



An
Bord
Pleanála

Inspector's Report

ABP-309251-21

Development	Demolition of 4 pig houses and 2 manure storage tanks and to construct 3 replacement pig houses. NIS & EIAR lodged with application
Location	Dungummin Lower, Mountnugent , Co. Cavan Cavan County Council
Planning Authority	
Planning Authority Reg. Ref.	20477
Applicant(s)	Kiernan Farms (Aughafad) Limited Company.
Type of Application	Permission
Planning Authority Decision	Permission
Type of Appeal	Third Party
Appellant(s)	Eddie Connell
Observer(s)	None
Date of Site Inspection	18 th of May 2021
Inspector	Angela Brereton

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1.0 Site Location and Description

- 1.1. The subject site with a stated area of c.2.492ha, is located in the townland of Dungummin Lower, approximately 2.2km SE of Mountnugent and 6.2km south of Newcastle. It is within the rural agricultural area and is accessed by a service road to the farm, off the Local Road L7087-0. The access from the public road is widened and splayed and the access road to the farm buildings has been recently surfaced in hardcore material. There appear to be adequate sight lines in either direction at the entrance.
- 1.2. There are a large number of existing buildings both within the red line boundary of the proposed development site and directly adjacent. The buildings within the proposed development site are unused piggery units and manure storage containers. The buildings adjacent to the site are comprised of a derelict dwelling, agricultural barns and sheds. At the time of my site visit all of these buildings appeared vacant and in poor condition. They and the yard area appeared not to have been in use for agricultural purposes for some time.
- 1.3. The site as shown in the red line boundary in the current application contains two adjoining parcels of land. The northern section contains the existing farm buildings and yard. It adjoins farm buildings (these also appear unused and in poor condition) on lands not in the ownership of the applicant. The southern part of the site, also included in the red line boundary, is in an existing forested area and has not been developed as part of the farmyard area or put into such agricultural use. The trees appear to comprise mainly conifers with some ash at the periphery. There is a ditch along the northern boundary of these forested lands. The conifers in the plantation are densely planted and this area of the site is currently not very accessible from the farmyard. There are also trees along part of the access route to the site.
- 1.4. It is noted that there is a house and some outhouses that are not on the landholding further to the south of the site. There is also a derelict house to the south-west in Dungummin Lower with access off the Local Road L7087-0. There are a number of sporadic one-off houses with access to the Local Road in the vicinity.

2.0 Proposed Development

- 2.1. As described in the Public Notices, this proposal seeks permission for the following:
- To demolish 4no. existing pig houses and 2no. manure storage tanks (as previously approved) and to construct 3no. replacement pig houses (in lieu of 6no. replacement pig houses and associated works approved under planning Ref.19/250 and PL02.305444).
 - Together with all ancillary structures (to include meal bins and soiled water tanks) and all associated site works arising from the proposed development.

All at Dungummin Lower, Mountnugent, Co. Cavan.

- 2.2. This application relates to a development, which is for the purposes of an activity requiring a licence under Part V of the Environmental Protection Agency (Licensing) Regulations 1994 to 2013. This farm will have to apply for and operate under a licence from the EPA.
- 2.3. The application form provides that the g.f.s of the existing buildings to be demolished is 1458sq.m and of that proposed is c. 5018sq.m. It is provided that the site is serviced via an existing connection to a private well.
- 2.4. It is of note that while the wording of the description of the development as included on the Public Notices is referred to above, that this is a separate application made for the development as currently proposed. As such, to clarify, it is a stand-alone development, to be considered on its merits, rather than as 'in lieu' of or to be seen in conjunction with the extant permission PL02.305444. Of particular note, in this case, is the impact on the environment, water and of land spreading, and taking into account the proximity of the proposed development to Lough Sheelin.
- 2.5. An Environmental Impact Assessment Report (E.I.A.R) and Natura Impact Statement (N.I.S) relating to the proposed development have been submitted.
- Appendices 1 – 20 have been included with the E.I.A.R. These include:
- Appendices no. 1 and 6 - Customer Farmland and Location
 - Appendix no. 13 – Natura Impact Statement (N.I.S)

3.0 Planning Authority Decision

3.1. Decision

On the 21st of December, 2020, Cavan County Council granted permission for the proposed development subject to 11no. conditions. These include development contributions (condition no.2), that all of the mitigation measures set out in the EIAR and NIS are carried out in full (condition nos. 3, 4, 5 and 6). Other conditions deal with external finishes (condition no.7) construction practices (nos. 8, 9, 10), water supply and drainage arrangements (condition no.11).

3.2. Planning Authority Reports

3.2.1. The Planner's Report had regard to the locational context of the site, planning history and policy, to the interdepartmental reports and submissions made. Their Assessment included:

- Regard to the scale of the proposed agricultural development, its location in a rural area, on the site of an existing farming operation of similar nature.
- They note the Inspector's Report for Reg.Ref.19/250 (ABP Ref.305444-19) which, while in a different location is substantially the same as the current proposal.
- They refer to policies of the County Development Plan which support the sustainable development of the agricultural industry.
- They recommended conditions which include the implementation of mitigation measures set out in the EIAR and NIS.

3.3. Other Technical Reports

Environment Section

They have concerns about the impact on local water courses and water bodies and the need to improve ecological status. They provide comments on the EIAR and NIS submitted and recommend that mitigation measures be included. They note that based on the numbers of stock an EPA licence will be required. They recommend

that the EPA and Inland Fisheries Ireland should be notified regarding the details of this application. They also recommend conditions based on the mitigation measures set out in the NIS and relative to noise (Section 4.9.1) of the EIAR.

3.4. **Prescribed Bodies**

An Taisce

They are concerned about drainage and the disposal of effluent taking into consideration the potential impact on water courses and the proliferation of intensive agricultural operations within the catchment of Lough Sheelin SPA. They submit that precise hydrological linkages between the site and Lough Sheelin need to be identified, baseline ecological status assessed and this information inputted into the NIS. They are also concerned about lack of information on hydrogeological drawdown and landspreading and cumulative impact.

Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media

They note the location, scale and extent of the proposed development and recommend that pre-development archaeological testing be carried out.

3.5. **Third Party Observations**

A Submission had been received from local resident Eddie Connell, detailing his concerns about the proposed development. As he is the subsequent Third Party, his concerns are dealt with further in the context of the Ground of Appeal and in the Assessment below.

4.0 **Planning History**

Recent – Subject Site

- Reg.Ref.19/250 – Permission granted subject to conditions by Cavan County Council to Kevin Kieran for the following: Demolition of 4no. existing pig houses and two no. manure storage tanks and the construction of 6no. replacement pig houses together with all ancillary structures (to include meal bins, wash water tanks and ancillary stores) and all associated site works arising from the proposed development.

This was the subject of a Third Party Appeal to the Board and permission was subsequently granted subject to conditions (Ref.ABP-305444-19 refers).

A copy of the Board decision is included in the Appendix to this Report. That proposal was subject to EIA and an NIS was included. The proposed development would require a licence from the EPA licence. This to date has not been enacted.

5.0 Policy Context

National Planning Framework

National Policy Objective 23 - Facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.

The European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017

This provides the relevant standards for the collection and disposal of farm yard manure to give effect to Ireland's Nitrates Action Programme for the protection of waters against pollution caused by agricultural sources.

Development Plan

Section 3.4 of the Cavan County Development Plan 2014-2020 (extended) sets out policies in respect of agriculture. These include policies and objectives EDP1, EDP2, EDP3, ED01, ED04, ED05, ED06 and ED07 which support the development and diversification of agriculture in the County subject to environmental considerations.

Relevant water protection policies are set out in policies NHEP26-31 and objectives NHEO50-53.

Natural Heritage Designations

The appeal site is not within any site of nature conservation interest (see attachments). The nearest protected site is Lough Sheelin c. 3km to the west of the appeal site is designated as an SPA (site code 004065) and a proposed NHA (site

code 000987). To the south of Lough Sheelin, c. 6km to the south-west of the site, is Moneybeg and Clareisland Bogs SAC (site code 002340).

6.0 The Appeal

6.1. Grounds of Appeal

A Third Party Appeal has been submitted by local resident, Eddie Connell. The Grounds of Appeal include the following:

Procedural, Administrative and Planning History

- The public notices provide an inadequate and misleading description of the changes proposed in the subject development and are lacking in clarity.
- This planning application has been considered on the basis that the site is planning compliant. There is no historical planning permission on file for a piggery/or piggeries in this location. Some of the sheds and the over-ground circular steel slurry tank appear to have been constructed in the 1980's.
- No planning permission exists for the proposed entrance, which would also appear to have been constructed in the recent past.
- The site contains more buildings than shown on the plans submitted. There are three slatted sheds and two disused and abandoned piggeries located to the south-east of the site from the six new piggeries. Three cattle sheds on the site with underground tanks are not accounted for, relative to estimation of slurry.
- The site drawings do not show any site contours or levels that suggests that the site is bog land and is liable to flooding. It should be noted that the location of the proposed piggery buildings and underground tanks is directly deemed by the OPW to be Bog Land. They note their concerns about this including relative to flooding.
- The risks associated with having 5 million litres of pig slurry stored below the water table is unthinkable. The EIAR has not accounted for this variable.

- There is inadequate detail on the proposed water supply for this development. No details have been provided or sought on the existence of the well or whose ownership it is under.
- The EIAR does not detail the implications of the level of water extraction proposed. There is a discrepancy of 3,166 million litres of slurry this is unaccounted for.

Abandonment

- The site has been abandoned and is in a derelict state. No operations have been taking place and no evidence was introduced by the applicants to prove that the site was in use as stated. Local knowledge is definite that this site has not been used as a piggery in the past 10 years and longer.
- An inspection of the Land Folio reference, provides that Kiernan Farms (Aughafad) only came into possession of the property some weeks before Reg.Ref. 19/250 was lodged with the Council.
- The planning application and EIAR is predicted on the assumption that this is an existing pig farm operating at c. 2700 place weaner/grower farm. The units are not operational and appear to have been abandoned for some length of time. This is not a working farm.
- It is worth noting that if a piggery of the scale claimed exists, then why was there not a live IPPC licence in operation covering the site.
- It is reasonable to conclude that the EIAR and figures therein are baseless. They also note that the photographs with the Planner's Report refer to the existing structures as 'derelict buildings'.
- They consider that the sale of the property in 2019, was speculative, with the expectation that the abandoned, derelict piggery could be classed as an ongoing concern and planning would be forthcoming on a brownfield site.
- If the abandonment issues have implications for determining the appropriate baseline environment, the operation of a piggery on site could not form the basis of the baselines studies for the purposes of carrying out the EIAR.

Heritage

- It has been considered that the site location area has no Archaeological issues, when the site is a very typical drumlin landscape, that has largely been left undisturbed down through the centuries.
- The application has not had due regard to the heritage in the area. OS Mapping shows the proliferation of Ring forts in the general area. There are 7 protected monuments within 800m of the proposed site and 4 of which are within 500m of the subject site. Due consideration has not been had to the location of these. The relocation for this development will bring the pig factory ever closer to the National Monuments.

Residential Impact

- Residential properties will devalue as a result of a development such as this. Where there is a real or perceived danger to public health, people will make a decision not to purchase a property based on that danger.
- The scale of the proposed piggery as discussed in the EIAR is massive and the associated risk to local water ways, the water table, and the local environment is unfair on local residents.
- No proper consultation has taken place with adjacent residents and the Appellant's home is within 300m of the proposed development. His dwelling is served by a local well, down-stream of the proposed development. This poses a significant risk relative to water contamination and public health. Also risk relative to vermin infestation, noise and odours.
- The planning permission as granted brings the proposed development closer to his residence which is not acceptable. The proposed development is now a stand-alone greenfield development and no justification has been made for the change of location.

Local Flora and Fauna

- A considerable Bat colony exists within the disused piggeries and the disused adjoining sawmill. The EIAR should have accounted for them by way of a survey. The demolition of a section of forestry will be to the detriment of the associated wildlife.

- No information or study was carried out to identify the otter, badger, or other protected species populations in the vicinity of the site.

Slurry and Land Spreading

- The sustainability of this development depends on other farmers taking the waste slurry and spreading it on their lands. There is an absence of legal agreement from such farmers on file.
- Those lands to receive slurry should be identified and assessed and the EIAR should highlight any environmental constraints in using such lands for the disposal of slurry.
- All farmers are now under constraint with nitrates directives and are limited as to what they can apply on their lands.
- The EIAR is devoid of any reference to the new regulations under the Nitrates Directive which came into force on the 1st of January 2021 and the further regulations in April 2021 and that these will have significant implications for the proposed development.

Planning Policy

- The site is governed by the policies and provisions contained in the Cavan County Development Plan 2014-2020. The intensive nature of these activities present challenges for disease minimisation and environmental protection.
- Cavan is predominantly a grassland county with an extensive network of water bodies interspersed by sensitive drumlin terrain.
- The Development Plan has high aspirations to protect the quality of water within the county - water protection policies NHEP26 - 31. This proposal does not comply with planning policy relative to agricultural development.
- Concern that the Council have disregarded the fact that Lough Sheelin is designated an SPA and SAC. Lough Sheelin's status is dependent on its hinterland and how that is managed.

