with silt, oil, cement, hydraulic fluid. Appropriate mitigation will be required. Post construction likely sources slurry, oil silt/particulate matter contaminated surface water. Given the relatively inert nature of the development and processes, with no storage of liquid waste on site, the impact is considered unlikely. Measures have been incorporated to ensure protection of local water quality. The swale drainage system will provide an emergency retention, whereby if any spill were to occur on the farm, it can be contained within the swale by closing the outlet, giving time to deal with same appropriately.

The potential impact of the proposed wastewater treatment plant has been considered. This is an area of low groundwater vulnerability, R1 groundwater protection response. The system will be installed and operated in accordance with the EPA CoP, with no impact downstream.

The litter generated will remain within the concrete-floored covered houses, removed at the end of each batch, with no pathway between the litter and surface water/groundwater.

Atmospheric emissions – some vegetative communities are more sensitive to the effects of ammonia and nitrogen deposition than others. Notably bryophyte communities have a critical load for ammonia of 1µ/m^3. Less sensitive habitats have a critical load of 3µ/m^3.

The proposed development will lead to atmospheric emissions from ammonia and nitrogen. A SCAIL model was run.

Ammonia – the results are given in table 8 for each protected site, including the contribution to the critical load. This is conservative as the actual ammonia emissions are likely to be lower and the prevailing winds will carry most of the emissions away from designated sites.

Nitrogen - the results are given in table 9 for each protected site, including the contribution to the critical load.

Landspreading – will occur on farms within the Boyne and Newry, Fayne, Glyde and Dee catchments. Evidence to demonstrate that the customer farmers have an existing requirement for this fertiliser has been provided. These lands are a representative sample of customer farms that can be supplied.

Landspreading is required to be carried out in accordance with SI 605 2017 as amended. There will be no overall increase in the level of nutrients applied, therefore overall impact is neutral.

Cumulative impacts with other agricultural activities. All are required to operate in accordance with SI 605 2017 as amended. No cumulative impacts.

A finding of no significant effects was reached.

6.3. Ammonia and Odour Impact Assessment –

Modelling

Predicted impact can be compared to an appropriate criterion and graphically illustrated in the form of ‘contours of equal concentration’ or isopleths.

Odour

The odour target of C98, 1 hour ≤ 3ou/m^3 will be adopted at the nearest sensitive receptor.

The threshold of 1ou/m^3 is the level at which an odour is detectable by 50% of screened panelists. The recognition threshold is about 5 times this concentration, i.e. 5ou/m^3. Eight dwellings were assessed based on windrose data for years 2015 to 2019 (Ballyhaise) and the results averaged. Dwelling 6, at a distance of 410m to the east, had the highest odour levels averaged as 1.53ou/m^3.

Ammonia

Protection of vegetation 1-3 µg/m^3. This assessment has only taken account of dry deposition of ammonia as it is not expected that wet deposition will have a significant effect in the vicinity of the site, (supported by guidance note by Natural Resources Wales). This guidance is supported by other published reports. Given that wet deposition has limited importance at a local level it has not been included in the assessment.

Nitrogen Deposition

Table 3 sets out habitat types, critical load range, the values used at screening stage and at assessment for each habitat type.

Modelling:

Windrose data for Ballyhaise with SW predominant wind direction is used, 8 locations are considered: residential properties.

Odour - results in table 9 show a max of 1.53, which is within the 3ou/m^3 limit.

Ammonia – 4 locations are considered, numbered 9-12: Stabannon-Branganstown SPA, 7.1km distance, Barmeath Woods pNHA 6.6km, Mellifont Abbey Woods pNHA 1.2km and Kildemock Marsh pNHA 5km.

Worst case scenario – modelling for 2015-2019, results given in table 12 of the report, give average results of 0.007 to 0.071. Table 13 compares the highest predicted results with predicted environmental concentration, giving the % of the guideline which the process emission represents. The report states that the ammonia concentrations at the sites are dominated by the background

concentrations, which are approx. 81-262% of the air quality guideline for ammonia. The critical level is not exceeded at locations 9-11. At location 12 (Kildemock Marsh pNHA) the critical level is exceeded. The PC (process contribution) of the proposed site is < 4% and as a result is considered insignificant.

The dry deposition of ammonia was multiplied by the conversion factor to convert to the levels of kgN/ha/yr.

Nitrogen Deposition

Table 15 compares the predicted nitrogen concentration at designated ecologically sensitive locations, giving the % of the guideline which the process emission represents. The report states that the nitrogen concentrations at the sites are dominated by the background concentrations, which are approx. 76-254% guideline critical load for nitrogen. The critical level is not exceeded at location 9.

Table 17 gives maximum predicted impact at closest sensitive receptors.

Mapped results are given in appendix C – the outermost contour 0.058 µg/m^3 corresponds with a nitrogen deposition of 0.3kg.N/ha/yr which is considered de-minimus. There are no sensitive habitats located within this area that would be subject to a nitrogen deposition that is significant (0.3kg.N/ha/yr).

6.4. Site Specific Noise Survey

The Site Specific Noise Survey includes:

Background surveys at (3 noise measurement locations) NML 1-3 – nearest residential dwellings. Tables 5 – 7 Daytime & Night-time dBL_{Aeq} 46-48 daytime, 36-38 night-time. Table 8 predicted noise emissions at nearest (noise sensitive locations) NSLs during construction for different activities (max 38). Operational noise: a poultry farm in Waterford was measured – the result 37-41 dBL_{Aeq}. No further mitigation measures are recommended in respect of livestock house emissions.

Feed delivery trucks – 87dBL_{Aeq} – at dwellings 29 dBL_{Aeq}, lower than daytime and night-time ambient noise at NSLs. No further mitigation measures recommended.

Poultry house ventilation fans – loudest capacity 85 dBA() $L_{W.}$ At NSLs 25 dBL_{Aeq} to 30 dBL_{Aeq}. No further mitigation measures are recommended apart from ensuring that maximum noise emission level of 85 $dBL_{Aeq.}$

Cumulative noise levels table 9 – 31 to 36 $dBL_{Aeq\ 16hr.}$ table 10 – 25 to 30 $dBL_{Aeq\ 8hr.}$

Below emissions criteria of 50 $dBL_{Aeq\ 16hr}$ daytime, and emissions criteria of 45 $dBL_{Aeq\ 16hr}$ night-time.

6.5. Planning Authority Response

The Planning Authority has responded to the grounds of appeal, including:

- The EIAR submitted to the PA was not sufficient.
- A Site Specific Noise Survey now proposes mitigation measures during construction and operating stages. An Ammonia and Odour Impact Assessment has now been submitted.
- The AA screening report was inadequate. This has clearly been acknowledged by the applicant who has now submitted a NIS with a list of mitigation measures.

6.6. Observations

Observations on the appeal have been received from 6 parties: Neil & Aoife Foy, Grogan Family, Mary & Noel Byrne, Michael Johnston on behalf of Whiteriver & Lismanus Residents, Eamon Landy, and Joanna Kelly & Sean Johnston. Issues raised include:

- Impact on quiet rural area.
- Scale.
- Impact on local roads.
- Smell.
- Amenity area in vicinity.
- Residential amenity.
- Health.
- Rodents, flies.
- Germs will be blown towards houses.

- Fails to provide a clear or substantive picture of true impacts.
- Volume of manure and applicant's limited capacity to use or dispose of same. 2 tonnes of annual waste and ½ tonne of general waste would be generated per month. No details of general waste. The estimate of 2 tonnes of animal waste seems extremely low and unrealistic – bedding material, animal faeces, feathers, uneaten feed etc.
- It is misleading to suggest that past activities are the same or comparable to the potential scope of impacts arising from the large-scale, industrialised nature of the proposed development. The presence of an extensive network of field drains and streams throughout the surrounding area was not taken into consideration. Under the precautionary principle any uncertainty as to the nature and scope of potential impacts on any European site is more than sufficient justification to refuse planning permission.
- Site selection – there is no information as to selection criteria.
- Residential amenity – dwellings are located closer to the site than stated: 320m and 375m – not in excess of 400m. The former landfill site is located 1.1km to the west and persistent bad smells were endured.
- Odour
    - The south westerly winds will blow the bad smells over their properties.
    - Odour from fans.
    - There will be significant strong odour over 2-3 days 7 times a year when manure is taken out.
- Depreciation of value of properties – letter from estate agent supplied.
- Traffic and roads – the proposed development represents a risk to road users and congestion. A narrow and physically constrained secondary local access road. Section 7.7.1 of the EIAR is summarised as representing 1,981 vehicles of 3,962 trips per annum which is vastly inappropriate and well in excess of the carrying capacity of the road Lismanus Lane (L6270). The appellant's further information response was to propose a series of lay-bys constructed in existing fields entrances, each owned by Louth County Council. The

necessary written consent has not been provided and the application is invalid. The traffic will exacerbate deterioration of the road surface, cause damage to the heavily vegetated roadside verges and embankments and result in the loss of sections of mature native hedgerow and fragmentation of a vital ecological corridor.

