



An
Bord
Pleanála

Inspector's Report

ABP-307705-20

Development	Construction of animal farm, farm shop with ancillary tea room
Location	Dromgoolestown, Stabannon, Co Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	20326
Applicant(s)	Niall and Adrienne Reilly.
Type of Application	Permission.
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Niall and Adrienne Reilly.
Observer(s)	None.
Date of Site Inspection	3 rd of December 2020.
Inspector	Stephanie Farrington

1.0 Site Location and Description

- 1.1. The appeal site is located at the Charleville Interchange between the Strabannon Road and the M1 motorway. The site is roughly triangular in shape and has a stated area of 0.78 ha. The site is currently in agricultural use and a working farm is located within 100m of the site.
- 1.2. Access to the site is provided via an existing gated agricultural laneway off the L2226. A further gated access is provided off the Ardee Road.

2.0 Proposed Development

- 2.1. The proposed development comprises construction of a new open animal farm with associated pathways, gates and shelters, 153.9 sq.m. farm shop with ancillary tearoom, 18 no. car parking spaces, alterations to existing site entrance, new waste water treatment system and all associated site works.
- 2.2. The layout of the proposal is illustrated on the site layout plan. The eastern portion of the site is set aside for the growth of organic crops, a central car park area which accommodates 18 no. vehicles and a shop/ tearoom. The proposed shop/tearoom has an area of 154 sq.m. and is 4.655m in height and finished in Kingspan green finish. 12 no. animal shelters are proposed which are also finished in Kingspan green finish and have a height of 2.99m. A compost area is located in the south west corner of the site.
- 2.3. The following documentation was submitted in conjunction with the application.
 - Cover Letter
 - Site Characteristics Form
 - Soakaway Design
 - Planning Application Drawings
- 2.4. A rationale for the proposal is set out within the application documentation as follows:
 - The applicants are seeking to diversify existing farm activities

- The proposed open farm will be populated primarily by animals which are already kept on the family farm. The farm will provide an educational space for children to watch and learn about common types of farm animals.
- The proposed shop/tearoom will be ancillary to the open animal farm and products produced on the farm will be sold in the shop.

2.5. Details of the operation of the proposed open farm are set out within the response to Question 10 of the planning application form. The following is of relevance in this regard:

- Number of employees: 2
- Hours of Operation: 10am to 6pm
- Estimated daily volume and type of traffic associated with development including servicing of the site: Max 100 customers per day in cars.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was refused by Louth County Council in accordance with the following reasons and considerations:

1. The proposed development is located in close proximity to the Charleville Junction on the M1 Motorway (Junction 14). This is a rural interchange as defined by the Louth County Development Plan 2015-2021. Policy (RD40) of the Louth County Development Plan 2015-2021 stipulates that “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 in order to safeguard the rural landscape. Furthermore policy (EDE 13) has the objective to resist development at rural-related motorway interchanges in order to maximise the benefits accruing to the County from the motorway and to regulate development in a sustainable and appropriate manner along its route.

Accordingly, to permit the proposed development would materially contravene the aforementioned policy provision in the Louth County Development Plan 2015-2021, would set an undesirable precedent for further such development and would thereby be contrary to the proper planning and sustainable development of the area.

2. The subject site is located circa 7km from Dundalk Bay Special Area of Conservation and Dundalk Bay Special Protection Area. The River Dee is located within 200 meters of the subject site and as such has a potential hydrological pathway.

An Appropriate Assessment Screening Report for this development has not been undertaken to ensure protection of the habitats and species present and to address the impact of the development for the site in view of the site's qualifying interests and conservation objectives. On the basis of the information provided within the application and in the absence of a Screening Report for Appropriate Assessment or Natura Impact Statement 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 effect on Dundalk Bay SAC or Dundalk Bay SPA or any other European site, in view of the site's conservation objectives. In such circumstances, the Planning Authority is precluded from granting permission for the subject development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report reflects the decision of the planning authority to refuse permission for the development. The following provides a summary of the points raised:

- Refers to planning history in the vicinity of the site. A number of developments cited by the applicant were granted under a different policy context.

- The issues raised within the Environmental report could be addressed via further information in the instance of the principle of the proposal being acceptable.