Land Use Change

- The proposed development is on semi-mature forestry lands. There is no evidence on file that there is permission from the Forest Services allowing

such development on lands that are prohibited from any other use under the Forestry Acts of 1946 and 2014.

Water Supply

- They are concerned about the use of an existing well on site to provide up to 9 million litres of water per year, and the impact of this level of water extraction on adjoining residential wells.
- This level of water consumption by this commercial operation is the equivalent of the water demand for over 100 (two person households).
- They note that the applicant has stated there will not be an increase in stock numbers and find this hard to believe given that the operation is commercial in nature and constitutes factory farming.
- It would appear that the figure quoted of 9 million litres/year of water usage would just bring the water consumption per day to 24,657 litres. They note that 25,000 litres per day extraction necessitates an EPA licence.
- Regard needs to be had to the European Union (Water Policy) (Abstractions Registration) Regulation 2018 (S.I No.261 of 2018) and to the Water Framework Directive (2000/60/EC) and to the River Basin Management Plan 2018-2021.
- This development taken in conjunction with the high density of pig operations in the immediate vicinity of Lough Sheelin should be refused planning permission.
- The scale and throughput of the proposed piggery amounts to 'Factory Farming' and is contrary to sustainable farming practices, contrary to animal welfare practices, to Climate change policies/carbon footprint, and contrary to the protection of water ways and Local Environment.

6.2. Applicant Response

CLW Environmental Planners Ltd. have submitted a response on behalf of the Applicant to the Grounds of Appeal (dated 11th of February 2021) which includes the following:

Preface:

- The proposed development primarily relates to an infrastructural modification to a previously approved development with no increase in the level of approved activity.
- The issues raised in the objection relate primarily to the principle of the development at this location, which is not the essence of the current application, and which has previously been assessed and approved by the Council and the Board, as evidenced by a current valid permission.
- Many of the issues raised are substantially similar in nature to those raised, and assessed in the previous application on this site.

Procedural/Administrative & Planning History

- The planning application has been appropriately described and detailed on the site and public notices in line with the requirements of the planning and development regulations.
- This is a long-established pig farm and the proposed development of new slurry structures and improved soiled/clean water separation along with minimal rainwater ingress into storage tanks should minimise any adverse impact from a high-water table.
- The well is located on lands in the control of the applicant. The issues relative to drainage have been discussed in the previous application.
- No new information that would adversely/materially impact on the previous decision (ABP-305444-19) has been presented.

Abandonment

- They have regard to the planning history and consider that the appellant has offered no substantive information to support that any aspect of the site is in breach of planning, nor that the use was abandoned.
- They refer to the E.I.A.R which notes that the farm is temporarily destocked in anticipation of the proposed works. The applicant is entitled to refurbish the existing building and re-commence pig farming.

- The current and past history of the site is detailed in the E.I.A.R and given the previous decision by the Board and the existing permission on the farm, in essence this application is only the physical alterations to the proposed development as the scale, scope and nature of the operational is unchanged to that previously approved.

Heritage

- As detailed, this is an existing pig farm site, and the proposed development will result in a significant investment in and modernisation of the farm and will not have an adverse impact on the archaeology of the area. The proposed relocated units will be sited further from National monuments.

Impact on Residential Properties

- The existing pig farm is over 50 years in operation and complaints have not been received from neighbours. The closest dwelling on site is located c. 250m from the proposed development, increased in the relocated development.
- They provide details of the scale of operations and note that it will be the same as that previously approved by the Board. Furthermore, justification for the proposed re-location based in bio-security and landownership has been detailed in the EIAR.

Flora and Fauna

- No bats have been observed in the buildings to be demolished. They enclose a BAT survey completed on foot of the previous grant of permission which confirms this. The conifer trees to be felled are not suitable for bat roosting.

Slurry and Landspreading

- There will be no waste spread on site from the proposed development. They provide details of organic fertiliser applications to replace imported chemical fertiliser (which are dictated and regulated by S.I 605 of 2017, as amended).
- The proposed development will promote a fertiliser substitution programme, rather than encouraging the use of additional fertiliser, therefore no additional nutrients are to be applied.

- S.I 605 of 2017 as amended, has been taken into account and the applicant has exceeded the requirement to have a minimum of 6 months slurry storage capacity.
- They have regard to the new regulations that came into effect on the 1st of January 2021, subsequent to the application being made to the Council and the EIAR. They provide details of this relative to organic fertiliser in their operations and submit that these regulations will not directly impact the farmers utilising pig manure from this farm and will not change the information as submitted.

Development Plan

- The proposed development is the agricultural area and is specifically if not exclusively suited to a rural area such as this. It is consistent with local, regional and national policy.
- The subject site strikes an appropriate balance between the applicant's requirements for a sustainable farming system, and key planning requirements, including proximity to neighbouring residences and potential impacts. It has been designed to be in compliance with planning policies.
- The investment in facilities and structures will provide for a significant upgrade on the existing structures on the farm and therefore will be a significant improvement in the operation of the farm, minimising risk to the environment.
- Any other authorisations/consent as maybe required will be sought and obtained in advance of carrying out works – this includes reference to forestry. In this regard the applicant will discharge his obligations appropriately under all legislative requirements.

Water

- An EPA licence is not required for water abstraction >25 m³/day, but registration is required.
- Replacing the existing aged pig farm with modern housing will ensure Sustainable farming; Good animal welfare; Climate Change Policies/Carbon Footprint, Protection of Waterways and the Local Environment.

- There is no evidence of the site been flooded or being considered as bogland.

Conclusion

- They conclude that the proposed development would be appropriately located, designed, landscaped and sustainable farm diversification, suitable to the site, scale of the adjoining landholding and completed to the highest welfare and environmental standards.
- That it is in an area of long-standing agricultural use and is an infrastructural change to a previously approved development with no change to the scale or intensity of approved activities on the farm.
- That it will not significantly impact on the character of the area or the amenities of property in the vicinity.
- That it will not give rise to an undue risk of water pollution nor threaten road safety and will provide an improvement in overall site infrastructure.
- They will comply with conditions and the proposal will be in accordance with the proper planning and sustainable development of the area.
- A Bat Assessment by Dr.Tina Aughney Bat Eco Services, (2020) has been submitted.

Further Response

They have submitted a response to the Observations made (dated 15th of March 2021) which in addition to the points made above includes the following:

- The site as shown as a red cross on their map is located in the Aghawonan Stream Catchment, a tributary of the Mounthugent River, and is located in the Inny (Shannon) SC 010, WFD Sub-catchment.
- Organic fertiliser from the proposed development will not increase in volume over that previously approved is to be allocated, managed and applied in accordance with the requirement of S.I.605 of 2017.
- All organic fertiliser is to be used by customer farmers (who declare their lands to DAFM on an annual basis) as a fertiliser source, as part of a fertiliser substitution programme (primarily to off-set imported chemical fertiliser) in accordance with the requirements of S.I.605 of 2017.

- Customer farmers are not seeking, nor do they require permission to apply organic fertiliser on their lands, as they are not party to this application – they refer to judicial reviews relative to this issue. No waste is to be land spread from this farm – organic fertiliser is to be used by customer farmers. That this position has been confirmed in numerous ABP reports and JR decisions such as Hoey vs ABP 2016 263 JR.
- They provide details relative to the operations of DAFM relative to compliance with the 170Kg Organic N limit.
- The development of pig farms cannot be looked at in isolation and they refer to a table showing greenhouse gas emissions from various segments of the meat industry.
- While a certain amount of greenhouse gases will be produced, it must also be considered that the proposed development is at the lower end of the spectrum which it comes to meat/animal protein production.
- Emissions will also be offset by replacing chemical fertiliser use (previously referred to as substitution) which requires significant energy and resource use in its manufacture.
- Animal manures also return more of the trace elements, minor nutrients and organic matter necessary for healthy soils.
- The improvements to the management, operation and agricultural facilities of this farm will help to maximise performance so that the minimum amount of resources are used and to minimise greenhouse gas emissions.

6.3. Observations

An Taisce's Observation includes the following:

- They note the ecological and designated status of Lough Sheelin and specific significant pressures include intensive agricultural operations and peat activities.
- That there is a lack of baseline water quality and ecological data to rule out any significant effects on nearby European sites.

- They are concerned that there appears to be some conflicting hydrological data between that presented in the subject NIS relative to the NIS in the previous application.
- Precise hydrological linkages between the site and Lough Sheelin need to be identified, baseline ecological status assessed and information imputed into the NIS.
- There is no evaluation of cumulative impacts relative to land spreading requirements.
- There is no assessment of hydrogeological drawdown impacts of this significant local water abstraction proposal.
- They consider there is a lack of data on emissions and on climate impact.

6.4. **Planning Authority Response**

Their response refers to the Third Party Grounds of Appeal and the Observation made by An Taisce and includes the following:

- They consider that the Observation raised by An Taisce does not raise any new planning concerns from those already presented and assessed in the determination of the planning application.
- Their decision was also informed by the previous decision of the Council and the Board in Reg.Ref.19/250 and ABP-305444-19.
- Details have been addressed relative to conflicting hydrological information within the NIS between the current proposal and the previous one and the findings and assessment are unaffected.
- The ecological status of the water catchment area and the cumulative impacts of development within it have been dealt with in the NIS (section 4.3) and within the EIAR.
- The cumulative environmental impacts of manure spreading have been dealt within the EIAR (section 6.3).
- Mitigation measures are set out in Chapter 7 of the EIAR.

- The proposed water consumption is not proposed to increase from that already permitted.
- The climate change implications of the proposed development have been assessed in the EIAR and the Planners Report.
- The Planning Authority is of the opinion that there is no material change in circumstances in granting permission since the previous application.

6.5. Further Responses

Inland Fisheries Ireland

- Inland Fisheries is responsible for monitoring fish for the Water Framework Directive. Lough Sheelin is monitored as a fish site for the WFD and is also one of the few waterbodies identified in the Water Framework Directive (WFD) monitoring programme as a river lake interaction site to measure the nutrient loading to some major lakes (EPA, 2006).
- Lough Sheelin and its catchment is an important natural resource with significance for fisheries, angling, tourism, amenity use and nature conservation. It is noted for its amenity and recreational value in the County Development Plan. It is designated as an SPA.
- They note details of the proposed siting within the Lough Sheelin catchment, the watercourses in the area and the importance of fisheries.
- They are concerned about the impact of the continued nutrient loading of Lough Sheelin.
- IFI is seriously concerned in relation to management, storage and disposal of pig slurries arising from this development and their potential to pollute watercourses nearby and close to the spreadlands.
- They note that the site is now derelict and has been for a number of years. That this is confusing in that the NIS refers to the current operations.
- The application for planning represents a substantial increase on the previous operation. This proposal would give rise to significant increased volumes of manure.

- They are concerned that the EIAR presents 12 customer spread lands (Appendix 6) and makes a statement that these would all be capable of taking 130% of slurry on the farm, yet this is not demonstrated clearly in any way.
- They are concerned that many of these lands are close to watercourses and of potential for pollution. That precise details of spreadlands have not been provided in the EIAR.
- That the EIAR does not give sufficient details of the proposals to mitigate against and monitor the impact on watercourses from the development, particularly in relation to spreadlands.
- It is not clear how the applicant intends to ensure third parties meet all requirements of SI 605 of 2017.
- A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment needs to be included in the EIAR. That the information submitted is inadequate.
- They note details of proposed mitigation measures including those to prevent discharge of contaminated waters to ground or surface waters from this development. Monitoring and sampling needs to be carried out by the applicant.
- They ask that the Site Layout, Management and Construction be taken into account. Details of storage and management of any feed stuffs on site should also be provided as animal feeds can be a potential source of pollution.
- There should be no discharges of contaminated waters to ground or surface waters from this development.

First Party

The CLW First Party response (dated 30th of September, 2021) to the Observations of Inland Fisheries Ireland reiterates some of their previous points and includes the following:

Key points

- The proposal relates to an infrastructural modification to and relocation (within applicant's landholding) of a previously approved development which will have

no material impact on the issues highlighted, in the aforementioned advice and the substantive issues raised in the submission.

- The proposal will not increase the amount of organic fertiliser to be produced over and above that as previously approved for this farm, under Ref. ABP-305444-19 relates.
- It will not alter the management of this organic fertiliser by customer farmers compared to that previously approved for this farm, and/or the legislation under which customer farmers operate.
- The comments raised have been substantially addressed in correspondence to the Bord and same should be considered in conjunction with this correspondence.

Other comments

- No organic fertiliser will be disposed of from this farm. All organic fertiliser is to be used as part of a fertiliser substitution programme to replace existing chemical fertiliser usage to meet crop requirements in accordance with Good Agricultural Practices for Protection of Waters, as detailed in S.I 605 of 2017 as amended.
- The applicant has ceased activity on the farm pending the completion of the previously approved works, or the currently proposed development works, as may be applicable/approved at the time of construction.
- This application does not propose any increase in the approved scale of the farm or in manure storage that has already been adjudicated on by the Board and approved under a previous extant application.
- The customer list and the management of organic fertiliser is unchanged from that previously approved by the Board. Also, that the proposal will be in line with agronomic requirements, fertiliser nutrient limits, and good farming practices as prescribed by S.I. 605 of 2017 as amended.
- Pig farming has evolved from a small number of farms with a large number of pigs, however the principle of returning organic fertiliser from these pigs to farmland in order to utilise the nutrients contained therein still prevails.