- The R169/L6270 junction is dangerous because of its close proximity to a serious bend.
- It will no longer be safe to walk, run or cycle on this road.
- The roads in this area are minor, narrow and have sharp bends with limited or no visibility for on-coming traffic.
- The proposal cites traffic figures on a per week basis over a whole year but this is not what will happen. It will operate on an all-in all-out system for disease control. The efficient capacity will be 7+ crops of chickens per year which will mean heavy traffic concentrated into these 7 periods. Per batch: bedding in 2 trucks, birds in 3 trucks, gas 10 trucks, meal 25 trucks, dead birds 3 trucks, birds out 10 trucks over 5 days, organic manure – 10 trucks over 2-3 days. Total approximately 60 trucks, mostly large articulated bulk vehicles per batch (x 7.2 batches / pa) 432, more than 8 trucks per week on average but with large peaks in 6-7 week cycles. This level of development needs direct access onto main roads where their specific heavy traffic does not impede or endanger other road users.
- The proposed access road consists of 1km suitable for 2 way, and 1km suitable for 1 way, where passing areas are proposed on land not owned by the applicant. White River Road is only 0.82km in the other direction, will this shorter route be used? A hard core road was installed a few years ago from the Lismanus road to fields to the rear of the site but was used for very limited farm use. This route is not suitable for any increased farm traffic in the interests of road safety.
- A traffic impact study was not included.

- The noise impact was conducted at a two house farm of 14,000 & 18,000 chickens. The proposed development will house 168,000 chickens and is not comparable.
- The applicant is the predominant farmer in the local area and occupies must land within 2 miles radius. He will transport, stockpile and spread the chicken manure on his farm lands, this will generate further unpleasant odours in the locality.
- Visual aspects and landscape – operations of this large scale are totally unsuited to this rural area. This scale should be positioned in an industrial/commercial area. The structure cannot be hidden – very long buildings with the entire roof at one level. The beautiful and picturesque Rathesker lakeside walk, St Kevin's Church, School, Community Centre and GAA Club are within 1mile radius. It will have an adverse effect on the local community.
- Botulism – this is a fatal disease in cattle. Dead birds contain the bacteria and it can be spread by vermin carrying off parts of carcases and also by wind dispersal when being spread next to grassland. It can only be spread on tillage land and ploughed in immediately so management of the material is difficult at times of the year i.e. when crops are growing and when sheds are emptied in the closed season. There are strict conditions for storing this material and there must be no storage on this facility or on the land surrounding it because of nuisance and disease risk to neighbours and their livestock enterprises.
- An outbreak in May this year resulted in 11 dead dairy cows, milk dumped in slurry tanks for 3 weeks, 103 acres of fertilised grass cut by silage contractor and clamped for disposal, hedges cut back, fences and water troughs lifted, 63 acres sprayed off, ploughed and reseeded and most of the affected land got 3 ton of lime per acre. Parts of bird carcases were found in the tillage field after it was sown but none were found in the grass fields as it was spread by feathers and dust. The farmer still has reduced milk yields, feeding extra meals and renting extra land for zero grazing and silage making. This is why a

more favourable geographical location with good access was not chosen as no one would take foolish risks with their own large dairy herds.

- Observer's silage fields adjoin the site with obvious risk.
- Inadequate justification for the proposed development.
- Inadequate EIAr.
- Inadequate AA screening.
- Details submitted as part of the appeal, should have been submitted with the EIAr.
- This highlights the lack of supporting technical detail and evidence, to support a conclusion that the proposed development would not be likely to have a significant impact on the environment.
- The EIAr submitted with the application did not adequately comply with Article 84, Schedule 6 of the Planning and Development Regulations 2018. It was not invalidated and further information was sought. Reference is made in the FI to noise consultants but no technical data was presented and it was not indicated whether a baseline study on noise was carried out. The first party has attempted to remedy this by submitting a noise report to An Bord Pleanála.
- There is a serious lack of external independent consultants used to prepare various chapters – odour, climate change, transport, flora and fauna etc.
- The applicant failed to submit further information with any technical data re. type and quantity of expected residues and emissions (water, air soil ad subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste produced during construction and operation as required of EIA. Serious fundamental flaws remain and, in the absence of surveys or reliable data sets by competent professionals in the fields, it is not possible to determine the direct or indirect effects, raising concerns about mitigation measures. The FI response relies on the narrative of there being no harmful effects.

- No baseline studies have been provided: a fundamental flaw; this undermines any recourse for the public in the future regarding: noise, odour emissions, air quality, traffic and transportation, flora and fauna. The only surveys now submitted are noise and odour assessment, where the public have been denied a right under the Aarhus Convention to participate and have access to environmental information during the planning process.
- Climate change – the EIAR places emphasis on the value of the by-product, fertiliser. No consideration has been given to the welfare of 1.4 million chickens. It is falsely depicted as a green enterprise. The NPF sets out the government's commitment to a long-term climate policy based on the adoption of a series of national plans over the period to 2050 informed by UN and EU policy. The National Mitigation Plan and National Climate Adaptation Framework will be updated and reviewed periodically. EIA Directive 2014 requires an assessment of the impact on climate and the vulnerability of the project to climate change, requiring climate change mitigation and climate change adaptation to be addressed. The proposal does not represent a diversification from traditional farming practices and runs counter to issues such as climate change. The traffic movements and ammonia emissions would have serious consequences in terms of climate change, which was not addressed.
- The proposed development is natural resource hungry.
- It is questionable how such a water supply can be sustained.
- There will be significant traffic movements and carbon emissions. There has been no consideration of the wider carbon emissions.
- Cumulative emissions should be considered.
- Use of fertiliser – lands in the surrounding area are already subjected to the spreading of this fertiliser several times a year by this farmer.
- The first party states that the proposal will replace the buying of chemical fertiliser, the quantum far exceeds what could reasonably be spread on his landholding and other landholdings of customer farmers in the area having regard to the restrictions and limitations on the spreading of such fertiliser

under the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017. These regulations reduce the locations and area on which the applicant could potentially spread fertiliser and no analysis has been included.

- Nicole Squire v Shropshire Council, claim for judicial review: 1,150 tonnes of manure being spread on neighbouring arable lands and 1,151 tonnes of manure being spread exported to fields owned by unspecified neighbouring arable farmers. The impact on people arising from an indirect effect such as odour and dust caused by spreading manure is an indirect environmental effect which must be assessed. The judgement (similar scale of broiler development) found that there had been a failure to assess an important indirect effect of the proposed development in breach of the EIA Directive and the EIA Regulations.
- The odour assessment submitted with the appeal is flawed.
- The European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, sets limits on the quantum of fertiliser that can be spread. The quantum being produced is increasing. The availability of fertiliser generally, particularly fertiliser from the north, which is increasingly being spread in the south due to new stringent regulations being applied in Northern Ireland, is resulting in significantly more fertiliser being spread in the south. Re. mushroom farmers, no meaningful detail is provided. No nitrogen or phosphorus demands/loadings have been provided. The details in Appendix 1 are unclear re. customer farmer's fertiliser plan. Fertiliser can only be spread on tillage and therefore cannot be spread on the applicant's landholding in general, as it is mainly grassland. The majority of fertiliser arising will be spread on customer lands. The information in Appendix 1 does not quantify the nitrogen (N) or phosphorus (P) requirements of soil on customer lands. This does not provide any confidence of the need for the fertiliser.
- The fertiliser spreading has associated contributory increases in ammonia and nitrogen emissions in the area; these have not been analysed with regard to the potential effects on human health, climate change, etc; no reference is made to particulate matter. There is potential for increases in PM from

increase in traffic, emissions from the ventilation system, from sheds being cleaned, etc.

- Re. AA, no data has been provided regarding existing water quality, no reference of analysis of species. The contribution of ammonia and nitrogen has not been considered in-combination with other plans/projects.
- The NIS now submitted has not been available to the general public and deprives the general public of natural justice and access to information on the environment. The NIS vindicates the PA's concerns having regard to the levels of ammonia and nitrogen. There is no correlation between this data and the EIAr. The Whiteriver landfill site currently burns off methane gas recovered from the landfill site and neither the AA nor EIAr consider this an an in-combination effect.
- Access and Transportation – concerns remain. Inadequacies in the existing pull-in bays to cater for the size and weight of vehicles. The provision of pull-in bays are contingent on an agreement with Lough County Council, the existing bays are substandard. Those proposed require significant works, not considered in the EIAr. A more direct route will likely be used and will significantly impact on road users of the R169, due to its location on a bend in the road.