3.2.2. Other Technical Reports

Environmental Section: Report recommends a request for further information confirming the following:

- Confirm drinking water source for the site; well is identified on site and watermain connection mentioned on site characteristics form.
- Details of how effluent from the proposed animal shelters and compost areas will be dealt with (effluent tanks may be required – provide calculations on how they are sized);
- Confirm section 4 licence (Water Pollution Acts 1977 and 1990 as amended – discharge of trade effluent to waters) will be applied for;
- Confirm the name of the person who will supervise the installation of the effluent treatment system and percolation area;

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

PA Ref 19/1088 planning permission refused in February 2020 for the construction of a new open animal farm with associated pathways, gates and shelters, a 153.9sqm farm shop with ancillary tearoom, 18 no. car parking spaces, alterations to existing site entrance, new wastewater treatment system and all associated site works.

Reasons for refusal reflect those cited under the current appeal and also include reference insufficient wastewater treatment system in compliance with the EPA Code of Practice.

5.0 Policy Context

5.1. Development Plan

Louth County Development Plan 2015-2021

- 5.1.1. The site is located within the administrative boundary of Louth County Council. The Louth County Development Plan 2015-2021 is the statutory plan.
- 5.1.2. The site is identified within Development Zone 5 within the zoning map. The following guidance for this zone is set out within the Development Plan: *“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”*.
- 5.1.3. Section 3.10.5 of the Development Plan outlines that 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.
- 5.1.4. Policy RD 39 relates to development within Zone 5 and seeks:
“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; developments to be used for leisure, recreation and tourism; holiday accommodation including cottages and lodges where these are part of an existing or proposed integrated tourism complex; hotels/ guest houses / B & B’s (only where the proposal involves the re-use or diversification of an existing building); extensions to existing authorised commercial and industrial developments; renewable energy schemes, public utility infrastructure, certain resource based and location specific developments of significant regional or national importance, critical infrastructure projects, nursing homes/analogous services, ** and Economic Business Zone at Carrickcarnan*** (for small scale commercial development linked to leisure, recreation and tourism, agricultural diversification and extensions to authorised developments)”*.

5.1.5. Section 3.3.1 of the Development Plan outlines that rural enterprise and employment opportunities will be vital to sustain the rural economy. The location of such enterprise and employment opportunities will be encouraged throughout the County in locations and at a scale which are considered appropriate. In this regard it is stated that large scale industrial and commercial development will be designated Level 1 (Drogheda and Dundalk) and Level 2 (Ardee and Dunleer) centres within the settlement hierarchy.

5.1.6. Section 3.3.1 furthermore outline that low impact rural and marine resource based industrial, commercial, business and service uses which contribute to supporting diversification and growth of the rural economy may be considered in rural areas outside of existing settlements. Such proposals must demonstrate that they are intrinsically linked to the rural area and cannot be operated from existing urban settlements in County Louth. Acceptable uses which may be considered can include but is not exhaustive of:

- Agricultural diversification proposals,
- Provision of tourism facilities. The type of facilities envisaged would be renovation of farm buildings for tourism purposes, walking, cycling, angling, pony trekking, bird watching etc,
- Development of niche tourism and educational services such as arts and crafts, specialty food provision, open farms etc.
- Development of farm shops selling home/locally grown and manufactured products,
- Organic food production,
- Small scale renewable energy projects,
- Marine based enterprises including mariculture
- Low impact rural and marine resource-based industry/commercial/business.

The scale of such enterprises should not be detrimental to surrounding residential amenity, prejudice road safety, compromise the Natura 2000 network or threaten surface water or groundwater sources. All such proposals will be assessed on a case-by-case basis.

5.1.7. Policy RD 40 of the County Development Plan outlines that *“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 in order to safeguard the rural landscape”*.