- Pig manure is becoming ever more sought after by tillage/livestock farmers in order to reduce their fertiliser costs, increase soil organic matter and trace elements, improve nutrient uptake and ultimately improve returns.
- The customer list will be revised on an ongoing basis to ensure that customer farmers receive a cheap source of fertiliser, while at the same time ensuring that there is a stable and consistent market for the organic fertiliser produced in the proposed development.
- They will maintain information pertaining to any potential customer farmers and all other information on site and this will be available for inspection.
- The applicant is entitled to supply organic fertiliser to his potential customer farmers who want it and are not prohibited from using it.
- The annual fertiliser value of pig manure is significant. Pig manure is a very well balanced fertiliser source with good levels of N, P, K, S, Mg, Ca and minor nutrients.
- All manure from this farm should be stored, managed and applied in accordance with S.I 605 of 2017, as amended. The organic fertiliser will be allocated to farmers that have determined that they have an agronomic need for additional fertilizer.
- The localised effects specifically associated with the relocation/redesign of the proposed development will not extend outside of the site boundary and will have no significant effect on the environment outside of same.
- That the proposed development:
 - Proposes no increase in the previously approved animal numbers.
 - Proposes no increase in the previously approved organic fertiliser production.
 - Proposed improved manure storage capacity.
- The organic fertiliser from this farm will be integrated into the customer farmers overall fertiliser management plan to replace, or substitute for, chemical fertiliser in accordance with the fertiliser limits as prescribed by S.I. 605 of 2017, as amended.

- Notwithstanding that the proposed development relates to the infrastructural re-organisation of a previously approved development with no change, alteration to, and/or increase in the scale or intensity of activities to be carried out they concur with the IFI requirements in the main as prescribed. In summary:
 - Houses will be constructed in line with DAFM Specifications.
 - There will be no discharge of contaminated waters to surface water.
 - All feeds will be stored in purposely designed feed storage bins.
- The EIAR has demonstrated, that the proposed development under consideration will not increase the amount of organic fertiliser proposed to be produced on the farm. It complies with the requirements of the Planning and Development and EIA Regulations and is specific to the development at hand.

EPA Response

Their response includes the following:

- The development proposed may require a licence under Class 6 of the EPA Act. The Agency has not received a licence application relating to the development described above.
- Should the Agency receive a licence application for the development, the applicant will be required to submit the associated EIAR to the Agency as part of the licence application.
- Should a licence application be received by the Agency 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.
- The recipient of organic fertiliser is responsible for the management and use of the same in accordance with the applicable regulations (European Union (Good Practice for Protection of Waters) Regulations 2017, as amended and Animal By -Products Regulations (Regulation (EC) No.1069/2009)).
- The EPA cannot issue a Proposed Determination on a licence application which addresses the development until a planning decision is made.

Cavan County Council

Their response to the Inland Fisheries comments includes the following:

- The application was determined on the basis that the use of the site has not been abandoned, that there has been no intervening use, and that no resumption of use was applied for.
- Although the site is destocked there is no evidence of intention to abandon the premises. This is consistent with the Board decision – PL02.305444. Consequently, the Council concurs with the baseline reference of the EIAR submitted.
- They note the IFI's concerns that clarity be provided relative to slurry allocation and refer to Appendix 1 of the EIAR and consider that the applicant has given sufficient information in this regard.
- The same land parcels for spreading which were submitted under the previous application for the same amount of slurry, which was granted by the Board. In this case all farms are situated in counties Cavan, Meath and Longford.
- The proposed development is an investment in the management of this farm in terms of bringing it into a regulatory regime and improving infrastructure on site. This is in accordance with objectives in the Cavan CDP.
- The Environment Section of the Council recommends that the mitigation measures in Section 4.10 of the EIAR are implemented to prevent any negative impact to the environment.
- Water quality monitoring would form part of the compliance regime for this site under its EPA Licence. The EPA is also charged with the monitoring of waterbodies in Ireland.

7.0 Assessment

7.1. Introduction

- 7.1.1. This is an appeal against the decision of Cavan County Council to grant planning permission subject to conditions for in summary the construction of a piggery and all associated works in the rural agricultural area in the Townland of 'Dungummin Lower', c.2km to the south-east of the village of Mountnugent. The proposal consists of the demolition of the former now disused piggery units and the construction of new pig houses on adjoining lands currently in forestry to the south. The area is agricultural in its nature and the proposal would be in keeping with the predominant land use in this locality which is also agricultural. The description of development proposal is described as being 'in lieu' of the replacement piggery, recently granted by the Board (Reg.Ref.19/250 – ABP-305444-19 refers). It is accompanied by an EIAR and an NIS.
- 7.1.2. However, while the context of the planning history is referred to, it must be noted that the current application is being considered in this Assessment on it's merits i.e: as a stand-alone application, that has been made, in its own right, rather than being seen specifically, 'in lieu' of the previously permitted development. This proposal is being considered 'de novo'.
- 7.1.3. Based on the above and having regard to the documentation on file including the submissions and observations, the third party appeal, and responses made, alongside an inspection of the site and its immediate context, I consider that the substantive planning issues that arise are:
- Policy
 - Procedures
 - Planning History - Abandonment
 - Differences between the current proposal and that previously granted
 - Investigation of Alternatives
 - Rationale for Proposed Operations
 - Other issues

Environmental issues that arise are discussed in the context of the EIAR in Section 8.0 of this Assessment and these include regard to pertinent issues relevant to the subject application such as:

- Water - Disposal of Wastewaters and Waste
- Impacts on Residential and Visual Amenity
- Biodiversity
- Access and Roads
- Cumulative Effects

7.2. Policy

7.2.1. The Cavan County Development Plan is supportive of sustainable use of agricultural land and farm diversification practices appropriate to the rural area. Section 3.4 refers to Agriculture and Farm Diversification and includes a number of relevant policies and objectives. This notes that County Cavan remains strong in the dairying, pig and poultry sectors and supports the sustainable development of the agri-food industry. The proposed development is consistent with policies of the County Development Plan which in principle support agricultural development, subject to environmental safeguards. Environmental effects are considered below.

7.2.2. In relation to regional and national policy context, the importance of agricultural industry is also strongly supported. The Department of Agriculture, Food and the Marine have a 10-year plan titled 'Food Wise 2025'. This document acknowledges that there are opportunities in the pig sector to increase efficiencies through increased scale and modern production facilities. As such the applicant's desire to increase the diversification and scale of his agricultural activities is in general supported subject to standard safeguards. Pig farming is traditional and is well established as intensive farming operations in County Cavan.

7.3. Procedures

7.3.1. The proposed development seeks to demolish 4no. pig houses (which appear in poor condition and are no longer in use), on what has formally been an established farm site and to construct three new pig houses with additional capacity on the

adjoining (now forested site) land immediately south. It is noted that the proposed siting of the pig houses is to be relocated and the red line boundary has been extended to the south-east to include an additional parcel of land on the landholding to facilitate this.

- 7.3.2. The Third Party contends that the two main objectives of this Planning Application are to move the development onto a greenfield site and to increase the floor area of the development by 1077sq.m. from that formerly permitted. They submit that the Planning Notices are invalid as neither objective is described thereon and is lacking in clarity. They consider that the description of development is misleading and purports to convey that the new pig houses are merely a replacement for the existing pig houses, when the proposed development is in a different location and of a scale that is a multiple of the claimed existing operation, which they contend has now been abandoned. They are also concerned about the impact on nearby residential and the environment including having regard pollution of watercourses, ecology and designated Natura 2000 sites.
- 7.3.3. It appeared from my inspection of the appeal site that existing pig houses have not been used for a considerable period. It is evident from OSi's aerial photography that there has been a pig farm on the appeal site and entrance from the public road to, in its current location, since at least 1995. Further, there is no evidence by any party of non-compliance with planning law.
- 7.3.4. The First Party provide that the issues raised have been comprehensively addressed in relation to the previous application on this site ABP-305444 -19, and no new information that would adversely/materially impact on the previous decision has been presented. In addition, that the proposed development will not alter the stock numbers/operational capacity, and/or nature of the farm that was previously approved. Regard is had further to these issues including relative to scale of operations in this Assessment below.
- 7.3.5. It is of note that procedural issues, relative to the submission and validity of the application and the documentation contained therein, including the description of development contained on the public notices are in the first place dealt with by the Planning Authority, when the application was originally submitted. Article 18 of the Planning and Development Regulations 2001 (as amended) refers to the general

contents of the *Notice in the newspaper*. Article 22(2) refers to the *Content of planning applications generally*.

- 7.3.6. I would consider that details have been submitted with the application, in compliance with the above Articles. This includes that the public notices provide a brief description of the nature and extent of the proposed development as per Article 18(1) of the said Regulations. The application site has been outlined in red, and the landholding shown in blue in accordance with Article 22(2)(b). Therefore, I would not consider that the issue of invalidity occurs. In any event, it is of note that this application as submitted, is being assessed *de novo* by the Board.

7.4. Planning History - Abandonment

- 7.4.1. The issue of Abandonment has been raised by the Third Party who are concerned about expansion of operations from what was a former piggery (it is currently destocked) and they consider has become an abandoned use. They submit that the use of the site for a 'piggery' has been abandoned for in excess of 10 years, that the existing pig houses are in derelict condition and there is no evidence of operations having taking place in recent times. They have regard to the issue of 'abandonment of use' in planning terms and refer to articles in studies relevant to planning law, relevant to the concept.
- 7.4.2. The First Party response has regard to these issues and refer to the principles relative to the Abandonment of Use. They note that all pig housing and associated structures have remained in situ, for many years. They submit that the farm has been operated for over 50 years and by the applicant for c.15 years, but has only recently been purchased, thus facilitating the proposed investment programme. Although the pigs have not been housed on the farm since c.2018, the site was managed by the applicant who has leased the site for a number of years continuously up until the point of sale, and thereafter up to current date.
- 7.4.3. They state that subject to refurbishment/maintenance of the existing structure (as deemed exempted development for agriculture by virtue of Section 4(1)(a) of the Planning and Development Act) the stock numbers are capable of being fully reinstated to normal operating levels on the farm. They note that there have been no intervening uses. They submit that it would be detrimental to the physical, economic,

environmental and welfare performance of the farm were the applicant to be prevented/dissuaded from making the investment in the physical structures and operational management of the farm.

- 7.4.4. From my inspection of the appeal site, it is evident that the buildings on the site are in a state of poor repair and it is difficult to envisage how these would have been actively used as a piggery up to three years ago. Notwithstanding this, these buildings have remained on site in their original form, there has been no intervening use and there is no evidence of any intention not to resume the use of the buildings. Regardless of this, the issue of abandonment is not directly relevant to the proposed development as the applicant is not seeking to resume the use in the said buildings and there have been no intervening use. Also, it must be noted that there is now an extant permission for replacement buildings – ABP-305444-19 relates. Therefore, the principle of a piggery has been already established on this landholding.

7.5. Rationale for Proposal

- 7.5.1. The rationale presented in the EIAR is that the proposed development is necessary for the future viability of this pig farm and seeks to ensure that it becomes more competitive in order to survive into the future. Modernisation/consolidation is an essential part of viable and sustainable pig production. That the structures for which permission is being sought incorporate modern design concepts in the areas of animal welfare, labour efficiency, manure storage, insulation, ventilation and environmental protection in the operation of the farm. Improvement in performance in pig production is dependent on provision of adequate top quality housing and welfare in tandem with modern feeding and ventilation systems, top quality genetics and improved health status and bio-security.
- 7.5.2. The First Party state that while the decommissioning aspect and the scale/intensity of the proposed development in terms of animal numbers will remain unchanged the applicant wishes to revise the layout and location of the proposed structures. They submit that the purpose of this application is to relocate the proposed development further away from the third party structures located adjacent to the original site to improve the bio-security and operational integrity of the proposed development. While there is no clear definition of the issue of bio-security given in the EIAR, the

concept is supported to provide for farm security relative to bio-exclusion, bio-containment and bio-management.

7.5.3. The pig farm will result in the production of 2 saleable products: 1) Pigs direct to market and, 2) organic fertiliser for customer farmers. They state that the operations will be environmentally friendly and there is to be no increase in slurry production over that as previously approved for the farm (ABP-305444-19 relates) a valid permission existing on the farm. They also provide that an EIAR will be submitted to the Environmental Protection Agency (E.P.A) as part of the Licencing procedures to be completed for this farm.

7.5.4. The First Party response to the appeal provides that the use of the existing site is an option that has been considered by the applicant and permission is already in place for same. The purpose of the proposed development is to relocate same further from the remaining building structures (which are outside of the applicant's control/ownership and potentially represent a bio-security risk, depending on what these structures are used for in the future) and enhance/ secure the future bio-security/economic viability of the farm. They submit that in an investment such as this the applicant wants to ensure that it is completed in an environmentally sensitive manner while at the same time meeting all production and bio-security needs to ensure that it can operate viably for the lifetime of the enterprise. That as permission exists for the nature and scale of the activity, the development at hand relates to the relocation and infrastructural modification to a previously approved development, and not specifically the scale of the activity itself. They also provide that were the currently proposed development not to be approved, it is the applicant's intention to proceed with the development previously approved.