6.7. Board Correspondence

6.7.1. The EPA were written to by the Board on the 17th August 2020 and requested to confirm that a licence is required under section 83 or section 90(1)(b) of the EPA Act for the activity to be carried on arising from the proposed development; and, if a licence is required, to submit any observations they may have on the application including the EIS; and to make observations on the specific matters:

- Is the methodology set out in the EIS in relation to the management of broiler litter and soiled water adequate and sufficiently robust to support the conclusions reached?

- Is the methodology set out in the EIS, in relation to the air emissions, in particular ammonia and particulates emissions, adequate and sufficiently robust to support the conclusions reached?

6.7.2. The EPA response received on the 11th September 2020 includes:

- a licence may be required.
- should the Agency receive a licence application, the applicant will be required to submit the associated EIAR to the Agency as part of the licence application. which will be considered and assessed as respects the matters that come within the functions of the Agency and observations taken into account
- all matters to do with emissions to the environment from the activities proposed, the licence application documentation and EIAR will be considered and assessed by the Agency.
- where the Agency is of the opinion that the activities, as proposed, cannot be carried on, or cannot be effectively regulated under a licence then the Agency cannot grant a licence for such an activity. If it is decided to grant a licence in respect of the activity, it will incorporate conditions that will ensure that appropriate National and EU standards are applied, and that Best Available Techniques (BAT) will be used in the carrying on of the activities.
- a licence application will define the site boundary which is likely only to relate to the site of the poultry rearing and directly associated activities which occur within that defined site boundary.
- the processing of animal feed, use of organic fertiliser etc, are beyond the scope of the licence.
- the Agency cannot issue a Proposed Determination on a licence application until a planning decision has been made.

7.0 **Appropriate Assessment**

7.1.1. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either

on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision on the proposed development. The process is known as appropriate assessment. In this regard a guidance document 'Appropriate Assessment of Plans and Projects in Ireland' was published by the DoEH&LG on the 10 December 2009.

7.2. Appropriate Assessment Screening Report

7.2.1. The application was accompanied by a Stage 1 AA Screening Assessment report. It includes:

7.2.2. There are open drains within the application site. Clean surface water from the farm will be directed to these drains. Water in these drains is likely to flow south towards the White River which is 728m south of the application site. The White River flows east then north until its confluence with the River Dee 6.7km to the north east, which flows into the sea at Annagassan. The ecological status of the White River has been classified as good to poor at points close to the application site. Other close by watercourses have been classified as poor.

7.2.3. Natura sites within 15km are listed in tabular form in section 3.3 of the report.

7.2.4. The following European sites are located in the vicinity of the site:

Stabannan-Braganstown SPA, River Boyne and Blackwater SAC, River Boyne and Blackwater SPA, Dundalk Bay SAC, Dundalk Bay SPA, The Boyne Estuary SPA, The Boyne Estuary SAC and Clogher Head SAC.

7.2.5. The AA Screening states in relation to potential impacts:

- The construction and operation of the proposed development at Rathescar Middle will have no impacts upon the integrity or the site structure of the designated sites identified. The site is 18km upstream of the Dundalk Bay SAC / SPA. This distance is sufficient to ensure that no impacts will arise on these Natura 2000 sites.

- The land-spreading of the poultry manure produced at the proposed facility has also been considered as part of this process. Records for the distribution and movement of all the manure produced will be kept on site and presented to the Department of Agriculture, Food and the Marine (DAFM) if necessary. All organic

fertiliser will replace the use of chemical fertiliser; therefore there will be no overall increase in the amount of nutrients spread.

- All farmers that received the manure from the proposed farm will do so under the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, SI No 605 of 2017, as amended. Upon the receipt of the manure, they will be informed of their obligation under this legislation. Compliance with these regulations will minimise cumulative impacts as well as any impacts upon water quality.

Size and scale – the likelihood of any direct, indirect or cumulative impacts on the designated site is low.

Land take – no land take from any designated site.

Distance from Natura 2000 site or feature – the closest site is Stabannan-Braganstown SPA 7.1km north. This distance is sufficient to ensure that no impacts will arise.

Emissions – there will be no emissions to surface water. The 18km distance to Dundalk Bay SAC/SPA is sufficient to ensure that no impacts will arise. Only clean surface water run-off will be directed into local watercourses. Any associated land-spreading of the manure will be done in accordance with SI 605 of 2017 (as amended). This will minimise run-off from land into local watercourses.

In order to predict atmospheric emissions (ammonia and nitrogen) from the development of this facility, a SCAIL model (Simple Calculation of Atmospheric Impact Limits) was run to determine the potential impacts on the closest designated sites. In this instance a number of factors were taken into account, such as the use of fan ventilation. The model was run with a conservative output and it considered that at any time the manure store will only be 50% full.

There will be a maximum process contribution of 0.02652 µg/m^3 of ammonia arising from the operation of the farm at the designated sites (at the closest SAC, i.e. Stabannan-Braganstown SPA).

The background levels of ammonia for the designated sites within 15km of the application site range from 2.2 to 2.6 µg/m^3. It is an extra ammonia contribution of between 0.5% and 1% at each site. This can be considered as de-minimus. The contribution of ammonia to the critical loads of ammonia for these habitats were also

considered. The majority of the qualifying features listed in the SACs above have a critical level for ammonia of 3 µg/m^3, with the exception of the dry heath habitat within Clogher Head SAC, which has a CL of 1 µg/m^3 due to the presence of lichens and bryophytes. The alkaline fen habitat and alluvial forest habitats of the River Boyne Blackwater SAC also have this lower critical load for ammonia. For the dry heath habitat of Clogher Head, the % contribution of ammonia to the critical load for the dry heath will be 2.6%.

For the ammonia sensitive habitats of the River Boyne and Blackwater SPA, the % contribution of ammonia to the critical load of these habitats will also be 2.6%. For the remaining habitats, all % contributions to the critical loads will be under 4%.

The process contribution of nitrogen from the operation of the farm will range from 0.06 to 0.14 N/ha/yr. The background level of N at the designated sites ranges from 15 to 15.68 N/ha/yr. This is a maximum extra contribution of 0.9% of nitrogen, and this can also be considered de minimis.

In addition, the % contribution of nitrogen to the critical loads of the habitats within the SACs were all assessed as within 4% of the critical loads for nitrogen.

Overall, it can be concluded that the operation of the farm will have no impacts upon any designated site with regards to the atmospheric emissions that are generated.

Excavation requirements – material will be used on site. Bare soil will be reseeded straight away. Any excess soil will be removed from the site to a licensed facility.

In combination / cumulative impacts – there are other agricultural activities ongoing close to the current application site. Cumulative impacts were considered. Whilst emissions from these farms were taken into account in the SCAIL background data. All farms, regardless of whether licensed by the EPA or not are required to operate within the legislation defined in SI 605 of 2017 (as amended), regarding manure storage, minimisation of soiled water and general good agricultural practice, etc. therefore cumulative impacts arising from the combined operation of these activities with the proposed operation of the poultry farm at Rathescar Middle will be negligible.

7.2.6. The AA Screening concludes with a finding of no significant effects.

7.3. NIS

7.3.1. An NIS accompanied the appeal, it includes:

7.3.2. Stabannan-Braganstown SPA, River Boyne and Blackwater SAC, River Boyne and Blackwater SPA, Dundalk Bay SAC, Dundalk Bay SPA, The Boyne Estuary SPA, The Boyne Estuary SAC and Clogher Head SAC, are European sites located in the vicinity of the site.

7.3.3. Potential impacts identified in the NIS are:

- Deterioration of water quality in designated areas arising from pollution from surface water run-off during site preparation and construction.
- Deterioration of water quality in designated areas arising from pollution during the operation of the proposed development.
- Impacts on designated sites arising from atmospheric emissions,
- Deterioration of water quality in designated areas arising from pollution / eutrophication caused by land-spreading of the organic fertiliser produced at the site by customer farmers as permitted by SI 605 of 2017. This potential impact is being screened in at this stage out of an abundance of caution as the customer farmers that receive the manure are not party to, nor are they subject to, any decision arising from this application.
- Cumulative impacts.

7.3.4. Table 2 of the NIS sets out the name and code of the protected site, the distance and special conservation interests. All sites are screened in.

7.3.5. Each protected site is considered separately re. potential impacts:

<u>Stabannan-Braganstown SPA</u>

- Impacts on vegetation arising from atmospheric emissions from the site,
- Deterioration of water quality associated with use of organic fertiliser by customer farmers by land-spreading as permitted by SI 605 of 2017, replacing current sources.

<u>River Boyne and Blackwater SAC</u>

- Impacts on vegetation arising from atmospheric emissions from the site,
- Deterioration of water quality associated with use of organic fertiliser by customer farmers by land-spreading as permitted by SI 605 of 2017, replacing current sources.