5.1.8. The following policies are relevant to the proposal:

- 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 4: To encourage the development of alternative rural based enterprises, including home based enterprises, where the scale and nature of such enterprises are not detrimental to the amenity of the area, adjoining dwellings and where the proposal can meet all other planning requirements. Any proposals must demonstrate that they have a site-specific link to the rural area, are appropriate for the site size and be of a scale commensurate with the rural area.
- RD11: To consider farm-based diversification which is complementary to the farm and is operated as part of the holding.
- RD 12: To encourage rural diversification intended to supplement farm incomes such as production of dairy products, soft fruit production, forestry. Horse livery, food production, agri-tourism and specialist farm practices.
- RD16: To support sustainable tourism enterprises that are developed at appropriate locations in conjunction with established rural activities and to facilitate the development of agri-tourism.
- EDE 13: To resist development at rural related** motorway interchanges.
***Rural related interchanges are Carrickcarnon junction, Drumleck, Charleville, Mooremount and Woodlands.*

5.2. Natural Heritage Designations

5.2.1. The following European sites lie within a 15km buffer of the appeal site and further consideration of these sites is set out under Section 7 (Appropriate Assessment) of this assessment.

- Stabannan-Braganstown Special Protected Area (SPA) (Site Code 004091) c. 2km.
- Dundalk Bay SPA (Site Code 004026) c.6.98km.
- Dundalk Bay Special Area of Conservation (SAC) (Site Code 000455) c.6.98 km.

5.3. EIA Screening

5.3.1. Having regard to the nature of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can therefore be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal has been received from Harmon McCarthy Projects Limited on behalf of the applicants Niall and Adrienne Reilly. The following provides a summary of the grounds of appeal.

- A rationale for the proposed development is provided. The proposed open farm will provide an educational space for children and showcase the strong farming and agricultural heritage of the rural community.
- While the appeal site is located adjacent to the motorway, no part of the development is accessed from the interchange.
- Refers to commercial/industrial developments in the vicinity which of the interchange which have been granted permission in line with the same or similar Development Plan policies.

- Proposed use is not contingent on its proximity to the motorway and Policies EDE13 and RD40 cited within the first reason for refusal do not apply in this regard.
- The appeal site is located approx. 7km from the Dundalk Bay SAC and SPA and it is not expected the proposed development, which is similar in scope to existing farming practices on site with the addition of a small shop and tea-room will not have a discernible effect on the designated sites.

6.2. Planning Authority Response

- None

6.3. Observations

- None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Access and Transportation
- Water Services and Groundwater
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The appeal site is in agricultural use and is located in a rural area outside of any designated rural settlement. The area in which the site is located is designated as 'Zone 5' within the Louth County Development Plan, 2015-2021. The objective for Zone 5 is: *"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”.

- 7.2.2. Policies which relate to Development Zone 5 include Policy RD39, which sets out a list of suitable categories of development, including ‘agricultural developments’ and ‘agricultural diversification’. Policies RD11 and R12 of the Development Plan encourage the diversification of the rural economy.
- 7.2.3. The site is currently in agricultural use and a case is made within the application documentation that the proposal would support the diversification of existing farm activities. Having reviewed the application documentation and the nature and characteristics of the proposal I consider the proposal to constitute an agricultural diversification project with educational/ tourism qualities.
- 7.2.4. I consider that in principle of an open farm use on within an existing working farm on Zone 5 lands can be considered subject to compliance with other policies, objectives and development management standards set out within the County Development Plan.
- 7.2.5. The planning authority’s first reason for refusal outlines that the proposal would materially contravene Policy RD40 of the County Development Plan which relates to development within Zone 5 and outlines the following: *“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 in order to safeguard the rural landscape”.*
- 7.2.6. On review of the nature and characteristics of the proposal which includes an open farm and ancillary farm shop and tearoom I do not consider that the development would fall within the terms of classification of “conventional industrial or commercial development” which are directed to existing settlements.
- 7.2.7. I accept the case made within the first party appeal that the proposal constitutes a farm diversification project, and the proposed farm shop and tearoom is ancillary to the proposed open farm use. I note the references within the application documentation to the fact that the produce of the farm will be sold in the shop and used in the tearoom.