7.6. Differences between Permitted and Proposed Development

7.6.1. There are a number of differences in the design and layout between that permitted and that now proposed. The permitted development (Ref.ABP-305444-19) relates to the north-western part of the site only (c.1.53ha). This development would then have taken place in a similar area to the established footprint of the existing buildings and yard area. The main difference between this proposal and that previously permitted is that an alternative siting has now been proposed on the landholding. The area of

the site has been extended to c.2.5ha and includes the original site area and a part of the landholding to the south-east within an area of forestry. Therefore, it is not proposed to replace the existing piggery buildings in a similar location to that extant as per the previous permission, rather an adjoining new greenfield (albeit forestry planted) location has now been chosen.

- 7.6.2. The current proposal seeks to demolish 4no. existing pig houses and 2no. manure storage tanks and to construct 3no. replacement pig houses. This is together with all ancillary structures (to include meal bins and wash water tanks) and all associated site works arising from the proposed development. The Site Layout Plan relevant to the current application, notes that the site as outlined in red is 2.594ha includes the Service Road. The relocated piggery operations will take place primarily on the lands, that have not been used for intensive farming livestock purposes and are currently under forestry to the south-east, as shown within the extended red line boundary.
- 7.6.3. As noted on the application form the g.f.s of the existing buildings to be demolished is 1458sq.m and to be constructed is 5018sq.m. The area of the proposed new build is greater than that previously permitted which was 3940.71sq.m. i.e an increase in floor area of c.1077sq.m. Therefore, as noted by the Third Party the floor area of the development will have a floor area 27.33% greater than that granted under Planning Ref.19/250. As shown on the Site Layout Plan, (PL02) the width of the proposed piggery block has been increased (from c.60m to 85m) and this necessitates the new wider site area.
- 7.6.4. Regard is had to the design and layout of the 3no. pig houses now proposed. These are shown c.5.4m (unit 1) and 7m (units 2 and 3) in height with a pitched roof. They are to be separate but adjoining units with passageways in between. The overall width of the buildings exceeds that originally permitted. They are shown c.60m each in length and unit 1 c.20m in width and nos. 2 and 3, c.32m in width. This proposal is for slatted floor pig houses with mass concrete storage tanks underneath. These tanks are to be constructed in line with current standards and to have leak detection systems underneath. That this development will improve the quality of the building stock on the farm and increase the capacity of slurry storage facilities.

- 7.6.5. External finishes for the pig houses are to include corrugated roofing and plaster finish to concrete block walls. While they are larger structures than those previously permitted, in view of their set back they will not be visible in the landscape from surrounding public roads. They will also be seen in the general context of the existing agricultural buildings to the north-west of the site.
- 7.6.6. The First Party response includes further details of the revised pig house design and notes that the additional space will improve the welfare of the animals, providing the space requirements for pigs to perform at optimum levels. This has resulted in a revision to the layout of the proposed development and floor area calculations. Some also involve the incorporation of external pig movement passageways (which were excluded from internal floor area calculations, as they were external), now being incorporated into the houses (as some of these are now internal), and thus being included in the internal floor area calculations. They also provide that the additional space will allow for improved housing conditions, washing and hygiene routines, the installation of modern feeding and lighting systems (L.E.D) systems etc. to further improving pig performance and minimizing health care requirements.
- 7.6.7. As stated in the EIAR ancillary structures on site may/will include but are not limited to: feed silos, overground storage tanks, diesel storage tanks, water storage tanks, etc. These are all to be in a different location than that previously permitted. The access from the public road is as existing and the access road to the site is to be extended to facilitate the revised location.
- 7.6.8. Differences are also noted in slurry storage capacity. The EIAR provides that organic manure production will remain unchanged from that previously approved. However, (Section 7.2 refers) there will be an increase in the net storage capacity in the current proposal i.e c.10,959.17 m³ (increasing from 9,750 m³ as previously approved) capacity, resulting in the capacity on the farm for c.22 months (increasing from 20 months) manure production. Ground water monitoring is to be carried out on an annual basis in line with EPA requirements.

7.7. Proposed Scale of Operations

- 7.7.1. The EIAR Non-Technical -Summary submitted includes that the proposed development relates to the planned development of an existing pig farm site, or more

appropriately a revision to the previously approved site. The proposed developments will involve the demolition of structures on the pig farm site (as per the plans as previously approved on this farm and as shown on drawing no.PL02 submitted with the current application) and their replacement with modern, purpose designed pig buildings, which have been revised and relocated when compared to the previously approved development. The First Party provides that the proposed development relates to the infrastructural re-organisation/ re-location of a previously development with no change, alteration to, and/or increase in the scale or intensity of activities to be carried out, or organic fertiliser to be produced.

7.7.2. Section 2.2 of the E.I.A.R has regard to the Context and provides details of the proposed operations - Phase 1 and Phase 2. The proposed development is to be completed in two phases i.e.:

- Phase 1: This phase will involve the demolition of the existing structures identified for demolition, and the construction of House 1 and House 2. This is to facilitate the accommodation of pigs at a younger age/lighter weight and will provide for the accommodation of c.750 piglets, c. 2000 weaners and c.1200 grower pigs on the arm. To this point it is provided that will be less than 2,000 production pigs on the farm, whereby a production pig is classed as any pig in excess of 30kg.
- Phase 2: This phase is to provide for the completion house 3 to facilitate and additional c. 1,500 grower/finisher pigs increasing numbers to 2,700 grower/finisher pigs.

7.7.3. The Third Party is concerned that according to the EIAR it is proposed to finish 250 pigs per week at this facility. That these pigs will have spent 22 weeks in this unit, this equates to throughput of 13,000 pigs per annum. That the amount of slurry produced per annum in this establishment will be the equivalent of the sewage output of Cavan Town, twice over. They contend that the scale of the proposed piggery is massive and the associated risk to local waterways, the water table, and the local environment is unfair on local residents.

7.7.4. The First Party response provides that the farm will finish 250 pigs/week, over a 22 week rearing period. 250 by 22 weeks = 5,500 pigs on site. That the proposed development, split c. 50:50 between smaller weaner pigs and finisher pigs which has

no breeding pigs on site, could be deemed c.40-50% of the scale of the average sized Cavan pig farm. Table 4.1 of the EIAR provides details of stocking numbers and manure production. It is submitted that appropriate measures have been detailed for the utilisation of organic fertiliser in accordance with S.I 605 of 2017, as amended.

- 7.7.5. Section 3.1 of the Screening Section of the NIS notes that the proposed development will facilitate an increase in stock on the farm from 1,000 weaners to 750 piglets and 2,000 weaners and 1,700 growers to 2,700 growers i.e there will be an overall increase of 2,750 pigs on the farm. It is of note that while there was a previous pig farm on the north-western part of the site, this will be a new purpose built facility as there are currently no pigs on the farm as the existing pig units are outdated and have not been used for some time.
- 7.7.6. However, I would be concerned about some lack of clarity in the EIAR, relative to operations. For example, Section 2.2 includes reasoning as to why the proposals are being sought: *The proposed developments will also maximise the health status of the breeding farm and help to improve bio-security measures and help to improve animal welfare and pig performances on both farms.* Table 3.1 refers to Stock Numbers (Existing/Proposed). It is noted that sows are not included, so it is not a breeding farm. As has been noted the farm is currently destocked and has not been stocked for some time.
- 7.7.7. The EIAR provides that while there will be a relocation of the pig houses and an alteration in the number of stock on the farm, any intensification will be planned and completed in an environmentally sustainable manner, and is in keeping with the nature and scale of activities as previously approved for this farm. That the farm upon completion of the proposed development will operate as a specialised nursery/weaner/grower farm site, similar to how it has operated as an agricultural agri-business for in excess of 50 years. In this respect, it must be noted that this is an intensive modern farming operation as opposed to the more traditional piggery that formerly operated on the farmyard site.

7.8. Other issues

- 7.8.1. The First Party response to the Appeal suggests on the basis of *Hoey -v- An Bord Pleanála* [2016 263 JR] that the issue of land spreading is not the subject matter of the application for planning permission. The application relates to the construction of pig units therefore it is argued that planning authorisation is neither sought nor required in relation to land spreading. While the issue of spreading slurry and manure on agricultural lands may not in itself require planning permission and is administered under a separate code namely SI 605 of 2017 the spreading of slurry on adjoining lands is an inherent constituent of the piggery production process. The customer farmers are an integral part of the pig rearing business. Without the facility to dispose of the pig slurry, the applicant cannot operate his business. The two activities are therefore inextricably linked and the consequences of spreading the slurry has to be assessed. The production and disposal of manure generated by the pig units are an inherent consideration in adjudicating on the application in question as it constitutes an indirect effect arising from the application. It is clear that the Board in adjudicating this application, (and indeed previously other applications of a similar nature e.g. section 11.3.7 of Ref. ABP-307328-20 refers), considers the issue of land spreading to be germane and indeed a critical consideration in determining the application.

8.0 Environmental Impact Assessment

8.1. Introduction

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

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

8.1.3. The applicant states that the development will provide more than 2,000 places for production pigs (>30kg). Therefore, an Environmental Impact Assessment Report (EIAR) is mandatory and has been submitted with this application.

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

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

A Natura Impact Assessment and a Bat Assessment have also been submitted.

The description of development on the Public Notices note that 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.

- 8.1.5. This development (as currently proposed) is in excess of the thresholds as specified in Schedule 5 Part 2 of the Planning and Development Regulations 2001, (as amended).
- 8.1.6. The EIAR includes various appendices (1 – 20) relating to supporting information and studies, as well as a separate non-technical summary. Several issues relevant to the EIA have already been addressed in my planning assessment as outlined in section 7.0 of this report. This EIAR section should, where appropriate, be read in conjunction with the relevant parts of the planning assessment.

8.2. **Baseline**

- 8.2.1. The EIAR refers to the existing pig farm as the baseline environment. However, as previously stated it was clear from inspection of the site that the former pig units are vacant, are in poor condition, and currently not in use, nor it would appear for some time, as a working pig farm. While, in my assessment I have taken note of the principle of a pig farm operating previously on the landholding, I have had regard to the subject application and to the likely effects of the proposed development. Note is had of the extant permission ABP-305444-19 where the Board have permitted a pig farm in the north-western part of the subject site, in the location of the now vacant pig units (Reg. ABP-305444-19 refers). I note that no works have been carried out relative to this extant permission.

8.3. **Difficulties Encountered**

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

8.4. **Alternatives**

- 8.4.1. Schedule 6 of the Planning and Development Regulations, 2001 (as amended) requires consideration of 'reasonable alternatives' which are relevant to the

proposed development and its specific characteristics and an indication of the main reasons for the option chosen taking into account the effects of the proposed development on the environment.

- 8.4.2. This is more fully described in Section 5 of the EIAR which provides a Description of Alternatives. It is now proposed that the pig houses and ancillary structures be located on a greenfield and forested site, with the proposed buildings located c.150m to the south-east of the existing complex of buildings. This refers to the modification of the approved plans that is now proposed. It is stated that the subject site is more suitably located for the revised pig house design as it would have more space around the proposed development and separates it from adjacent third party buildings. That it has been proposed to relocate the development further away from the existing disused piggery buildings and farmyard complex, to improve biosecurity and operational integrity of the proposed development.
- 8.4.3. Section 5 of the EIAR notes that this proposal will provide an upgrade and investment relative to the existing services from the pig farm site. Secondly the aim is to develop a modern pig farm that complies with Cavan Co.Co., the EPA, and legislative requirements. The proposed development is to allow for the consolidation of this farm, with a sustainable intensification of activities.
- 8.4.4. Alternatives to the proposed development, in terms of its design, scale and treatment of organic waste are considered in section 5.2-5.5 of the EIAR. The information presented considers that the resultant development has been designed to meet current standards and practices within the industry, the use of available technology, the confines of the site and to integrate with the applicant's existing farming activities.
- 8.4.5. The extant permission (ABP-305444-19 refers) sought to demolish the existing structures as currently proposed and to construct 6no. replacement pig houses together with all ancillary structures. The First Party response submits that the proposed development relates to the infrastructural re-organisation of a previously approved development with no change, alteration to, and/or increase in the scale or intensity of activities to be carried out, and currently approved for the site.
- 8.4.6. In this respect the differences between the extant permission and the current proposal have been noted in Sections 7.6 and 7.7 of this Assessment. I would be

concerned that a thorough explanation has not been given in the details submitted as to why it is more appropriate to relocate the piggery to a greenfield site in a forested area on the landholding, away from the former piggery buildings and the farmyard. In my opinion it would be visually preferable and more compact/consolidated if the proposed development were to be located in the area of the former piggery buildings to be demolished and in the farmyard site as was originally permitted by the Board in Ref. ABP-305444-19. In addition, I would consider that it has not been clearly established as to what is to happen to the site of the former piggery buildings and farmyard once the buildings are demolished.

- 8.4.7. However, if the Board decides to permit, I would recommend, in the interests of clarity and to avoid the operation of two separate pig farms within the site the inclusion of a condition to state that this proposal is in lieu of that previously permitted in ABP-305444-19 and also to ensure the decommissioning and demolition of the existing pig units prior to the commencement of development.