River Boyne and Blackwater SPA

- Impacts on vegetation arising from atmospheric emissions from the site,
- Deterioration of water quality associated with use of organic fertiliser by customer farmers by land-spreading as permitted by SI 605 of 2017, replacing current sources.

Dundalk Bay SAC

- Impacts on vegetation arising from atmospheric emissions from the site,
- Dundalk Bay SAC is 18km downstream of the application site. Taking a very conservative approach, in a worst-case scenario and in the absence of mitigation, an accidental pollution event of a sufficient magnitude arising from the construction and operation of the farm itself, either alone or in combination with other pollution sources, could potentially affect the water quality in the River Dee and/or Dundalk Bay SAC to an extent that could undermine the conservation objectives of this site. A reduction in water quality in the R Dee or Dundalk Bay has the potential to affect freshwater, coastal, estuarine and intertidal environments and the natural conditions that support the conservation objectives of the qualifying interests of this SAC. Given the downstream distance (18km) and the resultant dilution effect, along with the inert nature of the proposed development which entails the indoor rearing of poultry with no significant storage of liquid effluents on site, it is considered that the conditions where an event of magnitude could arise and give effect to the SAC are unlikely.
- Deterioration of water quality associated with use of organic fertiliser by customer farmers by land-spreading as permitted by SI 605 of 2017, replacing current sources.

Dundalk Bay SPA

Impacts considered are the same as for Dundalk Bay SAC.

The Boyne Estuary SPA

- Impacts on vegetation arising from atmospheric emissions from the site,
- Deterioration of water quality associated with use of organic fertiliser by customer farmers by land-spreading as permitted by SI 605 of 2017, replacing current sources.

The Boyne Estuary SAC

Impacts considered are the same as for The Boyne Estuary SPA.

Clogher Head SAC

- Impacts on vegetation arising from atmospheric emissions from the site.

7.3.6. Potential impacts are considered in more detail, (4.3).

- Deterioration of water quality during site preparation and construction; and post construction / operation of the proposed development.

Mitigation measures to avoid impacts on water quality are listed in section 5 of the NIS. These include measures for both the construction stage of the project and the operational stage.

The construction phase of the proposed development would include excavation works and the pouring of concrete. If appropriate mitigation measures are not taken there is the possibility that water quality in the River (~~Fane)~~ Dee and downstream ecological receptors of Dundalk Bay SPA/SAC may be negatively impacted; including by the pollution of watercourses with silt, oil, cement, hydraulic fluid etc. This would directly affect the habitat of protected species by reducing water quality or by polluting the fine mud/sand sediments of the estuary and intertidal zones. The substances could also have a toxic effect on the ecology of the water in general, directly affecting certain species and their food supplies. The potential risk of direct and indirect impacts arising from the site preparation and construction requires appropriate mitigation. The hydrological distance reduces the risk to very slight.

7.3.7. In the operational phase the proposed development has potential to effect the water quality of the European sites Dundalk Bay SPA and Dundalk Bay SAC via the R (~~Fane)~~ Dee. Measures have been incorporated to ensure the protection of water quality locally – the swale acting as a natural filter; the WWTP is an area of low groundwater vulnerability.

7.3.8. The potential impact arising from the production and management of poultry litter on site has also been considered. The litter generated has high dry matter content and it will remain within the concrete-floored covered houses, until all broilers are removed at the end of each batch, therefore there is no pathway between the litter and surface water/groundwater while the houses are stocked. When the houses are destocked, the litter will be removed and loaded into lorries for removal off site for composting or use as fertiliser on land. Following this the houses will be brushed and washed down. It is highly unlikely that this process will lead to any significant impact upon any European sites.

7.3.9. Atmospheric Emissions

Significant atmospheric emissions arising from agricultural developments can have negative impacts on designated sites and their sensitive vegetation communities. Some vegetation communities are more sensitive to ammonia and nitrogen than others. The proposed development will lead to atmospheric emissions, mainly in the form of ammonia and nitrogen. A SCAIL model (Simple Calculation of Atmospheric Impact Limits) was run to determine the potential impacts on the Natura sites.

Ammonia - Table 8 sets out for each designated site: the background concentration of NH3, the process contribution, the total concentration, the critical load, and the % of the CL (critical level) range (represented by the process contribution). It states that the SCAIL model was very conservative and the actual ammonia emissions are likely to be much lower. In addition the prevailing winds will carry most of the emissions from the site away from these designated areas.

Nitrogen - Table 8 sets out, for each designated site: the background concentration of N, the process contribution, the total concentration, the critical load, and the % of the CL range represented by the process contribution.

7.3.10. Land-spreading

This potential impact is being screened in at this stage out of an abundance of caution as the customer farmers that receive the manure are not party, to nor are they subject to, any decision arising from this application.

Landspreading will occur on farms within the Boyne and Newry, Fane, Glyde and Dee catchments. General environmental impacts arising from inappropriate land spreading can lead to serious impacts on receiving waters in local catchments. Designated habitats and species can be impacted and it can take years for the eco-system to recover. Evidence to demonstrate that the customer farmers have an existing requirement for this fertiliser has been provided. These lands are representative sample of customer farms that can be supplied.

Landspreading is required to be carried out in accordance with SI 605 2017 as amended. There will be no overall increase in the level of nutrients applied, therefore overall impact is neutral.

Cumulative impacts with other agricultural activities: all are required to operate in accordance with SI 605 2017 as amended; no cumulative impacts.

7.3.11. Mitigation

Mitigation measures are proposed. Measures to protect certain designated sites and species, to protect local biodiversity of the surrounding area, and to ensure the protection of local wildlife.

Construction / operation:

- The construction and operation of the proposed farm must comply with the European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2017 (SI 605 of 2017).

- Guidelines within the Department of Agriculture's Explanatory Handbook for Good Agricultural Practice Regulations must also be followed.

- The proposed farm structures must adhere to the Department of Agriculture's Farm Buildings and Structures Specifications. Before use, they should undergo an integrity test that is performed by a suitably qualified person. They should be inspected regularly for deficiencies.

- Manure, slurry and soiled water storage facilities should be constructed to Department of Agriculture, Food and The Marine specifications. They should be inspected regularly.

- Site preparation and construction must be confined to the development site only and should adhere to all standard best practice measures. Work areas should be kept to the minimum area required to carry out the proposed works and the area should be clearly marked out in advance of the proposed works.

- There should be no discharges of contaminated waters to ground or surface waters from these developments. Post construction surface water run-off from hardcore / concreted / tarmacadam areas should be directed into a soak pit. If soak-pit disposal is not viable or practical, then surface water run-off from these areas should be treated via serviced sediment and oil interceptor traps, prior to discharge into any watercourse. All silt drains and farm yard discharge should be in accordance with the specifications within the Department of Agriculture's Minimum Specifications for Farmyard Drainage, Concrete Yards and Roads.

- Any excavated material arising from the construction process must not be disposed or within any designated site. It must be used responsibly within the boundary of the application site or disposed of in a licensed facility using a registered contractor.

- Fuels, oils, greases and hydraulic fluids must be stored in a bunded compound(s) well away from watercourses. Refuelling of machinery etc, should be carried out in bunded areas. Any bulk fuel storage tank should be properly bunded with a bund capacity of at least 110% of that of the fuel tank. Stockpile areas for sands and gravels should be kept to a minimum size, well away from the drains and watercourses.

- Any additional mitigation measures as recommended by IFI in their submission must also be adhered to.

- A low-protein diet should be fed in order to reduce atmospheric emissions from the farm.

- The storage and handling of all wastes and fertilisers on site must be in accordance with SI 605 of 2017.

- It is illegal to remove hedgerows / treelines during the bird nesting season (September – March). Riparian verges along local streams and watercourses must not be damaged during the construction or operation. Any landscaping should involve the planting of native Irish species that are indigenous to the site. Suitable species would include birch, oak, willow and alder.

Atmospheric Emissions:

Detailed atmospheric modelling was undertaken in May 2020, to quantify ammonia and nitrogen levels at the ecologically sensitive areas in the vicinity of the farm. The predicted impact can be compared to an appropriate criterion and graphically illustrated in the form of ‘contours of equal concentration’ or isopleths.

Ammonia and nitrogen emissions were modelled using details such as animals per house, ventilation, meteorological data, building downwash and digital terrain data. Fans and a low protein diet have been considered as mitigation. All sites over 7.5 distance away were screened out, leaving only Stabannan-Braganstown SPA to be assessed. Table 10 gives background concentrations at the Stabannan-

Braganstown site, and table 11 process contribution at the Stabannan-Braganstown site for ammonia. Table 12 sets out the process contribution for nitrogen at the Stabannan-Braganstown against the background concentration.

The nitrogen concentrations is dominated by the background concentrations. The critical load will not be exceeded due to emissions from the proposed development. With mitigation, the proposed development will have no impact in relation to ammonia, the critical load will not be exceeded.