- 7.2.8. Farm diversification projects are identified as an appropriate form of development within Zone 5. I note the guidance set out within Section 3.3.1 of the Development Plan which outlines that low impact rural commercial uses which contribute to supporting diversification and growth of the rural economy may be considered in rural areas outside of existing settlements where they are intrinsically linked to the rural area.
- 7.2.9. Specific reference is made to the development of farm shops selling home/locally grown and manufactured products as an acceptable format of development within this Zone. In accordance with the guidance set out within Section 3.3.1 of the Development Plan such applications will be assessed on their individual merits on a case by case basis and having regard to site specific and environmental criteria.
- 7.2.10. In my view, the proposal does not represent a scale or format of development which would either impact on the vitality or viability of the existing settlements or is a development which is reliant on its location in proximity to a motorway junction.
- 7.2.11. I note the rationale for Policy RD40 which relates to safeguarding of the rural landscape. In design terms I consider the proposed buildings reflect the rural character of the area. The proposed shop/tearoom has an area of 154 sq.m. and is 4.655m in height and finished in Kingspan green finish. 12 no. animal shelters are proposed which are also finished in Kingspan green finish and have a height of 2.99m.
- 7.2.12. Policy RD4 and RD5 of the County Development Plan which seek to protect the amenity of the rural area and ensure that development proposals do not impinge on areas of special amenity value or areas designated as sensitive landscapes. In this regard I note that no Views and Prospects are identified within the vicinity of the site within Map 11.1 "Scenic Routes Views and Prospects" set out within Appendix 11 of the County Development Plan.
- 7.2.13. Landscape Character Areas are identified within Appendix 14 Map 14.3 of the County Development Plan. The appeal site is located within the Muihevna Plain character area which is classified as being of local importance within the development plan.
- 7.2.14. In visual terms I consider that the proposed new structures have been designed to be in keeping with the existing farm buildings on site. Existing boundary treatments

include a mature tree line to the south of the site adjacent to the site's boundary with the N33 which are proposed to be retained as part of the development. Such boundary treatment would negate against visual impact.

- 7.2.15. On an overall basis, having regard to the design, height and scale of the proposed buildings I do not consider that these would represent a visually discordant element in the rural landscape.
- 7.2.16. Having regard to the above reason and considerations, I consider the reference to material contravention of Policy RD40 within the planning authority's reason for refusal to be misplaced in this instance. It is in my view that the proposed farm shop/tearoom is ancillary to the operation of the open farm and does not constitute a conventional commercial development which is directed to existing settlements. I do not consider the proposed farm shop to represent a scale or format of development which would impact on the vitality and viability of existing settlements. The Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act.
- 7.2.17. In the instance that the Board considers the issue of material contravention to arise I refer to the existing pattern of development within the area including a livestock Mart and Agri sales premises in the vicinity of the site. I furthermore note that diversification of agricultural activities is supported within Rural Development Zone 5 and by policies RD39 and Section 3.3.1 of the Louth County Development Plan.

7.3. Access and Transportation

Policy EDE 13

- 7.3.1. Louth County Council's first reason for refusal furthermore outlines that the proposal would materially contravene Policy EDE 13 of the County Development Plan. Policy EDE 13 seeks to "resist development at designated rural related motorway interchanges". The appeal site is located adjacent to the Charleville rural interchange.
- 7.3.2. A rationale for Policy EDE13 of the Development Plan is set out within Section 6.2.5 of the County Development Plan as follows:

“Motorway interchanges are strategic locations much sought after by developers due to the desirability and benefits of having immediate access to the primary road network.

However, uncontrolled and poorly regulated development at interchanges can often be problematic. This can be due to such development being solely dependent on road transport, the possibility of traffic congestion on national routes, the impact on rural landscapes and environments and the costs involved in the provision of other infrastructure such as piped services, electricity and gas. Such development can also detract investment from existing towns and settlements that are much in need of renewal and development.

In order to maximise the benefits accruing to the County from the motorway and to regulate development in a sustainable and appropriate manner along its route, the following policies will be applied”.

- 7.3.3. A case is made within the first party appeal that having regard to the nature and characteristics of the proposal and proposed access arrangements the provisions restricting development near the motorway interchange as set out within Policy EDE13 do not apply in the instance of the proposal.
- 7.3.4. At the outset I note access arrangements to the appeal site. The proposed development is not accessed off the interchange or a road directly leading to the interchange. I refer to the application drawings in this regard which indicate that the existing agricultural gated access points from the N33 will be closed up. Vehicular access to the site is proposed from the existing entrance from the L2226 to the east of the site as illustrated within the attached presentation document.
- 7.3.5. A case is made within the first party that the applicants are not developers looking to take advantage of the location of the site in proximity to the interchange. The proposal seeks to diversify existing agricultural activities on an established family farm. Reference is furthermore made to industrial and commercial development permitted within the vicinity of the site under the same or similar policy context. I accept the case made by the applicant in this regard.
- 7.3.6. I note the wording of Section 6.2.5 of the County Development Plan which details the types of development which can be problematic at motorway interchanges. Impacts

associated with such development are described as traffic congestion on national route and impacts on the rural landscape and environment.