8.5. Assessment of the likely significant direct and indirect effects

- 8.5.1. The likely significant effects of the development are considered below under the headings used in the EIAR, which generally follows the order of the factors set out in Article 3 of the EIA Directive 2014/52/EU.
- 8.5.2. The EIA Directive is aimed at ensuring that a holistic assessment is carried out of all elements of a development to ascertain its potential effects, both positive and negative, prior to the granting of development consent. The scope of assessment should concentrate on the direct, indirect and cumulative/in-combination impacts of the proposed development itself.

8.6. Population and Human Health

- 8.6.1. Impacts on population and human health are dealt with in the individual topic sections of this report (below). The proposed development is an agricultural development in a rural area, at reasonable distance from nearby properties (c. 250m) and there is no evidence to indicate that the development will give rise to significant effects by way of noise, dust, traffic, visual or landscape or other effects which could individually or in combination impact on the population or human health.

- 8.6.2. As presented in Section 5.2 of the EIAR the revised location re-locates the proposed development away from existing third party structures (sawmill, dwelling and adjoining structures) the future use of which is outside of the applicants control. I noted on site that the most proximate dwelling, which is to the east of the site appears vacant, the sawmill and adjoining structures do not appear operational.
- 8.6.3. The Third Party is concerned that the EIAR states that the nearest dwelling is in excess of 225m from the proposed development. That the nearest dwelling is in fact less than 150m and there are 8no. dwellings within 300m. He notes that the revised location will be closer to his property in Clonbockoge, c.300m to the south.
- 8.6.4. The First Party response provides that the closest dwelling on site is located c. 250m from the proposed development, that the distance to the closest third party dwelling has been increased in the relocated development. It is noted that the current proposal is sited further from the dwellings along the road frontage, and the derelict dwelling to the south-east. The houses accessed via the public road to the north will be further away from the subject site.
- 8.6.5. The EIAR provides that the rural setting of the proposed developments and the location distant from local residences (> c. 250m, marginally increasing from the 200-225m as per the previously approved development) and the access road will ensure no effect from the proposed operations on human beings.
- 8.6.6. Sections 6.11 and 7.11 of the EIAR refer to Human Health/Population/Employment. This notes employment provision relative to the proposed development. This pig farm is an intensive agricultural activity situated in the rural environment. The county has a highly developed Agri-Food business, making it one of the largest manufacturing employers in the country. It is provided that local farmers will benefit as a result of the Fertiliser Management Programme. That the mitigation measures proposed as part of the planned operation of this farm in addition to the requirements of the Council and the EPA will ensure that this farm operates with no negative impact on the landscape and/or the physical environment. That the pig farm is located away from any of the larger settlement areas in the county.

Conclusion

- 8.6.7. I have considered all the information on file, including submissions received and the information contained in the EIAR. Having regard to the above, I am satisfied that

impacts predicted to arise in relation to population and human health would be avoided, managed, and mitigated by the measures which form part of the proposed scheme and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of population and human health.

8.7. Biodiversity (Flora/Fauna)

8.7.1. The development is planned adjacent to a former pig-farm/brownfield site and necessitates the felling of a limited area of semi-mature coniferous forestry. The existing site and adjoining area have been in agricultural use including as a farmyard for a long number of years and thus has a poor level of plant diversity and is of no significant ecological importance. Section 6.9 of the EIAR includes that the limited felling of conifers would not be significant nor have a significant adverse impact on flora and fauna outside the development area. That there are no unique habitats that require protection. That the proposed development will have no significant adverse impact on flora and or fauna in the area.

8.7.2. All habitats within these lands such as wooded areas; scrubland etc. would be excluded from receiving organic fertiliser from this farm due to the requirements of S.I 605 of 2017 (The Nitrates Directive – as amended). It is stated that the planned pest control programme to Bord Bia Quality Assurance Scheme standard will be expanded to incorporate the proposed development.

It noted that there is no assessment of the habitats and species occurring on or in the vicinity of the appeal site. It is stated that an examination of the National Biodiversity Data Centre, revealed the presence of badger within 1km of the site. The Third Party is concerned that no information or study was carried out to identify the otter, badger, or other protected species populations in the vicinity of the site.

Bats

8.7.3. A Bat Assessment 2020 by Bat Eco Services has been included with the First Party response to the grounds of appeal. The principal bat survey area is where the existing buildings proposed for demolition ie. the unused piggery units and former manure storage containers (Figure 2 relates). It is noted that the buildings adjacent to the site are comprised of a derelict dwelling, agricultural barns and shed. The

surveys were carried out in late August 2020. The Survey confirms that there are no bat roosts in the buildings or structures to be demolished and that the conifer trees to be felled are not considered to be suitable for Bat roosting sites. It also states that there are no trees of potential bat roost value within the conifer plantation boundary of the proposed survey site.

- 8.7.4. Table 9 of the Bat Assessment provides an evaluation of the bat species recorded within the proposed development area. Four bat species have been recorded in the bat survey: Common pipistrelle, Soprano pipistrelle, Leisler's bat and Natterer's bat. This represents four of the nine residence bat species known to Ireland and four of the eight species known in County Cavan. The level of bat activity in the vicinity was stated to be a Low to Medium level. Also, that the removal of the buildings located within the proposed development will not impact on local bat populations.
- 8.7.5. The Assessment provides that the impact upon bats regarding the construction and operational stages will be negative but not significant. Mitigation measures include protection of trees and treelines from construction works and lighting. This includes that no outdoor lighting should be permitted within 25m of the treeline/woodland/forestry boundary and that the tall vegetation should remain at all times in darkness. They provide that lighting should be designed to limit the impact on the local bat population. Additional conservation measures encourage new planting of native species and artificial roosts such as the installation of bat boxes in appropriate locations.
- 8.7.6. The Bat Assessment states that there are no trees to be felled in the survey area that were considered to have Potential Bat Roosting (PBR) value in the area surveyed. Figure 2 shows an aerial photograph of the approximate survey area. It appears that the main focus for the bat survey was on the area of the existing buildings rather than the adjoining forested site (to the south-east) where it is now proposed to place the pig units. It is noted that this does not include much of the area of the additional conifer plantation section proposed to be felled as part of the current planning application. They provide that the conifer trees are young and this tree type is generally not considered to be suitable for bat roosting sites. However, the removal of conifer forestry will reduce forestry insect prey items for local bat populations. That it is essential that minimal tall vegetation be removed and that new planting of native species is implemented.

- 8.7.7. It is recommended that if the Board decide to permit that a condition be included relative to carrying out a bat survey for the south-eastern (forested) part of the site, where it the proposed buildings are to be constructed. Also, that a landscaping scheme to include tree planting and hedgerows of native species around the perimeter of the site be carried out.

Fisheries

- 8.7.8. Note is also had to the comments of Inland Fisheries Ireland relative to concerns about the potential for cumulative impact from such intensive agricultural developments on water quality and aquatic ecosystems and potential for pathways that could lead to further deterioration of water quality of Lough Sheelin which is c. 3km from the application site. Indirect effects on biodiversity as a consequence of the disposal of wastewater and land spreading are considered below and potential effects on European sites are considered in the relevant assessment section of this report. It is submitted in the EIAR that the pig farm site is not located close to and/nor likely to adversely impact any Natura 2000 sites, nor impact on any forest or other parks, Lakeside or Riverside Amenity areas as listed in the Cavan CDP 2014-2020. Note is also had of the NIS which accompanies this application.

Conclusion

- 8.7.9. I have considered all the information on file, including submissions received and the information contained in the EIAR. Having regard to the above, I would consider that there is insufficient information provided in the Bat Assessment relative to that forested part of the site now proposed for the location of the units. In addition, surveys relative to badgers and other habitats and species have not been carried out. It is submitted in the EIAR, that impacts predicted to arise in relation to biodiversity would be avoided, managed, and mitigated by the measures which form part of the proposed scheme and through suitable conditions. However, while this maybe the case, I would consider that insufficient information has been provided to ensure that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of biodiversity.

8.8. Land, Soil, Water, Air and Climate

Land and Soil

- 8.8.1. Section 6.1 of the EIAR provides a description relative to topographic features and soil geology. Reference is had to Appendix 14 which provides an Extract from the General Soil Map of Ireland. The existing pig farm site is located in an area of made/built ground and provides details of underlying soil features. The proposed development relates to a greater site area (c.2.492ha) than that proposed in the previous application (c.1.53ha). Details are given of the classification of soils on the adjoining site. Figure 6.1.2 notes that the site is outside Geological Heritage sites.
- 8.8.2. Mitigation measures where applicable are discussed in Section 7.1. It is submitted, that the adequacy and quality of storage to be provided and the allocation and utilisation of all fertiliser to be produced on the farm is in accordance with S.I. 605 2017 (as amended) and will ensure the farm has no negative impacts on farmland. That this storage capacity will ensure that organic fertiliser is spread on customer farmlands, only under favourable soil and climatic conditions to prevent any soil structural damage. That hydraulic and chemical loading will not be exceeded due to the fact that all organic fertiliser is to be applied in accordance with S.I 605 of 2017 (as amended), thus preventing nutrient accumulation.
- 8.8.3. Section 4.1 of the EIAR includes, Tables showing the existing organic fertiliser/manure production and proposed organic fertiliser/manure production. This is to increase from 4,071.6 m³ to 5,834.4 m³. The First Party submit that the increase in slurry storage capacity facilitates optimum management of the organic fertiliser and directly addresses the appellant's concerns. It is submitted that proper manure management on the site and on customer farmlands as planned in accordance with current standards will result in little or no impact on the ground water in the area.
- 8.8.4. The organic fertiliser produced on the farm is to be used to replace the imported inorganic chemical fertiliser that would otherwise be used. In this instance, the EIAR provides details of customer farmland where slurry spreading is proposed to take place (Appendices 1 and 6 refer). Regard is had further to this issue of landspreading relative to the Indirect Effects on Water below.
- 8.8.5. The Third Party is concerned that the EIAR has not accounted for the revised site being located on Bog Land, and if it had it could only conclude that the risk to the local environment, notwithstanding the proximity of the stream on site, which is a

tributary into the Mountnugent River and in turn Lough Sheelin (SPA). The distance of the site to Lough Sheelin is 3km.

- 8.8.6. The applicant states that the northern part of the appeal site has been made up. This may be consistent with lands that were previously drained. The OPW's Drainage Maps indicate under the 'Benefited land' layer, that land was drained as part of an arterial drainage scheme. The drainage schemes were carried out to improve land for agriculture and to mitigate flooding. The appeal site lies alongside, possibly cutting into benefiting lands (see attachments).
- 8.8.7. The CLW Environmental Response provide that as confirmed with GSI, this land is not bogland and they include details of the soil type applicable to the site (Section 6.1.2 EIAR). They also provide that there is no evidence of the site being flooded or at risk of flooding. They also refer to the assessment provided relative to the previous application Ref. ABP-305444-19 and provide that the proposed development of new slurry structures and improved soiled/clean water separation along with minimal rainwater ingress into storage tanks should minimise any adverse impact from a high-water table.

8.9. **Water**

- 8.9.1. Water Supply is stated to be from a private well located on the farm but outside of the site boundary. The Third Party is concerned as to the location of the well and that the applicant proposes to use an existing well on site to provide up to 9 million litres of water per year. That this level of water extraction from the ground water supply will be detrimental to the adjoining residential property who rely on wells for their water supply. As noted by An Taisce, there is no assessment of hydrogeological drawdown impacts of the significant local water abstraction proposed.
- 8.9.2. While the exact location of the well has not been shown on the drawings submitted, the First Party response provides that the well is located on lands owned by the applicant. That the water requirement while not significant is proportionate to the proposed development and is just approaching the minimum threshold of 25m³/annum above which one is required to register water extraction with the EPA.

8.9.3. They provide that this issue has been comprehensively addressed/assessed in relation to the previous application ABP-305444-19 and that no new information that would adversely/materially impact on the previous decision has been presented. However, I would consider that having regard to the current application and taking into consideration the revised location of the site, there is a lack of clarity regarding the location and protection of water supply for proximate residents and agricultural developments.

Ground Water

8.9.4. Section 6.2 of the EIAR provides that the groundwater adjacent to the site is deep and overlain by a considerable depth of overburden. Note is had to bedrock and aquifer features, classified as LM, Locally Important and Generally Moderately Productive, and of moderate vulnerability. As has been stated the main potential threat to ground water in the vicinity of the pig farm site is due to the storage of a relatively high volume of animal manures on the farm. That the storage of organic fertiliser and the efficient use of the nutrients contained therein is a major factor in developing pig enterprises. Section 7.2 of the EIAR has regard to the impact of the proposed development on Ground Water in the site and its immediate area and on customer farmlands. It is noted that ground water monitoring is to be carried out on an annual basis in line with EPA requirements. This includes that organic fertiliser from this farm is to be allocated in accordance with the Nitrates Directive, S.I 605 of 2017 as amended.

8.9.5. The Council's Environment Section notes that according to the GSI water maps for Cavan, the proposed development is located within an area classified as a Locally Important Aquifer with Moderate Vulnerability. The proposed development is located in the Mounnugent-040. This water body is classed as Moderate Ecological Status and must be improved to at least Good Status by 2021. That this area is also a Priority Area for Action as per the River Basin Management Plan 2018-2021.