It is also concluded that sites further away would receive less deposition than 0.008 µg/m^3 for ammonia and less than 0.04 kg/N/ha/ye considered de-minimus.

Land-spreading:

Should be carried out in accordance with Good Agricultural Practice for the Protection of Waters Regulations 2017 (SI 605 of 2017).

7.3.12. The NIS concludes with a finding of no significant effects.

7.4. Assessment

The proposed development comprises the construction of 4 poultry houses, capable of holding up to 200,000 broilers and producing them as finished birds in batches more than 7 times per annum. The estimated 1,575 tonnes of dry matter / manure produced will be landspread on customer lands (unspecified). The washwater from cleansing after a batch has been reared will be spread on specified lands.

The poultry litter will be incorporated into a fertiliser management system where it will be used as an organic fertiliser for customer farmers to replace imported fertiliser. Details of all organic fertiliser transfers off the farm will be reported to the Department of Agriculture, Food and the Marine (DAFM) on an annual basis. During the closed season the manure will be removed off site by a registered contractor for composting as provided for by SI 605 of 2017 (as amended).

7.4.1. The following European sites are located in the vicinity of the site:

European Site	Site Code	Relevant QIs & CIs	Distance

Stabannan-Braganstown SPA	004091	Greylag Goose	7.1km north
River Boyne and Blackwater SAC	002299		8.5km south
River Boyne and Blackwater SPA	004232	Kingfisher	9.6km south
Dundalk Bay SAC	004026	Estuaries Mudflats and sandflats not covered by seawater at low tide Perennial vegetation of stony banks Salicornia and other annuals colonising mud and sand Atlantic salt meadows Mediterranean salt meadows	10.6km north-east
Dundalk Bay SPA	000455	Great Crested Grebe Greylag Goose Light-bellied Brent Goose Shelduck Teal Mallard Pintail Common Scoter Red-breasted Merganser Oystercatcher Ringed Plover Golden Plover Grey Plover Knot Dunlin	10.6km north-east

		Black-tailed Godwit Bar-tailed Godwit Curlew Redshank Black-headed Gull Common Gull Herring Gull Wetland and Waterbirds	
The Boyne Estuary SPA	004080	Shelduck Oystercatcher Golden Plover Grey Plover Lapwing Knot Sanderling Black-tailed Godwit Redshank Turnstone Little Tern Wetland and Waterbirds	13.2 km south-east
The Boyne Estuary SAC	001957	Estuaries Mudflats and sandflats not covered by seawater at low tide Annual vegetation of drift lines Salicornia and other annuals colonising mud and sand Atlantic salt meadows Embryonic shifting dunes Shifting dunes along the shoreline with Ammophila arenaria (white dunes)	13.8 km south-east

		Fixed coastal dunes with herbaceous vegetation (grey dunes)	
Clogher Head SAC	001459	Vegetated sea cliffs of the Atlantic and Baltic coasts European dry heaths	14.5km east

Potential Impacts

7.4.34. The surface water drainage in the vicinity of the site is to the White River via the Athclare Stream located c200m to the north, its confluence with the River Dee is 6.7km to the north east, and the River Dee flows into the Irish Sea at Dundalk Bay. There is hydrological connectivity with Dundalk Bay SPA/SAC, stated to be c 15-17km downstream of the application site.

7.4.35. The details provided do not include the surface water drainage of currently proposed landspreading sites or their hydrological connectivity to protected sites.

7.4.36. In relation to soiled water section 3.6 of the EIAR states that a map is included in appendix 6 indicating the location and extent of farmland adjacent to the site farmed by the applicant / applicant's family.

'The applicant's son farms c 40 hectares of mainly tillage suitable for the application of soiled water. The on-farm organic N stocking rate on these lands (2018) was c 0kg organic N/ha, albeit that he imported organic fertiliser to partly satisfy the farms fertiliser requirement. The application of an additional 330m^3 of soiled water on these lands with an estimated organic N content of c1kg organic N/m^3 will result in an application rate of c8.25kg organic N/m^3, well inside the 170 kg organic N/ha limit. The customer farmer will reduce any additional organic fertiliser imports to ensure compliance with SI 605 of 2017.

7.4.37. Maps of lands for soiled water application are included, although difficult to identify, some have been identified as within the locality of the subject site and in use for grazing.

7.4.38. Regarding the location of potential customer farmlands for manure spreading, scant information is provided. It is stated that all potential customer farmlands currently identified for the receipt of manure from this proposed development are tillage/arable lands and are located in Counties Meath and Louth; the applicant and any additional customer farmers that may arise in the future will utilise the poultry manure for efficient tillage production and to reduce the amount of imported chemical fertiliser required; these areas will be primarily agricultural areas with low population densities; appendix no 1 gives details of the general location of the potential customer farmers currently identified; it is anticipated that any other customer farmers that arise in this area, or within a reasonable distance from this proposed farm can be supplied with organic fertiliser for use in accordance with SI 605 of 2017; information, as required under the Nitrates Directive pertaining to potential customer farmers will be made available for inspection as required; and each customer farmer will receive a copy of all applicable information as required by SI 605 of 2017.

7.4.39. The map referred to is of a very small scale and landholdings cannot be identified. No meaningful assessment can be made, on the basis of the information provided regarding the potential impact of landspreading on protected sites. The NIS makes the points that landspreading is required to be carried out in accordance with SI 605 2017 as amended, that there will be no overall increase in the level of nutrients applied, and therefore that the overall impact is neutral and as regards cumulative impacts with other agricultural activities; all are required to operate in accordance with SI 605 2017 as amended, therefore there will be no cumulative impacts.

7.4.40. In the foregoing list of 8 protected sites within 15 km of the subject site, 7 can be considered water dependent. In the context of the landspreading, stated to extend across county Louth and into county Meath, it is not possible to establish the potentially impacted protected sites or to assess the potential impacts on those sites. In order to carry out appropriate assessment it is necessary to consider the indirect impacts of the proposed development, in this case it is necessary to consider the associated landspreading which is a significant indirect impact. Notwithstanding that the spreadlands could, and likely will, change over time, in order to carry out appropriate assessment of the proposed development it is necessary to consider those currently proposed, and all relevant details of their capacity to utilise the

manure, including any risks associated with such use. In the absence of such information the Board cannot conclude that the proposed development would not be likely to have a significant effect on other European site and cannot therefore adequately carry out stage 1 screening for appropriate assessment.

7.5. Screening Conclusion

7.5.1. The information available is inadequate to allow the Board to complete stage 1 screening for appropriate assessment.

7.6. AA

7.6.1. No details of the SCAIL model (Simple Calculation of Atmospheric Impact Limits) stated in the AA screening report to have been run to determine the potential impacts on the closest designated sites, is given in the application documentation; and there is no reference to the SCAIL model in the relevant sections of the EIAR. However a report titled Air Quality Impact Assessment dated, 9th June 2020, accompanied the appeal. This considers ammonia and nitrogen deposition.

Notwithstanding that in some cases the existing background concentrations exceed the critical load and the proposed development would increase the load, albeit marginally, the conclusion is reached that the impact will not be significant. This would require more detailed justification. In addition no consideration is given to air emissions arising from landspreading.

The major omission from the information required to enable appropriate assessment however, arises in relation to the potential for landspreading to impact on surface water and via that pathway to impact on downstream sites. In the absence of information on such lands, including their location, neither the designated sites, nor the likelihood of impact can be assessed.

7.7. Conclusion

On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European site Nos. 004026 and 000455, or any other European site, in view of the sites' Conservation Objectives. In such circumstances the Board is precluded from granting permission.

8.0 **EIA**

8.1.1. Class17(a) of Part 1 of Schedule 5 of the Planning and Development Regulations 2001-2018 requires that an Environmental Impact Assessment is carried out for intensive poultry rearing installations with more than 85,000 places for broilers or 60,000 places for hens, the proposed development, for 200,000 broilers requires EIA.

8.1.2. An EIAR accompanied the application.

8.1.3. The EIAR is presented in one volume, comprising the following chapters:

chapter I – Non -Technical Summary,

chapter 2 - Introduction,

chapter 3 - Description of development,

chapter 4 - Description of the physical characteristics of the proposed development, the land use requirements during construction and operation and the likely significant effects of the project on the environment,

chapter 5 - Description of reasonable alternatives,

chapter 6 - Description of the relevant aspects of the current state of the environment and an outline of the likely evolution thereof without implementation of the project as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of environmental information and scientific knowledge,

chapter 7 - Description of the aspects of the environment with potential to be significantly affected by the proposed development,

chapter 8 - Interaction of Effects,

chapter 9 - Environment Management Programme, and

chapter I0 - Summary.