- 7.3.7. As earlier detailed, I do not consider the proposal to represent a format of development which would form a visually intrusive addition to the landscape nor constitute a scale or format of development which would detract from investment in existing towns and villages. I furthermore do not consider the proposal to represent a format of development which would result in traffic congestion on the national route or have significant environmental impact. Potential traffic and environmental impacts of the proposal in further detail in the following sections of this assessment.
- 7.3.8. Having regard to the above reason and considerations and the characteristics of the proposal I consider the reference to material contravention of Policy EDE13 within the planning authority's reason for refusal to be misplaced in this instance.
- 7.3.9. I consider the proposal to be linked to the existing and established agricultural use of the lands rather than its location in proximity to the national road network. The Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act.
- 7.3.10. In the instance that the Board considers the issue of material contravention to arise I refer to the existing pattern of development within the area including a livestock Mart and Agri sales premises in the vicinity of the site. I furthermore note that diversification of agricultural activities is supported within Rural Development Zone 5 and by policies RD39 and Section 3.3.1 of the Louth County Development Plan.

Proposed Access Arrangements

- 7.3.11. Access to the appeal site is currently provided via an existing gated cul de sac road to the north of the site which connects to the L2226 to the east. The speed limit in the vicinity of the site is 80kmph. The L2226 runs in a straight alignment in the vicinity of the existing entrance, the existing entrance is set back from the road and I observed no obstructions to visibility.
- 7.3.12. A separate access is provided to the existing residential property from the L2226 and a further agricultural entrance is provided along the L2226. An existing agricultural gated access is provided to the south of the site along the N33 but this is proposed to be closed as part of the development proposals.

- 7.3.13. The cul de sac road which provides access to the appeal site is c. 6m in width with a grass verge at either side of the road. The road was overgrown at the date of site inspection. The road currently provides access to the appeal site and existing agricultural holding to the north of the site.
- 7.3.14. Alterations to the existing access to the site are proposed as part of the proposal. Drawing no. 012529-002 Proposed Site Layout and Contiguous Elevations illustrates revisions to the existing access to the appeal site to provide for 75m sightline from the entrance at 3m. A c.9m splayed entrance is provided with from the cul de sac road and the internal road is c. 4m in width.
- 7.3.15. A total of 18 no. car parking spaces are proposed as part of the development. This provision is in accordance with the requirements of Table 7.6 of the Louth County Development Plan and dimensions of the spaces are indicated as 2.5m x 5m in accordance with development plan requirements.
- 7.3.16. Details of the operation of the proposed development are set out in response to Question 10 of the planning application form. The following information is of relevance:
- Number of employees: 2.
 - Hours of Operation: 10am to 6pm.
 - Estimated daily volume and type of traffic associated with development including servicing of the site: Max 100 customers per day in cars.
- 7.3.17. Other than references to development plan policy EDE13 which relates to development at motorway interchanges no concerns relating to the proposed access are raised within Louth County Council's notification of decision to refuse permission in relation to the proposed access arrangements.
- 7.3.18. While no report has been received from the infrastructure section, I note that a report was prepared under the previous application pertaining to the site under PA Ref 19/1088. No objection to the principle of the proposed access arrangements were raised within this report and a decision to grant permission was recommended subject to conditions including details for the proposed entrance.
- 7.3.19. Having regard to the proposed nature and scale of the development, I have no objection to the proposed access arrangements subject to conditions relating to

visibility at the proposed entrance and closure of the existing gated access from the N33.