8.9.6. The Planning Authority response to the Appeal and to An Taisce concerns notes the issues raised relative to conflicting hydrological information within the NIS between the current and previous proposals. It is noted that this was corrected in the current application, and that the findings and assessment are unaffected.

- 8.9.7. The First Party notes that the correct details have been submitted with the application. The site is located in the Aghawonan Stream Catchment, a tributary of the Mountnugent River, and is located in the Inny (Shannon) SC 010, WFD Sub-catchment. Their response includes a map showing the location of the site marked with a red cross, located within the Aghawonan Stream Catchment, a tributary of the Mountnugent River, and located in the Inny (Shannon) SC010, WFD Sub-catchment.
- 8.9.8. It is noted that Section 7.2 of the EIAR provides mitigation measures relative to Ground Water. This includes (pt.no.4): *The proposed development will see the replacement of the majority of the aged structures on the farm site with modern pig houses constructed as per point No's 1 and 2 above.* I would consider that there is some lack of clarity in that unlike the previous application, the revised location for the proposed piggery is outside of the existing farmyard area.
- 8.9.9. It is submitted that independent water monitoring in this catchment is and is envisaged to be conducted on an on-going basis by the Council, the E.P.A and/or Regional Fisheries Board. Results (where available) relating to surface water quality for the relevant watercourses in close proximity to the pig farm are detailed in the Local Water Quality Survey in Appendix 10. It is also stated that ground water monitoring is to be carried out on an annual basis in line with EPA requirements.

Water - Direct Effects

- 8.9.10. The proposed pig farm, during operation, interacts with the water environment principally in two ways, it has a requirement for water (e.g. for the animals, wash down of areas etc) and it gives rise to waste water e.g. surface water from roofs/hard surfaces and from water used within the piggery e.g. wash down of areas. Cumulative environmental effects may arise from the additional requirements of the proposed development (e.g. increase in abstraction of water, increase in discharge of waste water).
- 8.9.11. Details are provided of surface water drainage and this includes that the proposed development has been designed so as to minimise the amount of soiled water generated on the farm. Uncontaminated water from the roofs of the buildings and clean paved areas within the farm will be collected separately and discharged to the new storm water drainage system. These will be inspected on a regular basis and a record of same maintained. There are to be no significant increase in the storm

water emissions from the farm, with potential for significant adverse environmental impact. Pigs will all be moved on slatted passageways and any soiled water will be directed into the slurry storage tanks.

- 8.9.12. The main area associated with the unloading and loading of pigs entering and leaving the proposed houses will be an enclosed concreted area ensuring that all soiled water enters the manure storage tanks while at the same time ensuring that there is no possibility of contaminated storm water entering the clean water system. Plans for the development indicate perforated drains around the perimeter of the building directed via a silt trap to an open drain.
- 8.9.13. This field drain is stated to flow into Aghawonan Stream, which ultimately discharges via the River Inny into Lough Sheelin (c.3km due west of the appeal site). Aghawonan Stream (Aghawonan_010) has an 'unassigned status' in the WFD Status report 2013-2018, the Inny River (Inny 040) has a poor status and Lough Sheelin is identified as 'At Risk' of not meeting good quality status by 2021. Significant pressures on Lough Sheelin are identified as agricultural and peat (see attachments).
- 8.9.14. In response to the third party concerns and IFI comments, the First Party provide that the houses will be constructed in line with DAFM Specifications. These specifications include leak detection systems as part of the specification and the leak detection system will be completed, maintained and monitored in line with same and/or EPA requirements. That there will be no discharge of contaminated waters to surface water. All soiled water will be directed to manure storage tanks. Any fuel and/or liquid feed storage tanks will be bunded in line with EPA requirements. That the applicant has no objection to the provision of an oil/petrol interceptor on all storm water discharges trafficked areas.
- 8.9.15. Reference is had to Site Layout, Management and Construction and the need to seek to ensure that there should be no discharges of contaminated waters to ground or surface waters from this development. Detailed design of surface water management system needs to be agreed with the planning authority in advance of construction with details to include arrangements for monitoring water quality in the open drains into which the site will discharge. This should include monitoring of the baseline status of water quality in the discharge field drain. (This matter may

ultimately be superseded by an Industrial Emissions Licence from the EPA, once the threshold for production pigs is triggered).

Water – Indirect Effects

- 8.9.16. The importance of preventing further deterioration in the water quality of Lough Sheelin and the preservation and conservation of fish stocks therein, is of consideration. The existing unoccupied pig unit at this site is located in the Lough Sheelin catchment, with a surface water drain running through the site to the Aghawonan stream, a tributary of the Mount Nugent River, which is one of the major inflowing tributaries to Lough Sheelin in terms of both flow and nutrient contributions. Lough Sheelin is a managed wild brown trout fishery located in counties Cavan, Meath and Westmeath, with a surface area of 1855ha, and a total catchment of c. 24,900ha.
- 8.9.17. The drainage from this farm is to the Mount Nugent River catchment, this is a salmonid water course, which also supports good stocks of coarse and crayfish. The Mount Nugent River is one of the main spawning tributaries for Lough Sheelin and has good spawning, juvenile and adult trout habitat. The catchment is characterised by intensive agriculture and the soils in the catchment have poor hydraulic infiltration capacity, surface water run-off is frequent causing manures and fertilisers to be washed off to surface water streams. The IFI note that the nutrient loadings of the Lough continue to increase from the 4 main rivers including the Mount Nugent (this farm is within its catchment) over the period 2006-2014. They are concerned about the impact of the continued loading of Lough Sheelin. They note that the lake has shown signs of eutrophication since the early 1970s.
- 8.9.18. Having regard to the obligations placed on the Board by the Water Framework Directive and the Surface Water Regulations, the quality of downstream water bodies needs to be protected from any deterioration in water quality. Having regard to the comments of the IFI, I would be concerned that the information supplied in this instance is lacking in specific description of the aquatic environment and assessment of the potential impact on Lough Sheelin and its catchment. That the Water Quality Survey presented (in Appendix 10) is not interpreted or integrated in the EIAR or discussed in the context of this application and the WFD status of Lough Sheelin.

Land Spreading

- 8.9.19. Slurry spreading in the State is a matter which falls under and is regulated by the Nitrates Regulations. The Nitrates Regulations comprise the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, as amended. The Regulations which are dealt with under separate remit, give effect to the EU's Nitrates Directive and local authorities are responsible for their enforcement.
- 8.9.20. The First Party note that S.I. 605 of 2017 (as amended) has taken into account the requirement to have a minimum of 6 months slurry storage capacity. They provide that the applicant has gone even further by proposing 22.5 months storage capacity so as to ensure that organic fertiliser is only allocated for use in appropriate weather conditions. The currently proposed development proposes an increase of 10% (2.5 months) storage capacity from the development as previously approved with no increase in organic fertiliser production.
- 8.9.21. That this increase in slurry storage capacity facilitating optimum management of the organic fertiliser directly addressed the appellant's concerns. Also, that the EIAR, as submitted provides that all customer farmers are operating below the 170kg Organic N/Ha threshold and no farmer should exceed same as a result of utilising organic fertiliser from this farm. No waste is to be land spread on this farm, organic fertiliser is to be used by customer farmers (who declare their lands to DAFM on an annual basis) in accordance with the requirements of S.I.605 of 2017 (as amended).
- 8.9.22. The Third Party submit that the EIAR is devoid of any reference to the new regulations under the Nitrates Directive which came into force on the 1st of January 2021 and the further regulations in April 2021. That these new regulations will have significant implications for the farms listed for slurry export and indeed more land will be needed to comply with the regulations. That the Council have failed to examine this application with regards to the amended Nitrates Directive.
- 8.9.23. The First Party response has regard to the new regulations which came into effect on 1st of January 2021, and notes that they were not existing at the time of the application and EIAR. They note that these more recent regulations relate to farms stocked at > 170kg Organic N/Ha. That any farm stocked at this level is ineligible to import additional organic fertiliser and therefore would be automatically excluded from utilising organic fertiliser from this farm. They provide that therefore these

regulations will not directly impact the farmers utilising pig manure from this farm, and do not change the information submitted.

8.9.24. Regard is had of the existence of pollution controls under separate legislation. The Nitrates Directive as implemented by the European Union Good Agricultural Practice for Protection of Waters Regulations 2017 (S.I 605 of 2017 as amended), and Environmental and other conditions that will be considered/imposed by the E.P.A as per any subsequent Licence that may issue to this farm (which is required under separate legislation), including those relating to the allocation of organic fertiliser from the farm. These are dealt with under separate remit.

8.9.25. The EIAR presents 12 customer spread lands (Appendices 1 and 6 refer) and Section 4.3 notes that these would all be capable of taking 130% of slurry on the farm. This includes that the current potential customer farmland covers a net area of c.700 ha and can utilise c.130% of the organic fertiliser proposed to be produced on this farm. That this farm will supply c. 75% of the calculated Phosphorus requirements, and significantly less of the Nitrogen requirements of the identified customer farmlands when at full operational capacity. Section 4.6 provides details of Organic Fertiliser/Manure Application rates to be in accordance with S.1 605 of 2017 as amended.

8.9.26. The IFI are concerned that many of the land banks shown in Appendix 6, within the aerial photographs of customer lands maybe in close proximity to water courses, and to Rivers and Lakes. That the volumes of slurry produced by the proposed development will represent a significant increase in volume on the current situation, especially as the piggery is not stocked at the moment and has not been for some time. They advise that the EIAR should provide concise details of spreadlands, which according to individual Nutrient Management Plans (NMP) of the customer farmers are capable of receiving the slurry from this unit, showing that agreement in principle has been obtained from the farmers and the slurry volumes and nutrient levels comply with their NMP. They contend that the EIAR supplied in this instance is lacking in specific description of the aquatic environment and assessment of potential impacts on Lough Sheelin catchment regarding the impacts on amenity and the amenity value of the spreadlands. That, inadequate consideration is given to third party spreadlands and the potential for poor practice to impact on Mount

Nugent, Lough Sheelin and the wider Shannon catchment. That clarification on the location of spreadlands is required.

- 8.9.27. The First Party response provides that all farmlands currently identified or the receipt of manure from this site are farmed by the identified customer farmers (Appendices 1 and 6). However, there is also the potential for other customer farmers in the area to utilise organic fertiliser from this development. That the proposed development will not result in any increase in organic fertiliser production over and above that as previously approved for this farm and will be utilised by the customer farmers as part of a Fertiliser Substitution Programme, replacing fertiliser nutrients from chemical fertiliser sources with organic manure, in line with agronomic requirements, fertiliser nutrient limits and good farming practices as prescribed by S.I 605 of 2017, as amended
- 8.9.28. The Council's response refers to Appendix 1 of the EIAR which provides a breakdown of the customer farmer allocations, which total 7,797 m³ for all 12 farms listed. They note that as per the details provided, the proposed development would have the capacity to store 5,834m³, which is designed for a 22 month storage period. Also, that the same land parcels were included, in the permission granted in the Board's previous permission. They provide that no relevant other developments or projects have been identified since the previous application that would add to the cumulative impacts within the same catchment. Section 4.4 of the EIAR notes that a significant number are located in Co. Cavan, with the remaining farms in County's Meath and Longford.
- 8.9.29. In this respect, I note, that while the customer farmlands have been listed in Appendix 1, the exact location and the cumulative capacity of these spreadlands is not known. I note the IFI concerns and would consider there is a lack of clarity as to the exact location of these lands relative to the site and as to whether they are proximate to watercourses or Lough Sheelin or any other Natura 2000 sites. I note that a key map showing the location of these customer lands relative to the subject site, or to proximate watercourses and proximity to Lough Sheelin has not been included in Appendix 6. Customer farm locations should be shown on a discovery map or similar for clarity. The locations of the aerial closeup views shown are not clear and cannot be commented on.

8.9.30. While potential customer farmers are indicated in a table (Appendix 1), it is not clear that these farmers have indicated that they can or are willing to receive the volumes of pig slurry indicated and remain within the limit of the Nutrient Management Plans, taking account of livestock and other nutrient sources/fertilizers and manures. Details have not been given relative to the cumulative impact on water quality of the current proposal, and other existing/permitted agricultural developments within the area.

Conclusion -Water

8.9.31. I have considered all the information on file, including submissions received and the information contained in the EIAR. Having regard to the substantive issues raised and taking into account the concerns of the IFI, the Board may consider that there is insufficient information on file to indicate that water quality would not be impacted and subject to deterioration in status including by the proposed spreading of slurry, and in particular the cumulative impact on adjacent watercourses and Lough Sheelin have not been addressed. I am concerned, therefore, that in view of insufficient information, likely significant indirect or cumulative potential effects on water cannot be ruled out.

8.10. Air and Climate

8.10.1. There is no baseline information on air quality given in the EIAR. The site lies in the Rural East and is classified by the EPA as having 'good' air quality. However, it must be noted that the farm has been destocked and the existing pig houses have not been used for some time. Pig farming poses a potential risk for air quality arising from odour associated with the storage and movement of manure and to a lesser extent from the animals themselves and carcasses. Section 6.4 of the EIAR notes that odour associated with pig farming enterprises may arise from two situations ie. the pig farm and the manure spreading operation. (The application of organic fertiliser to land outside the installation is not subject to control by the planning system or the IED licence). In this instance the site lies to the south and south-west of a small number of residential properties (c.250m to nearest property) and to the west of Mountnugent GAA grounds.