There are 20 appendices:

Appendix 1 – Customer farmland Details

Appendix 2 – Site Location Map (1:2,500)

Appendix 3 – Site Layout (not to scale)

Appendix 4 – Engineer's Drawings (not to scale)

Appendix 5 – Environmental Protection Agency – Draft Advice Notes on EIS – project type 13

Appendix 6 – Location of Farmland Areas for the receipt of Soiled Water

Appendix 7 – Litter Contractor

Appendix 8 – Feed Details

Appendix 9 – Animal tissue Disposal

Appendix 10 – Local Water Quality Data

Appendix 11 – Extracts from Louth County Development Plan

Appendix 12 – Met Data

Appendix 13 – Screening Report – Article 6(3) & (4) of the Habitats Directive 92/43 EEC Appropriate Assessment of a proposed project.

Appendix 14 – Extract from General Soil Map of Ireland. Profile of Soil

Appendix 15 – Site Characterisation Form

Appendix 16 – European Communities (Welfare of Farmed Animals) Regulations 2010 – SI. 311 of 2010

Appendix 17 – Copy of Nitrates Directive – SI 605 of 2017

Appendix 18 – Copy of GSI Data

Appendix 19 – Construction Waste Management Plan

Appendix 20 – Swale Attenuation Calculations

8.1.4. Article 3(1) of the EIA Directive, requires that the EIAR identifies, describes and assesses in an appropriate manner, the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape and the interaction between the factors referred to in points (a) to (d).

8.1.5. The requirements of Article 3(2) to include the expected effects deriving from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned, is not an issue in this case.

8.1.6. Alternatives studied are addressed in chapter 5. Alternatives considered were:

Alternatives locations (per 5.1).

- Other locations on lands owned by or available to the applicant - deemed less suitable for reasons including poorer road access and higher density of residential dwellings in close proximity. The existing site has no significant and/or specific environmental constraints which mitigate against the proposed site and/or would support the selection of any alternative site available to the applicant, in preference to the currently proposed site.

- The purchase and re-development of an existing poultry site – there are no suitable sites located close to the applicant's existing activities with which the proposed development would integrate.

- The purchase of an entire green field site was considered – a separate site would be significantly less effective due to the additional costs involved in the site purchase. This would put the development under financial strain.

Notwithstanding that the applicant required additional lands from a neighbouring farmer to facilitate the currently proposed development, the site was selected on the basis that:

- The proposed site has good access with an existing entrance onto the local public road,

- The selected site is more secluded given the land topography and the proposed development can be easily integrated to the rear of the applicant's existing land parcel.

- The applicant's son's dwelling, currently under construction, is located close to the site, thus making flock management easier and improving site security.

- Location of the proposed site in close proximity to the lands proposed for the receipt of organic fertiliser from this development.

- The site was in a rural location with a low density of housing in the area and well screened from local housing and the public road.

Alternatives layout and design – the design was reviewed with the aid and guidance of Carton Brothers / Manor Farm, commercial poultry house designers etc.

No other designs were deemed satisfactory as the proposed location, design and layout:

- Complies with the requirements of the Nitrates Directive.
- Satisfies the applicant's need for efficiencies of scale while not requiring significant additional lands.
- Is in line with BAT requirements. The measure outlined as BAT for the Poultry Sector (Commission Implementing Commission Implementing Decision (EU) 2017 / 302 of 15th February 2017 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, and in particular this type of production include:
    - Will be well integrated into the landscape with the use of similar construction techniques, natural/dark coloured finishes as proposed, and additional landscaping where required.
- Complies with the requirements of the County Development Plan,

Alternatives size – the development has been scaled to take account of:

- Site constraints,
- Capacity of customer farmers existing farming enterprise to utilise the organic fertiliser.
- Economies of scale and operational costs.
- The requirements of Manor Farm and their supply requirements.

Alternatives processes – layer housing – egg production - market move to free range.

Free range layer/broiler – does not suit as it requires significant additional land and the market is small and well served.

Pig farming – poultry farming integrates better with his existing farming activities and current workload.

Alternatives management of by-products – application to land or use in compost production. Manure will be utilised as an organic fertiliser by allocating it to those lands with a recognised need for additional fertiliser. All farmlands currently proposed for the receipt of organic fertiliser from the proposed developments are

farmed by the currently identified customer farmers. All lands currently identified are tillage lands. It is intended that all organic fertiliser from the proposed development will be delivered to customers in 30t consignments. The proposed development can only supply c 25% of the phosphorus requirements and significantly less of the nitrogen requirements of the identified customer farmlands. At present there is no suitable option for the utilisation of organic fertiliser produced within the proposed development, however the applicant will continue to examine the possibility of alternative uses.

8.1.7. I note that observers provide what they consider to be more relevant reasons for the site selection, in the context of other available sites in the applicant's ownership.

8.1.8. In my opinion the exploration of alternatives should have included setting the proposal in a regional / national context including the suitability of the location vis a vis tillage lands and grasslands, the current use of organic fertiliser sources and their displacement (i.e. the mass balance of nutrients within a control area, per EPA guidance), and any replacement of existing, outdated, facilities which may be involved.

8.1.9. The EIAR includes a non-technical summary of the information referred to in Article 5 (a) to (d).

8.1.10. No specific difficulties are stated to have been encountered in compiling the required information. The participation of the public has been effective and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

8.2. Adequacy of Information

8.2.1. As regards whether the information provided is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment, it is clear to me that sufficient information has not been made available in relation to the issue of the application of the manure arising, to lands. This has implications for the Board's consideration of the development under several headings, which I will refer to under the various headings in the following sub-sections. I am not satisfied therefore that the information contained in the EIAR complies with the provisions of

Article 3, 5 and Annex (IV) of EU Directive 2014/52/EU amending Directive 2011/92/EU.

8.3. Direct and indirect significant effects

8.3.1. I have carried out an examination of the EIAR and other relevant information presented by the applicant in this case, together with the submissions received during the course of the application.

8.3.2. The direct and indirect significant effects of the development are considered against the factors set out under Article 3(1) of the EIA Directive 2014/52/EU, which include:

a. population and human health;
b. biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
c. land, soil, water, air and climate;
d. material assets, cultural heritage and the landscape;
e. the interaction between the factors referred to in points (a) to (d).

Population and Human Health

8.3.3. Population and human health impacts are dealt with under various chapter headings but largely with regard to employment.

8.3.4. Odour

8.3.5. An 'Ammonia and Odour Impact Assessment' accompanied the grounds of appeal. It includes:

Predicted impact can be compared to an appropriate criterion and graphically illustrated in the form of 'contours of equal concentration' or isopleths.

The odour target of C98, 1 hour ≤ 3ou/m^3 will be adopted at the nearest sensitive receptor.

The threshold of 1ou/m^3 is the level at which an odour is detectable by 50% of screened panelists. The recognition threshold is about 5 times this concentration, i.e. 5ou/m^3. Eight dwellings were assessed based on windrose data for years 2015 to 2019 (Ballyhaise) and the results averaged. Dwelling 6, located 410m to the east had the highest odour levels, averaged as 1.53ou/m^3.

8.3.6. Odour impact is referred to in observations. It is stated that the odour assessment submitted with the appeal is flawed; that the south westerly winds will blow the bad smells over observer's properties; that there will be significant strong odour over 2-3 days, 7 times a year, when manure is taken out; and that the impact on people arising from an indirect effect such as odour and dust caused by spreading manure is an indirect environmental effect which must be assessed.

8.3.7. The Ammonia and Odour Impact Assessment demonstrates that no significant odour impact will arise from the proposed building complex.

8.3.8. I have concerns in relation to air emissions from landspreading, which is not addressed in the Assessment supplied.

8.3.9. It would, in my opinion, be unreasonable to require odour impact assessment in relation to each parcel of land on which landspreading may take place, having regard to the multiple land parcels and the multiple sensitive receptors. I am inclined to the view that living in a rural area brings with it an array of impacts on the senses, including the sense of smell, and that the spreading of organic fertiliser should be viewed in that context. Nevertheless, the spreading of litter is an important aspect of the proposed development and in the absence of information identifying the spread lands, impacts including odour impact cannot be reasonably assessed.

8.3.10. Noise – a Site Specific Noise Survey accompanied the grounds of appeal. It includes:

Background surveys at (3 noise measurement locations) NML 1-3 – nearest residential dwellings. Tables 5 – 7 Daytime & Night-time dBL_{Aeq} 46-48 daytime, 36-38 night-time. Table 8 predicted noise emissions at nearest (noise sensitive locations) NSLs during construction for different activities (max 38). Operational noise: a poultry farm in Waterford was measured – the result 37-41 dBL_{Aeq}. No further mitigation measures are recommended in respect of livestock house emissions.

Feed delivery trucks – 87dBL_{Aeq} – at dwellings 29 dBL_{Aeq}, lower than daytime and night-time ambient noise at NSLs. No further mitigation measures recommended.