7.4. **Site Services - Water**

Wastewater Treatment for proposed Farm Shop/Tearooms

- 7.4.1. A new wastewater treatment system is proposed to serve the proposed farm shop and tea rooms. A Wastewater Treatment Design report is submitted in conjunction with the application.
- 7.4.2. The application is accompanied by a Site Characteristic and Assessment report prepared by Hydrocare Environmental Limited. The site is on relatively flat ground with a slope <1:20 pasture field and was firm under foot at the time of site inspection. The soil type is categorised as Till derived from limestone. Groundwater flow in the area is identified in a southern direction towards the River Dee. The groundwater protection response is R1.
- 7.4.3. The submitted Site Characterisation Form states that a trial hole, with a depth of 2.1m recorded the following: c.0.4m of silt/clay with humus and 0.4m to 2.1m of silt/clay with pebbles. A likely T value of 40 is identified.
- 7.4.4. With regard to the percolation characteristics of the soil 3 no. percolation test holes were examined. They resulted in T values of 38.33min/25mm, 38.67min/25mm, 39.33min/25mm. An average T value of 38.78 minutes/25mm is identified.
- 7.4.5. The Site Characteristics Form confirms adequate topsoil percolation which is well suited for use as a polishing Filter as per EPA Code of Practice 2009.
- 7.4.6. A 32PE Treatment System is proposed, designed certified and maintained by O' Reilly Oakstown Ltd. The system will consist a minimum of 300 sq.m. as per EPA Code of Practice 2009. The values for Pubs and Clubs as per EPA Manual Treatment Systems for Small Communities, Business, Leisure Centres and Hotels would result in 204 m² polishing filter. Allowing for possible future expansion the Polishing Filter Bed will be sized at 300m². Grease control measures are proposed upstream of the treatment system.
- 7.4.7. The characteristics form identifies distances between the sites and adjoining land uses and notes that there are no houses, lakes, surface water ponding, areas/ wetlands, karst features or watercourses streams within 100m of the site.

- 7.4.8. No objection to the principle of the proposed waste-water treatment system is raised within the report on file from the Environmental Compliance Section of Louth County Council. A request for further information is recommended relating to details of the person who will supervise the installation of the effluent treatment system and percolation area. I consider that such details can be addressed via condition.
- 7.4.9. Having regard to the information submitted I am satisfied that that the subject site is suitable for the installation of the proposed packaged wastewater treatment system with polishing filter.

Surface Water

- 7.4.10. Surface Water disposal is via soakaway infiltration pipes to the north of the parking area and adjacent to the eastern site boundary. These are fitted with silt traps.
- 7.4.11. The report on file prepared by HydroCare Environmental Ltd. confirms that the site is suitable for a soakaway infiltration system and outlines that the proposed system has been designed in accordance with BRE 365 requirements.
- 7.4.12. While no report from the Infrastructure division has been prepared in respect of the subject application, I note that the report prepared in respect of the previous application PA Ref: 19/1088 raised no objection to a soakaway infiltration system subject to conditions.
- 7.4.13. Having regard to the information submitted I am satisfied that the proposed arrangements are sufficient to cater for surface water run-off relating to the site.

Water Supply

- 7.4.14. Water supply is proposed via a new well on site. The report on the file prepared by the Environmental Compliance Section in Louth County Council recommends a request for further information in relation to the proposals for water supply. The issues raised relate to confirmation of drinking water source in light of reference to watermain connection in the site characteristics form and well indicated on the Proposed Drainage Layout. Information relating to distance from every percolation area within 100m of the site is also requested.
- 7.4.15. The applicant provides confirmation within the first party appeal that water supply is proposed via a new well on site. The well is located c. 130m from the proposed soil polishing filter bed and approx. 150m from the proposed compost area as illustrated

within Drawing no. 012529-004 Proposed Drainage Layout. In this regard the proposed water supply is in accordance with EPA Code of Practice. I have no objection to the principle of the proposed well to serve the development.

Groundwater Quality – Disposal of Animal Effluent

- 7.4.16. Section 8.5 of the Louth County Development Plan relates to groundwater pollution and outlines that poor agricultural management is one practice, which amongst others, can cause nutrients to be washed into ground and surface water.
- 7.4.17. The proposal relates to the development of an open farm use within an existing working farm. 12 no. animal shelters are proposed and a compost area is located in the south west corner of the site.
- 7.4.18. The report on the file prepared by the Environmental Compliance Section in Louth County Council recommends a request for further information relating to details of how effluent from the proposed animal shelters and compost areas will be dealt with. Reference is made within the report to the potential requirement for effluent tanks and details of the sizing of such tanks.
- 7.4.19. No details relating to the treatment of effluent from the proposed animal shelters and compost areas is provided within the appeal. However, I note that the site is currently in agricultural use and having regard to the small scale nature of the proposal I consider final details can be agreed via condition with the planning authority.