8.10.2. The EIAR (Sections 6.4 and 7.4 - Air) provides that the standard of management will be high and that mitigation measures include that the houses will be continuously

washed, disinfected and rested between batches, stocked at optimum levels and adequately ventilated, ensuring minimal odour emissions. That they will adopt any economically viable advances in odour reduction. That odours and emissions from modern well-managed pig farms are insignificant outside the confines of buildings and adjoining yards. In addition, that since manure is removed only by vacuum there will be no odours created during manure withdrawal. The mitigation measures referred to include the use of low trajectory splash plates, and the proper and even allocation of organic fertilisers. That they will recommend to all their customer farmers that organic fertilisers from this farm should not be applied to lands adjacent to neighbouring dwellings/potential odour sensitive locations. It is stated that there are no other pig farms in the immediate vicinity, although no details have been provided of proximity to other pig farms.

- 8.10.3. The measures reflect recommendations set out in the EPA's research document 'Odour Impacts and Odour Emission Control Measures for Intensive Agriculture, Final Report', EPA, 2001'. If the Board grant permission for the proposed development, an application will be made to the EPA for Industrial Emissions Licence. If the EPA decide to licence the facility, the controls put in place under licence will provide for the detailed management of the facility, emission limits values and prescribe arrangements for monitoring and reporting.
- 8.10.4. Section 7.4 provides mitigation measures. This notes that the net potential impact of the proposed development was screened using the Scail Model. This refers to the nutrients ammonia and nitrogen. A summary of the results of the output for Lough Sheelin SPA and Moneybeg Clareisland SAC are presented in Tables 7.4a and 7.4b respectively.
- 8.10.5. The matter of climate is considered in sections 6.5 and 7.5 of the EIAR. It acknowledges that the large livestock operations contribute to greenhouse gas emissions but provides no quantification of likely emissions. Use of energy is referred to in section 4.9.1 and includes use of energy efficient lighting devices and supplementary heating systems, high insulation standards and computerised control of ventilation systems.
- 8.10.6. Appendix 12 provides details of annual rainfall and wind direction. There is no quantification of emissions. Notwithstanding this, the development would comprise a

small proportion of the national pig herd (84 in 2018, National Pig Herd Performance Report, Teagasc) and is subject to standard emission controls and practices within the sector. The development is unlikely to be vulnerable to changes in climate e.g. sea level, storm events, but may be vulnerable in its capacity to adapt to the impacts of climate change (e.g. if policy changes impact on intensive farming in the agricultural industry).

Conclusion

8.10.7. While there is some lack of information relative to air quality in the EIAR, I would consider that the impacts that are predicted to arise in relation to air quality, odour and climate are acceptable having regard to the location of the site and to the nature and scale of the proposed development. Having regard to the above, I am satisfied that impacts predicted to arise in relation to air quality, odour and climate would be avoided, managed, and mitigated by the measures which form part of the proposed scheme and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of air quality, odour and climate.

8.11. Noise and Vibration

8.11.1. Section 4.9.1 and 6.7 of the EIAR deal with noise levels. Table 4.9.1 sets out typical noise arising from the type of equipment that would be used to build the proposed development. At a distance of 150m from the noise source, predicted noise levels for construction are predicted to be <65dB LAeq. Standard noise mitigation measures are set out and nearest properties to the development are c.250m. Having regard to short term duration of construction works, predicted noise at 150m from the site and mitigation measures, construction noise is unlikely to be significant.

8.11.2. Operational noise is dealt with in section 7.7 of the EIAR. It will arise from the operation of ventilation equipment, blowers on feed delivery trucks and from the animals themselves. Appendix 15 of the EIAR sets out typical noise levels recorded at other pig farms and indicates that levels are not significant. The EIAR states that having regard to these findings and the proposed methods of operation, noise resulting from activities at the site should not exceed 55dB(A)Leq during the day (08.00 to 22.00hrs) and 45dB(A)Leq at night (22.00 to 08.00hrs). It is also provided

that, there will be no significant vibration on the site. From the information presented on file, this conclusion is not unreasonable.

Conclusion

8.11.3. I am satisfied that the impacts predicted to arise in relation to noise and vibration are negligible. I have considered all the information on file, including submissions received and the information contained in the EIAR. Having regard to the above, I am satisfied that impacts predicted to arise in relation to noise and vibration would be avoided, managed, and mitigated by the measures which form part of the proposed scheme and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of noise and vibration.

8.12. Material Assets, Cultural Heritage and Landscape

Material assets

8.12.1. Sections 6.12 and 7.12 provide an evaluation of the relative to the proposal. In summary, it assesses the identified assets as follows:

- Agricultural properties including all agricultural enterprises – the proposed development will have a positive interaction with the rest of the applicant's land/existing farming activity. It will require a minimal amount of land to complete the proposed works and will not have significant adverse impact outside the development area.
- In view of distance the proposed development will not impact adversely on non-agricultural properties, including residential, recreational and non-agricultural land.
- The proposal will not impact adversely on natural or other resources including mineral resources, land and energy. The applicant will operate modern feeding, ventilation and heating systems to minimise same. The farm does not require any major modifications to the existing electricity supplies, water or road infrastructure in the area.

8.12.2. Principle wastes arising from the proposed development will be from the demolition of existing structures (construction phase), pig manure, animal carcasses, veterinary

waste, general packaging etc (operational phase). Appendix 11 of the EIAR contains a Construction and Demolition Waste Management Plan for demolition works and indicates that materials arising from demolition will be segregated and re-used, recycled or disposed of to appropriate contractors. Slurry will be stored on site in underground storage tanks, built to Department of Agriculture specification. Section 7.14 of the EIAR notes that there will be excess manure storage facilities to be provided (increasing from 20 months as previously approved to 22 months). The statutory requirement is stated to be 6 months. Manure from the farm is to be used by customer farmers in accordance with the Nitrates Directive and associated national requirements. Other operational wastes arising will be disposed of/recovered in accordance with relevant regulations. Subject to these measures, they provide that no significant impacts should arise as a consequence of waste emissions arising from the construction or operation of the development.

- 8.12.3. The EIAR concludes that no significant impacts are likely given the mitigation measures that have been embedded in the design and implementation of the proposed development.

Conclusion

- 8.12.4. Having regard to the above, I am satisfied that direct impacts predicted to arise in relation to material assets would be avoided, managed, and mitigated by the measures which form part of the proposed scheme. However, in view of concerns about the indirect and cumulative impacts on water as a natural resource, I am not satisfied that the proposed development would not have any unacceptable indirect, or cumulative impacts in terms of material assets.

8.13. **Traffic**

- 8.13.1. Access to the site is via an existing farm laneway that is located just off a local, third class road. It is c.2.2km south east of the Mounthugent and c.6.2km north-west of Oldcastle. Traffic impacts are addressed principally in section 6.8 and 7.8 of the EIAR. It is estimated that traffic associated with the development will comprises a maximum c.28 HGV trips a week during the slurry spreading season (3 loads feed, 8 loads manure, c.2 loads pigs – section 7.8) plus transport of materials, staff and ancillary traffic, such as vets, advisors and waste (unquantified). The site lies in a

rural area where there is already regular movement of substantial agricultural vehicles. These trip figures were also quoted relative to the EIAR for Ref. ABP-305444-19. Sections 6.8 and 7.8 of the current EIAR provide that, details given relative to traffic would be similar to that as per the previously approved development.

- 8.13.2. Adequate space has been provided/ proposed to ensure that the turning movements of all vehicles associated with the farm can be facilitated on-site. Sufficient parking has been provided on-site for all vehicles associated with the farm. Within this context, the estimated increase in traffic associated with the development (including the unquantified trips), is not of itself significant and is unlikely to give rise to traffic hazard. The EIAR acknowledges that during construction there will be a temporary increase in traffic on local roads. The volume of traffic is not quantified, and effect of construction traffic is not assessed in the EIAR. However, given the scale of the development and the likely temporary nature of construction works impacts are unlikely to be significant and could be controlled by traffic management plan.

Conclusion

- 8.13.3. Having regard to the above, I am satisfied that impacts predicted to arise in relation to traffic and transport would be avoided, managed, and mitigated by the measures which form part of the proposed scheme and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of traffic and transport.

8.14. Landscape and Visual

- 8.14.1. The proposed development lies in a rural landscape, outside of or removed from any protected landscape or landscape feature e.g. High Landscape Area/Major Lake, walking route, scenic route, viewing point. The site is low lying, compared to the more elevated public road passing the site, and is c. 200m from it, with the pig units now proposed set further back c.350m into the landscape. The development is also viewed against a backdrop of mature trees, although it is noted that an area of these will be removed to facilitate the revised location and the proposal will be set back further from the public road to the north.

- 8.14.2. The proposed relocation of the site and the buildings thereon (difference from that previously granted in ABP-305444-19) will require some clearance of semi-natural coniferous plantation to facilitate the proposed development works. These trees appear as young forest plantation trees and it is submitted are of no particular amenity value in the landscape.
- 8.14.3. The proposed pig houses are grey/green in colour with grey cement fibre/dark coloured roofs and approximately 5 -7m in height. The feed silos are c.8 -10m high and are green/grey in colour. The proposed development is screened to the west and south by the existing forestry plantation and to the north by the existing farmyard, adjoining building complex. Within this context I do not consider that the proposed development would significantly impact on landscape character or its amenity.
- 8.14.4. If the Board decides to permit, I would recommend, in the interests of landscape and visual amenity that it be conditioned that a landscaping plan be submitted to include that trees around the site boundaries be retained/augmented for screening purposes. Also, that landscaping include planting of trees and hedgerows native to the area in lieu of the conifer planning. In addition, that details of colour/external finishes of the units be submitted.

Conclusion

- 8.14.5. Having regard to the above, I am satisfied that impacts predicted to arise in relation to landscape and visual amenity would be avoided, managed, and mitigated by the measures which form part of the proposed scheme and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of landscape and visual amenity.

8.15. Cultural Heritage and Tourism

- 8.15.1. The Third Party consider that due consideration should have been given to the location and number of national monuments adjacent to the site in the EIAR. They are concerned that the relocation for this development will bring the pig factory ever closer to the National Monuments.

- 8.15.2. The EIAR notes that the farm and/or proposed development is not located close to and/or likely to adversely impact on any archaeological monuments, historic houses etc. The First Party response submits that the proposed relocated units will be sited (marginally) further away from the National Monuments in the area. Regard is had to the EIAR and to Appendix 18 which shows the Location of the Pig Farm site in relation to archaeological features in the Archaeological Survey of Ireland. It is noted that these are not proximate to the site.
- 8.15.3. In addition, the Archaeological Section of the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media recommend that if the Board decide to grant that pre-development testing be carried out. I would recommend that if the Board decides to permit that an archaeological monitoring condition be included.
- 8.15.4. The EIAR provides that the farm will have no adverse effect on tourism in the area of the site due to good environmental management practices operated on the farm, the farm's rural location and its long tradition as a pig farm. Given the limited visual impact of the proposed development, discussed above, significant impacts on archaeological heritage are therefore unlikely. Potential effects of the development on the amenity of the local area have been discussed above, notably, the risk of noise, odour and traffic on local roads.
- 8.15.5. For the reasons stated, I do not consider that the development will give rise to significant effects for these parameters or, therefore, on local tourism, eg. walking along the public road, or Mount Nugent GAA grounds. Cumulative impacts are unlikely to arise due to the absence of similar development in the immediate area of the site.

Conclusion

- 8.15.6. Having regard to the above, I am satisfied that impacts predicted to arise in relation to archaeology and cultural heritage would be avoided, managed, and mitigated by the measures which form part of the proposed scheme and through suitable conditions. I am, therefore, satisfied that the proposed development would not have any unacceptable direct, indirect, or cumulative impacts in terms of archaeology and cultural heritage.

8.16. Interactions

- 8.16.1. I have reviewed the main interactions identified in section 8.1 of the EIAR and have had regard to the 'Matrix indication Inter-Relationships between EIA factors'. I would consider that all of these have been assessed in the individual topic reports and considered in this assessment. A discussion is provided of the Positive and Neutral Impacts. A Table is provided in section 8.2 relative to Potential Environmental Issues/Effects of the proposed development on the Natural Environment and on Human Beings. This includes regard to mitigation measures.
- 8.16.2. Interactions between the environmental factors are discussed in section 8.2 and this refers to the potential effect of the pig farm on the community and the environs. Human Health/Population are the main impact receptor, Bio-diversity (Flora and Fauna) being the other. This includes that the pig farm and its production processes will minimally impact upon the landscape, archaeology, terrestrial, water quality and climate/climate change described under the natural environment.
- 8.16.3. Traffic, air quality, noise, tourism and material assets are the factors that affect the community directly. It is provided that this pig farm with its planned fertiliser substitution programme and its daytime work operation will have no significant impact on the rural community. Positive factors include employment in the rural area, the use of organic fertiliser as opposed to energy inefficient chemical fertiliser. The EIAR highlights that the potential interactions have been considered in the design of the proposed development and inclusion of mitigation measures.