Poultry house ventilation fans – loudest capacity 85 dBA() $L_{W.}$ At NSLs 25 dBL_{Aeq} to 30 dBL_{Aeq}. No further mitigation measures are recommended apart from ensuring maximum noise emission level of 85 $dBL_{Aeq.}$

Cumulative noise levels table 9 – 31 to 36 $dBL_{Aeq\ 16hr.}$ table 10 – 25 to 30 $dBL_{Aeq\ 8hr.}$

The predicted noise arising from the proposed development will be below emissions criteria of 50 $dBL_{Aeq\ 16hr}$ daytime, and emissions criteria of 45 $dBL_{Aeq\ 16hr}$ night-time.

8.3.11. From the foregoing I am satisfied that no significant noise impact is likely to arise.

8.3.12. Many of the concerns raised by observers are with regard to perceived impacts on their residential amenities. Serious injure to the residential amenities of property in the vicinity is stated as part of reason No. 1 of the planning authority's refusal, having regard to the inadequacy of the information provided.

8.3.13. Notwithstanding that the subject site is located in a rural area where livestock housing and the application of manure to land is part and parcel of normal land use, in this case I consider that the information provided with the application and appeal, particularly the lack of any meaningful information in relation to the application to lands of the manure arising, is a significant shortcoming of the EIAR and prevents adequate assessment of the impact on the population of the general area.

Biodiversity

8.3.14. Biodiversity is dealt with in Chapters 6 & 7 - 6.9 - Biodiversity – flora and fauna, 6.10 - Biodiversity – Special Policy Areas, 7.9 - Biodiversity – flora and fauna, and 7.10 - Biodiversity – Special Policy Areas. In the submission documents biodiversity is dealt with in more detail in the NIS submitted with the grounds of appeal. The potential impact on designated sites has been dealt with under the separate heading of Appropriate Assessment earlier in this report.

8.3.15. The proposed development will entail removal of a significant extent of hedgerow, for building construction and for the provision of the proposed passing bays along the local road, and this is not adequately addressed in the EIAR. Apart from the removal of hedgerow no other direct affects on biodiversity are likely.

8.3.16. The main inadequacy in the information provided, and therefore in the Board's ability to carry out environmental impact assessment on biodiversity, is in relation to indirect affects arising from landspreading, and the lack of information in that regard.

Land, Soil, Water, Air and Climate

8.3.17. Land, Soil, Water, Air and Climate factors are dealt with in Chapters 6 and 7.

8.4. Land, soil, water

8.4.1. The EIAR states that the site is in the Muirhevna Plain, an extensive plain drained by the Rivers Fane, Glyde, White and Dee. This area contains the most fertile agricultural lands in the county, conducive to a wide variety of productive agricultural practices in both animal and crop production.

8.4.2. The customer farmland areas cover/ will cover a singnificantly larger area that the site of interest, i.e. the site of the proposed development. As a result the topographic features and solid geology will be more varied and are deemed to be beyond both the scope and requirement of this EIAR.

8.4.3. Wash water is proposed to be landspread on the lands shown in appendix 6 of the EIAR. This comprises aerial photography similar to that used for applications for the basic farm payment, with a code number similar to that used for applications for the basic farm payment. Unlike the mapping for basic farm payment applications, all details of the landholding are omitted. Not all the lands could be identified from the information presented, but some have been identified and inspected, and it is evident that the landspreading involves lands currently in use as pasture. It is understandable that lands in the vicinity of the poultry house and in the control of the applicant would be used, having regard to the high volume / low value of the washwater, nevertheless its use on pasture is in direct contravention of the Department of Agriculture, Food and the Marine's 2014 publication 'Dead Birds and Poultry Litter: Legal Obligations and Good Practice Guidelines for Poultry Farmers' which states at item viii that 'water used for cleaning poultry houses should be captured and disposed of in accordance with environmental legislation and the European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2017, '*water used for cleaning poultry houses should not be spread on*

land used for grazing livestock or silage production or on land adjacent to water courses or to grazing animals'.

8.4.4. In relation to landspreading of manure, scant information is provided. It is stated that all potential customer farmlands currently identified for the receipt of manure from this proposed development are tillage/arable lands and are located in Counties Meath and Louth; the applicant and any additional customer farmers that may arise in the future will utilise the poultry manure for efficient tillage production and to reduce the amount of imported chemical fertiliser required; these areas will be primarily agricultural areas with low population densities; appendix no 1 gives details of the general location of the potential customer farmers currently identified; it is anticipated that any other customer farmers that arise in this area, or within a reasonable distance from this proposed farm can be supplied with organic fertiliser for use in accordance with SI 605 of 2017; information, as required under the Nitrates Directive pertaining to potential customer farmers will be made available for inspection as required; and each customer farmer will receive a copy of all applicable information as required by SI 605 of 2017.

8.4.5. Appendix 1 of the EIAR, include a list of 6 farms with stated areas in hectares, two maps at a scale of 1:100,000, which show an area extending from Dundalk to south of Drogheda, indicating the general locations of the farms. The maps referred to are to a very small scale and landholdings cannot be identified. No information is provided in relation to these lands, No baseline information in relation to the benefit/need for the application of organic fertiliser, the drainage situation, proximity to vulnerable features or sensitive receptors etc.

8.4.6. The EPA publication 'Integrated Pollution Control Licensing, Batneec, Guidance Note for the Poultry Production Sector, EPA 1998' states that the management of poultry manure should be based on a mass balance of nutrients within a control area, whether the area be a farm, group of farms or a region.

8.4.7. The proposal is to replace imported organic fertiliser, currently used on the customer lands, but no information is presented in relation to overall volumes arising in the region (or nationally / internationally (cross border)) and no explanation as to how the displaced manure can be accommodated elsewhere, a potentially significant indirect impact of the proposed development. The proposal involves intensive production of

housed animals, which has not been placed in the context of Ireland's drive to achieve reductions in greenhouse gas emissions or reduction in air emissions.

8.4.8. No meaningful assessment can be made, on the basis of the information provided regarding the potential impact of landspreading, on land, water etc.

Air and Climate

8.4.9. A SCAIL model stated to have been prepared in relation to the subject application was not presented. However, an Ammonia and Odour Impact Assessment was submitted with the grounds of appeal. This presents the modelled results of odour, airborne ammonia and nitrogen deposition impacts, arising from the proposed building. As previously stated no consideration was given to air emissions arising from landspreading. Nor is particulate matter (PM) included in the assessment. Potential impacts on climate are not addressed.

8.4.10. I note that the planning authority report considered that the authority could not be satisfied that the proposal would not impact negatively on air quality and the amenities of the locality.

8.4.11. In my opinion an assessment of the impact on air and climate cannot be carried out on the basis of the information provided.

Conclusion on Land, Soil, Water, Air and Climate

8.4.12. I consider that the information provided with the application and appeal, including insufficient information in relation to air emissions but particularly the lack of any meaningful information in relation to the application to lands of the manure arising and the associated biosecurity impacts, are significant shortcomings of the EIAR and prevent adequate assessment of the impact on land, soil, water, air and climate.

<u>Material Assets, Cultural Heritage and the Landscape</u>

8.4.13. The factors material assets, cultural heritage and the landscape, are dealt with in Chapters 6 and 7.

8.5. Material Assets

8.5.1. Traffic - The proposed access is via a local road. The local road is narrow, less than 3m wide, and between the site and the regional road there are two right angled bends. The local road is bounded by clay banks and hedges and narrow verges.

8.5.2. The planning authority issued a further information request which included their concerns that the local road directly servicing this site, the L6270, a local secondary road, typically 2.5m wide and which cannot easily accommodate two way traffic; and could not accommodate the regular Heavy Goods Vehicles using the road both during construction and operation associated with the development.

It invited the applicant to propose the provision of lay-bys to facilitate pull-in of one vehicle to allow the oncoming vehicle to pass. In response to the request the applicant proposed a number of lay-bys. Traffic impact was not a reason for refusal.

8.5.3. Traffic is referred to in the grounds of appeal including an amendment to the EIAR which states that provisional agreement has been reached with Louth Co Co for the provision of lay-bys on the public road to facilitate the proposed development and improve traffic safety.

8.5.4. Local roads in rural areas are called on, from time to time, to provide access by HGV, either for occasional use such as by HGVs delivering construction materials, or for more regular use such as servicing agricultural development: milk collection lorries would be such use. In the present case, the scale and nature of the proposed development would bring with it regular and frequent use of this road by HGVs. I note that the former landfill site extends along the local road, west of the site, to almost as far as the site boundary, and therefore it is open to the County Council to facilitate the applicant in widening the road to enable its use by HGVs. I am not satisfied that the proposed provision of lay-bys has been adequately detailed or assessed or that the provision of lay-bys would adequately provide for the traffic associated with the proposed development. In my opinion the proposal as presented would seriously compromise the safety and convenience of other road users.