7.5. Appropriate Assessment

- 7.5.1. Louth County Council's second reason for refusal outlines that in the absence of a Screening Report for Appropriate Assessment or Natura Impact Statement 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 effect on Dundalk Bay SAC or Dundalk Bay SPA or any other European site, in view of the site's conservation objectives. In such circumstances, the Planning Authority is precluded from granting permission for the subject development.
- 7.5.2. The planner's report which informs the decision to refuse permission for the proposal makes specific reference to potential for run off and windblown debris to enter the River Dee which lies 200m to the south of the site.

- 7.5.3. A case is made within the appeal that the site is currently in agricultural use and the proposed development is considered no more onerous than the existing use. The proposed new farm shop and tea rooms contains a fully compliant wastewater treatment system in accordance with EPA Code of Practice with any refuse from the farm shop being collected and treated off site.
- 7.5.4. A case is made in the appeal that given the distance between the appeal site and designated sites and the nature and characteristics of intervening development including a Livestock Sales Mart and an Agricultural products sales yard the proposal is not envisaged to have a significant impact on designated sites.
- 7.5.5. A screening report for Appropriate Assessment was not submitted with this application/ appeal case. Therefore, this screening assessment has been carried de-novo.

Likely significant effects

- 7.5.6. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 7.5.7. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to determine whether it may give rise to significant effects on any European Site.

Brief description of the development and site

- 7.5.8. The proposed development comprises of an open farm and ancillary shop/ tearoom use. The application documentation outlines that existing animals housed on the farm will be accommodated within the open farm. Water supply is proposed via a well and a new waste-water treatment system is proposed to serve the shop/tearoom use. Surface Water disposal is via a proposed soakway 5.9m to the north of the proposed coffee shop.
- 7.5.9. The report from the Environment Section in Louth County Council outlines that no details are provided within the application in relation to how effluent from the proposed animal shelters and compost areas will be dealt with. Such details are not

provided within the appeal. Notwithstanding this, I note that there is no change in the overall agricultural use of the site.

European Sites

7.5.10. The development site is not located in or immediately adjacent to a European site.

The nearest designated sites are:

- Stabannan-Braganstown Special Protected Area (SPA) (Site Code 004091) c. 2km.
- Dundalk Bay SPA (Site Code 004026) c.7km.
- Dundalk Bay Special Area of Conservation (SAC) (Site Code 000455) c.7 km.

7.5.11. There are no direct ecological pathways between the proposed development site and the designated sites.

7.5.12. There is no pathway to Stabannan-Braganstown SPA. The site is of ornithological importance as it supports an important population of Greylag Goose, which on occasion occurs in numbers of international importance. This site can be excluded for any further examination as there is no possibility of any significant effects.

7.5.13. A potential hydrological pathway from Dundalk Bay Special Area of Conservation and Dundalk Bay Special Protection is provided via the River Dee which runs 200m to the south of the site. Dundalk Bay is a large open shallow sea bay with extensive saltmarshes and intertidal sand/mudflats, extending some 16 km from Castletown River on the Cooley Peninsula, in the north, to Annagassan/Salterstown in the south. The Bay is designated as an SAC and SPA.

7.5.14. Qualifying interests associated with Dundalk Bay Special Area of Conservation (SAC) (Site Code 000455) include the following:

- *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*

- 7.5.15. Dundalk Bay SPA (Site Code 004026) is one of the most important wintering waterfowl sites in the country and one of the few that regularly supports more than 20,000 waterbirds. Four species occur in numbers of international importance and a further 19 species in numbers of national importance. The NPWS Site Synopsis outlines that the regular occurrence of Golden Plover, Bar-tailed Godwit, Red-throated Diver, Great Northern Diver and Little Egret is of particular note as these species are listed on Annex I of the E.U. Birds Directive. Dundalk Bay is a Ramsar Convention site and parts of Dundalk Bay SPA are designated as Wildfowl Sanctuaries.
- 7.5.16. The open farm use is a very low impact activity and is part of the overall farm enterprise. 12 no. shelters are proposed which would house a low number of animals. Water supply is proposed via a well and a new waste-water treatment system is proposed to serve the shop/tearoom use in accordance with the EPA Code of Practice. Surface Water disposal is via a proposed soakaway system.
- 7.5.17. I note that there is no direct pathways between the appeal site and any designated site which would convey nutrient rich run off/effluent from the site. The proposal does not have any direct connection to the River Dee and, given the intervening habitats and infrastructure which would intercept any possible surface water, there is no likelihood of any significant agricultural related run off making its way into the River Dee.
- 7.5.18. Having regard to the low probability of any significant levels of possible escape of animal effluent from the site, the absence of any direct pathways, the distance between the appeal site and the River Dee and the nature and characteristics of intervening habitats and infrastructure development including the Ardee Road, Livestock Sales Mart and an Agricultural products sales yard, I am satisfied that the proposal would not result in any effects that could impact on the conservation objectives of Dundalk Bay SAC or SPA.
- 7.5.19. Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on European Sites at Stabannan-Braganstown Special Protected Area (SPA) (Site Code 004091), Dundalk Bay Special Protected Area SPA (Site Code 004026) and Dundalk Bay

Special Area of Conservation (SAC) (Site Code 000455), or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

7.5.20. This determination is based on the following:

- No likely significant pollutant source arising from the proposed development.
- Distance of the proposed development from European sites and lack of meaningful ecological connections/pathways to those sites.
- In the absence of a pathway, there is no possibility of any significant effects on sensitive receptors.

7.5.21. As there are no impacts to the SAC or SPA arising as a result of this development, there is no potential for cumulative impacts. There are no likely impacts arising from the proposed development on Natura 2000 sites and therefore cumulative impacts with other projects will not occur.

7.5.22. In making this screening determination no account has been taken of any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

7.5.23. On the basis of the above screening determination, I consider that the issues raised within Louth County Council's second reason for refusal have been addressed.

8.0 Recommendation

8.1. I recommend that planning permission is granted for the proposed development in accordance with the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the nature and limited scale of the proposed open farm development on an existing farm holding, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the policies of the planning authority in relation to farm diversification, would not be prejudicial to public health, would not lead to risk of environmental pollution, would not seriously injure the amenities of the area or of property in the vicinity and

would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The farm shop and ancillary tearoom shall be restricted to this use and shall not be operated as an open retail use.</p> <p>Reason: To clarify the scope of the permission and to protect the vitality and viability of existing settlements.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed farm shop/ tearoom and animal shelters shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>The proposed vehicular entrance shall comply with the following requirements:</p> <p>a) Adequate sightline visibility shall be made available and maintained as indicated on Proposed Site Layout and Contiguous Elevations Drawing no 012529-002. No impediment to sightline visibility shall be placed,</p>

	<p>constructed, placed and/or allowed to remain within the sightline visibility triangle.</p> <p>b) The existing access gate from the N33 shall be closed in accordance with application details. No access/egress to the site from the N33 shall be provided.</p> <p>Reason: In the interest of traffic safety.</p>
5.	<p>(a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties. Surface Water Attenuation and disposal shall be in accordance with the Soakaway Design BRE 365 report prepared by Hydrocare Environmental Limited.</p> <p>(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.</p> <p>Reason: In the interest of traffic safety and to prevent pollution.</p>
6.	<p>(a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority [on the 11th day of May, 2020], and in accordance with the requirements of Environmental Protection Agency Code of Practice 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(b) Within three months of the operation of the development, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>

7.	<p>The development shall be managed in accordance with a management schedule which shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The management schedule shall provide at least for the following:</p> <ul style="list-style-type: none"> a) Details of the number and types of animals to be housed. b) The arrangements for the collection, storage and disposal of effluent from animal shelters and compost areas. c) Arrangements for the cleansing of the buildings and structures (including the public road, where relevant). d) Details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials [and for the ongoing operation of these facilities] shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. <p>Reason: In order to avoid pollution and to protect amenity.</p>
8.	<p>All service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p>Reason: In the interest of visual amenity.</p>
9.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the</p>

	<p>matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>. Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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Stephanie Farrington
Senior Planning Inspector
11th of January 2021