Conclusion

- 8.16.4. While in general, I am satisfied with the discussion relative to interactions, in particular relative to the direct impacts, concerns have been noted relative to the lack of assessment of indirect effects and cumulative effects. In particular relative to the potential for impacts on water and on the environment. In addition, as has been noted above in the Water Section, concern relative to inadequate information on the location of customer farmlands and to the impacts of land spreading.

8.17. Reasoned Conclusion

8.17.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and supplementary information provided by the applicant, the reports from the planning authority and submissions by prescribed bodies and the appellant 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:

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

8.17.2. However, I am concerned that there is a lack of clarity and information presented in the EIAR relative to Water/Environmental considerations. This is also taking into consideration the concerns of the Inland Fisheries Ireland relative to the potential for impact on watercourses in the area and fisheries in Lough Sheelin. That the EIAR does not give sufficient details of proposals to mitigate against and to monitor the impact on water and water quality from the proposed development. In particular in relation to the potential for indirect effects and the cumulative impact on the environment relative to customer farmlands and land spreading associated with this development.

- 8.17.3. In addition, I would also consider that alternatives have not been adequately considered. Adequate justification has not been given as to the reasoning for the relocation of this proposal when an alternative proposal has recently been granted permission on the site of the existing piggery – ABP -305444-19 relates.
- 8.17.4. Having regard to these issues I am not satisfied that it can be stated that the proposed development would not have any unacceptable direct or indirect effects on the environment.

9.0 Appropriate Assessment

- 9.1.1. The application for the proposed development includes a Stage I Screening Report and a Stage II AA. It examines the likely effect of the development on European sites and concludes that, following mitigation, the proposed development does not have the potential to affect the conservation objectives of any such site.

9.2. Screening for AA

- 9.2.1. Appendix No.13 of the EIAR provides a “Natura Impact Statement in Line with the requirements of Article 6(3) of the EU Habitats Directive” dated May 2019, revised October 2020. This includes a Stage I Screening and Stage II Assessment of the proposed development on Natura 2000 sites. In carrying out the Stage I screening, the question to be addressed is ‘Is the project likely to have a significant effect, either individually or in combination with other plans and projects, on the European site(s) in view of the site’s conservation objectives?’ It needs to be determined if the development is likely to have significant effects on a European Site(s).
- 9.2.2. The subject site lies in a rural area, that is generally removed from European sites. However, the field drain into which it is proposed to discharge uncontaminated surface water which ultimately discharges into Lough Sheelin SPA (site code 004065), c.3km due west of the appeal site. The appeal site also lies within the same groundwater body as the Lough (the Inny groundwater body, IE_SH_G_110). Lough Sheelin is designated as a Special Protection Area (site code 004065). The subject site is therefore hydrologically connected to this European site. Figure 6 of the NIS refers.

9.2.3. Moneybeg and Clareisland Bog SAC (site code 002340) lies c.5km to the south-west of the appeal site. It is identified in the NIS as potentially connected to the appeal site via atmospheric pollution. This seems unlikely given the distance of the site from the appeal site and the prevailing direction of wind. Notwithstanding this, I have included an assessment of these potential effects of the development from a conservative perspective.

9.2.4. Other European sites in the wider area are substantially removed from the subject site (>10km) and are not hydrologically connected to the appeal site (Table 2 of Section 3.3 identifies the Natura 2000 sites). They are unlikely to be affected by air pollution due to their greater distance from the appeal site and likely atmospheric dispersion effects. They are also primarily within the Boyne Catchment and have no hydrological link with no potential for impacts upon this site.

9.2.5. Table 1: Qualifying Interests of European sites are (extract from Section 3.3 of the NIS):

European Site	Qualifying Interests	Conservation Objectives	Connections (source, pathway, receptor)	Considered further in screening Y/N
Lough Sheelin SPA (site code 004065) c.3.3km west	Great Crested Grebe (<i>Podiceps cristatus</i>) Pochard (<i>Aythya ferina</i>) Tufted Duck (<i>Aythya fuligula</i>) Goldeneye (<i>Bucephala clangula</i>) Wetland and Waterbirds	To maintain or restore the favourable conservation condition of the bird species listed as a Special Conservation Interests for the SAC has been selected	As there is a direct source – pathway – receptor linkage between the application site and SPA, impacts will be considered further. Land spreading will also be considered	Yes

Moneybeg and Clareisland Bogs SAC (site code 002340) c.5.4km south-west	Active raised bogs Degraded raised bogs still capable of natural regeneration Depressions on peat substrates of the Rhynchosporion	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.	Potential impacts arising from atmospheric emissions	Yes
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9.2.6. Potential effects arise from the following components of the proposed development (as listed in Section 3.4 of the NIS):

- Deterioration of water quality in designated areas arising from pollution from surface water run-off during site preparation (including forest clearance), demolition and construction;
- Deterioration in water quality in designated areas arising from pollution during the operation of the proposed development;
- Deterioration in water quality in designated areas arising from land spreading of the slurry fertiliser;
- Impacts upon designated habitats arising from the atmospheric emissions from the application site;
- Risk to Annex I and Annex II species associated with the site;
- Cumulative impacts with other proposed/existing developments.

AA Screening Conclusion

9.2.7. It is considered that with the exception of Lough Sheelin SPA and Moneybeg and Clareisland Bog SAC, that the remaining Natura sites mentioned in Section 3.3 can

be excluded from the AA process. This is based on their distance from the proposed development and the fact that there is no possibility of any direct, indirect or cumulative impacts on these sites from the proposed development in either its construction or operational phase.

- 9.2.8. The proposed development is not directly connected with nor necessary to the nature conservation management of the other designated sites within the 15m radius (Table 2 refers). However, following consideration of the location of Lough Sheelin SPA and Moneybeg and Clareisland Bog SAC in relation to the proposed development at Dungummin Lower and the potential impacts that may occur, the project must proceed to a Stage II, Natura Impact Assessment.

9.3. **Stage II Appropriate Assessment**

- 9.3.1. A description of the qualifying interests and conservation objectives of Lough Sheelin SPA and Moneybeg and Clareisland Bogs SAC is given in the Stage II NIS. These have been referred to in the Table 1 relative to Stage I above. Section 4.2 of the NIS includes Table 3 which provides a detailed description relative to the Qualifying Interests, Description of Main Treats, Potential Impacts and Article 12 Trends relative to each of the species and habitats listed. In summary these include relative to the Natura 2000 sites:

Lough Sheelin SPA

- Pollution and deterioration of the water quality of Lough Sheelin due to run off from the demolition and construction activities or from land spreading, which could subsequently lead to impacts upon the diet of the listed species.
- Possible general impacts due to: Eutrophication and Habitat Loss.

Moneybeg and Clareisland SAC

- Changes in vegetation composition and losses of biodiversity in habitats due to atmospheric emissions.

Deterioration in Water Quality in the SACs/SPA during Site Preparation/Construction

- 9.3.2. Regard is had to the demolition and construction of the new pig houses, and to the current application which provides for the clearance of the coniferous forest on site. The latter has the potential to generate an influx of sediments into local drains and

watercourses. The NIS considers that there is no potential for dust, noise or activity arising on site during construction or operation to affect either of the European sites, given the distance of the European sites from the appeal site.

9.3.3. It is put forward that the potential risk to Annex II species of Lough Sheelin will be improved taking into account the mitigation measures proposed in the current application for redevelopment of the farm, to reduce the risk of surface water run-off polluting the local watercourses, thereby reducing the potential for impacts upon the protected species and habitats of Lough Sheelin.

9.3.4. The proposed development is situated in a rural area where there is a risk of other discharges to water bodies from the agricultural industry. There is therefore a risk of in-combination effects on water quality. Possible impacts that could occur without appropriate mitigation measures include:

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

Mitigation Measures

9.3.5. These are dealt with in Section 5 of the NIS and include in summary:

- The construction and operation of the farmyard to comply with European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2017, as amended, and the Department of Agriculture's associated Handbook of Good Agricultural Practice. This includes regard to Land-Spreading and Farm Operations.
- Low protein diets for pigs to reduce ammonia and nitrogen emissions.

- Construction of farm structures, and storage facilities for slurry, manure and soiled water, to Department of Agriculture standards, with integrity/leak detection testing prior to use and regular inspection for deficiencies.
- Site works to be confined to the development site only with works to standard best practice measures.
- Works to conform to all Inland Fisheries Ireland guideline documents for the protection of fisheries habitats.
- The felling of the coniferous forest on site should be done in accordance with the DAFM's Guidelines *Standards for Felling and Reforestation* (October 2019).
- Discharge of clean surface water from hard core areas etc. via a soakpit or serviced sediment and oil interceptor.
- Appropriate disposal of excavated materials, construction practices for concrete and aggregate management and storage of hydrocarbons on site.
- The storage and handling of all wastes and fertilisers on site must be in accordance with S.I.605 of 2017 (as amended).
- Protection of hedgerows and treelines during the bird nesting season, protection of riparian verges and planting of indigenous species.

It is noted that the Council's Environment Section recommend that the mitigation measures set out in Section 5 of the AA report are considered as a condition on any planning permission.

Likely effects (direct, indirect and cumulative)

- 9.3.6. The proposed mitigation measures are standard industry and construction practices. In some instances, the proposed measures are not detailed e.g. surface and foul water management systems or are unclear e.g. discharge of surface water via a field drain or a soakpit.
- 9.3.7. The applicant's NIS examines the level of atmospheric emissions likely to arise as a consequence of the development. A SCAIL Model has been submitted. A summary of the results of the output for Lough Sheelin SPA and Moneybeg and Clareisland SAC are presented in Tables 4a and b of the NIS. This provides that the Predicted

Ammonia and Nitrogen outputs are low. There is limited information to indicate how the conclusions set out have been derived. However, there are no submissions on file which challenge the assessment and the conclusion drawn and it is that the predicted volume of emission will add little to the background concentration for either Lough Sheelin SPA or Moneybeg and Clareisland SAC and that the prevailing wind direction will not typically direct emissions towards the protected sites (Figure 6.5 EIAR).

- 9.3.8. While land-spreading is referred to, its or cumulative impacts are not quantified. However, it is provided that the proposed development will not lead to any increase in the volume of slurry produced on the farm and all land-spreading will be done in accordance with S.I 605 of 2017 (as amended).
- 9.3.9. Section 5.1 provides a Table that details the 'Finding of No significant Effects'. This includes that strict mitigation measures must be enforced to ensure that adverse impacts do not occur. This provides that strict mitigation measures must be enforced to ensure that that proposal would not impact on the Qualifying Interests and Conservation Interests of the aforementioned Natura 2000 sites. The farm must operate in accordance with the guidelines set out in S.I 605 of 2017 and within the Nutrient Management Plan for the Farm. Section 6 of the NIS concludes that with the implementation of the mitigation measures there will be no deterioration in water quality and there will be no impacts upon the conservation objectives and qualifying interests of these Natura 2000 sites.

Appropriate Assessment Conclusion

- 9.3.10. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the following European Sites:
- Lough Sheelin SPA (Site Code: 00465)
 - Moneybeg and Clareisland Bog SAC (Site Code 002340)
- 9.3.11. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying interests/special conservation interests of those sites in light of their conservation objectives. Regard is had of the Finding of No Significant Effects and reference to the strict mitigation measures proposed as presented in the Stage II AA.

- 9.3.12. However, in the current application concerns have been noted relative to pollution and deterioration of the water quality of Lough Sheelin and lack of clarity concerning land spreading on customer lands and the location of these lands relative to the Natura 2000 sites. It has not been demonstrated that there would not be pollution and deterioration of the water quality of Lough Sheelin and that cumulative and indirect effects have not been adequately considered or quantified. This in turn could lead to an impact on the Conservation Objectives and the Qualifying Interests of the SPA. I would consider that having regard to these issues, that there is insufficient information presented in the NIS to determine that the proposed development will not indirectly or cumulatively impact on the water quality of Lough Sheelin SPA. Therefore, having regard to the precautionary principle, it cannot be said with confidence, that the proposal will not impact on the Qualifying Interests and Conservation Objective of the SPA.
- 9.3.13. On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the submissions made and 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 Lough Sheelin SPA 004065 in view of the sites' Conservation Objectives. In such circumstances the Board is precluded from granting planning permission.

10.0 Recommendation

- 10.1. I recommend that permission be refused.

11.0 Reasons and Considerations

1. Having regard to the need to protect the county's waters from pollution as set out in the Policies NHEP 26 – 30 of the Cavan County Development Plan 2014-2020 (as extended), the Board is not satisfied on the basis of the information submitted in the Environmental Impact Assessment Report that there is sufficient information to indicate that water quality and water courses in the area, including Lough Sheelin would not be compromised by the proposed spreading of slurry on land by customer farmers in the area. It is

considered, therefore, that the indirect and cumulative effects of the proposed development taking into account the interaction between water/environment have not been adequately considered. The proposal would therefore be contrary to the proper planning and sustainable development of the area.

2. On the basis of the information provided with the planning application and appeal and in the Natura Impact Statement 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 Lough Sheelin SPA (Site Code: 004065), or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

Angela Brereton
Planning Inspector

2nd of February 2022