8.5.5. Observers have concerns in relation to impact of traffic including that the traffic generated may use the local road east of the site. East of the site there are two right angled bends, but otherwise the local road in this direction leads more directly to a substandard junction on the regional road.

8.5.6. The possible use of the local road in this direction and the impact on the regional road junction has not been examined as part of the planning application.

8.5.7. In the absence of adequate proposals to provide for the safe and convenient use of this substandard minor local road, from west of the site, the likelihood of use of the eastern section of road is a valid concern.

8.5.8. In my opinion the deficiency of the section of local road which it indicated as the access route for the development, to provide for regular and frequent access by HGV traffic is a reason to refuse permission.

8.5.9. Tourism - the EIAR states that the site is not located near any tourist/amenity areas as listed in the development plan. In my opinion there is nothing to suggest that the proposed development would impact significantly on tourism.

8.5.10. In relation to the value of livestock farmlands, a very valid concern has been expressed regarding the potential risk to lands and grazing animals of botulism a toxin of concern because of its impact on animals, coming from a bacteria which has an association with dead birds and bird litter. The Department of Agriculture, Food and the Marinewebsite contains warnings and advice in relation to the risk to animals, and there is a prohibition on the spread of poultry litter/manure or washwater from poultry houses on or adjoining grassland. In my opinion having regard to the location of the proposed building in close proximity to grassland, the biosecurity aspects of the proposed development need to be justified in the EIAR. This issue is not addressed. Notwithstanding that the litter is largely contained within the building, it is open to the air when it is removed at the end of the 45 day rearing cycle. As previously stated the air emissions report does not make reference to emissions of particulate matter from the building, and the Board is not in a position to assess the potential for impact from particulate matter. Also as previously stated, the lack of information on spreadlands disallows any assessment of impact of spreadlands on adjacent grasslands, although it is worth noting that the general area comprises a mixture of tillage lands interspersed with grasslands and that nowhere is tillage farming the single or dominant landuse.

8.6. Cultural Heritage

8.6.1. The EIAR states that there are no buildings/structures of architectural significance in the vicinity or likely to be impacted. No previously recorded archaeological features/

monuments are located within the site and there are no archaeological features located in the area. The closest feature is an enclosure located 530m south west, excavated during works for an extension to the nearby landfill site.

8.6.2. The Department of Culture, Heritage and the Gaeltacht responded to the referral of the application, recommending as a condition, archaeological monitoring.

8.6.3. Topsoil stripping would have the potential to have a direct and negative impact on archaeological features which may have potentially survived within this area. This could be addressed by condition.

8.7. Landscape

8.7.1. The EIAR states that the site location in the Muirhevna Plain, in the landscape classification, an extensive plain of predominantly agricultural activity. The topography of the site and landholding is gently undulating drained by the meandering Rivers Fane, Glyde, and Dee. The area contains the most fertile agricultural lands in the county, which gives the overall impression of good farming husbandry. It states that there will be no significant adverse visual impact from the proposed development; the site is accessed via c 275m of internal farm roadway on a greenfield site currently predominantly used for tillage production, with a small area of scrub/immature conifers. The site is described as being nestled into the surrounding topography and set low in the landscape, bounded on three sides by existing hedgerows with additional landscaping to be provided as required.

8.7.2. Observers have concerns in relation to visual impact and state that this scale of building should be positioned in an industrial/commercial area. The very long buildings with the entire roof at one level cannot be hidden and will impact on surrounding amenities, landscape and the local community.

8.7.3. The field in which the site is located rises from the road and the site is relatively elevated with reference to surrounding land but there is a low ridge to the front which would reduce the impact from the minor local road. There are long range views from the site of the Irish Sea on the eastern horizon, and it is relatively elevated with reference to the surrounding area. The proposal is an extremely large linear structure, but it is low. Photomontages or drawings showing views of the development from surrounding areas have been provided. However, in my opinion, due to the low height, and the separation distance from roads and dwellings,

measures could be taken to reduce the visual impact to an acceptable level. In my opinion the visual impact/impact on landscape should not be a reason to refuse permission.

8.8. Assessment of material assets, cultural heritage and the landscape

8.8.1. In my opinion the deficiency of the local road which provides access to the site, for the regular and frequent use by HGV traffic which would be generated by the proposed development, notwithstanding the proposal to provide lay-bys, would be likely to endanger public safety by reason of traffic hazard and this is a reason to refuse permission.

8.9. Reasoned Conclusion

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

- impact on soil, which can be mitigated by compliance with SI No 605 of 2017, but which cannot be fully assessed from the information available.

- impact on grassland and biosecurity, which can be avoided by compliance with and Good Practice Guidelines for Poultry Farmers**,** Department of Agriculture, Food and the Marine, 2014, but which cannot be fully assessed from the information available.

- impact on surface water, which can be mitigated by compliance with SI No 605 of 2017, but which cannot be fully assessed from the information available.

- impact on protected downstream sites, which can be mitigated by compliance with SI No 605 of 2017, but which cannot be fully assessed from the information available.

- impact on road users which will not be avoided, mitigated, or otherwise addressed by means of condition.

9.0 Assessment of Other Issues

9.1.1. The other issues which arise in relation to this appeal are the principle of the development and property values and these are dealt with hereunder.

9.2. Principle of Development

9.2.1. The policy context supports agricultural development subject to environmental protection.

9.2.2. The European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, SI No 605 of 2017, is frequently referred to in the EIAR and other submission documents. This deals with requirements as to manner of application of fertilisers, soiled water etc. but in itself would not provide sufficient information as to the likely environmental implications of the landspreading of the manure arising in the subject development, a very significant indirect impact of the proposed development.

9.2.3. It would not be appropriate in the context of a planning assessment/decision to seek to control ad infinitum the use of livestock manure produced. However the disposal or use of effluent arising from the development has very significant environmental implications and they must be considered as part of the assessment of this proposed development, notwithstanding that, as stated in the application submission, this may change over time. The locations of the landspreading areas have not been shown, and the information provided does not place this intensive agricultural development in a regional / national / international (cross-border) context. In the context of the large amount of poultry litter which would be produced and the associated matter of biosecurity, which has not been addressed at all, this is a significant omission.

9.2.4. The proposal would displace other imported organic fertiliser, currently used on the subject spreadlands, but no information is presented in relation to overall volumes arising in the region (or elsewhere) and no explanation is given as to how the displaced manure can be accommodated: a significant impact of the proposed development.

9.2.5. In addition the proposa,l which involves intensive production of housed animals with associated air emissions, has not been placed in the context of Ireland's drive to achieve reductions in air emissions.

9.2.6. Although this is a rural area, in which a development of the type proposed could potentially be accommodated, the proposed development has not been shown to be acceptable in principle.

9.3. Property Values

9.3.1. Observers have concern that there will be depreciation of the value of properties; and a letter from estate agent has been supplied, relating to residential property. I am not satisfied that the proposed agricultural building in this rural area would injure the amenities of the area to such an extent that it would adversely affect the value of residential property in the vicinity, however, as previously stated, the lack of information on the associated spreadlands, means that this issue cannot be fully assessed.

10.0 Recommendation

10.1.1. In accordance with the foregoing I recommend that permission should be refused, for the following reasons and considerations.

11.0 Reasons and Considerations

1 Due to the inadequacy of the information provided to the Board, particularly in relation to the landspreading areas and biosecurity, the Board is unable to carry out a comprehensive environmental impact assessment of the proposed development as required by legislation, accordingly to permit the proposed development would be contrary to the proper planning and sustainable development of the area.

2 Having regard to its scale and nature, and the HGV traffic which would be generated, and the inadequacy in width and alignment of the local road, the proposed development would involve an unacceptable impact on other road users in

terms of congestion and traffic safety and would accordingly be contrary to the proper planning and sustainable development of the area.

3 On the basis of the information provided with the application and appeal, particularly in relation to the landspreading areas, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site Nos. 004026 and 000455, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

Planning Inspector

16th October 2020

Appendices

Appendix 1: photographs

Appendix 2: Louth County Development Plan 2015-2021 extract

Appendix 3: County Louth Local Economic & Community Plan 2016 – 2022 extract

Appendix 4: Commission Implementing Decision (EU) 2017 / 302 extract

Appendix 5: Dead Birds and Poultry Litter: Legal Obligations and Good Practice Guidelines for Poultry Farmers**,** Department of Agriculture, Food and the Marine, 2014 extract

Appendix 6: Integrated Pollution Control Licensing, Batneec, Guidance Note for the Poultry Production Sector, EPA 1998 extract

Appendix 7: Site Synopsis Dundalk Bay SPA 004026

Appendix 8: Site Synopsis Dundalk Bay SAC 000455