

An
Bord
Pleanála

Inspector's Report

ABP-310206-21

Development	Extension to existing facility to provide storage, warehouse and office accommodation.
Location	Dromore West, Cootehill, Co. Monaghan.
Planning Authority	Monaghan County Council
Planning Authority Reg. Ref.	20433
Applicant(s)	Abbott Ireland Cootehill.
Type of Application	Permission.
Planning Authority Decision	To grant.
Type of Appeal	Third Party.
Appellant(s)	John Morehart.
Observer(s)	None.
Date of Site Inspection	13 th December 2021.
Inspector	Deirdre MacGabhann

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DECISION QUASHED

1.0 Site Location and Description

- 1.1. The c.9.6ha appeal site is situated c.1km north of Cootehill in the townland of Dromore West, County Monaghan. The site lies to the west of the R188, which connects Cootehill and Monaghan Town, and to the north of Dromore River. The site comprises Abbot Ireland's industrial Cootehill facility with large factory complex, security reception, liquid storage tanks, offices and car parking.
- 1.2. The existing site manufactures milk products for infants from milk supplied by c.1000 dairy farms across Ireland and Northern Ireland. Products are exported across Europe, south east Asia, the Middle East, Latin America and Canada (see Planning Report). Raw materials are brought to the site and combined with water and then evaporated to produce solid powder products.
- 1.3. To the west of the site is agricultural land and, along a minor public road, one off residential development. To the east of the site is Bellamont and Dartry forest and the lakes Inner Lough, Dromore Lough and Drumlona Lough. The area of woodland opposite to the entrance to the site comprises a Recreational Riverside Woodland Park, with associated car parking and public access. Most of the forest and lake complex is designated as a proposed Natural Heritage Area (pNHA), Dromore Lakes pNHA (site code 000001).

2.0 Proposed Development

- 2.1. The proposed development, as revised by way of significant further information (submitted on the 19th March 2021) comprises an extension (2,661sqm) to the existing facility (25,290sqm) comprising the following elements. The development is brought forward to facilitate additional storage on site arising from changing economic circumstances and logistic requirements (Brexit) and to enable the product to be packed and transported in pouches in addition to the traditional canned format.
 - Provision of a warehouse extension (465.2sqm) with associated laboratory area (329.3sqm), ancillary office and staff facilities (987.7sqm). The extension is situated to the south of the existing factory building, extending along the front and side elevation. It lies on the site of an existing car park (16 no. spaces), which will be relocated. The extension will have a maximum

ridge height of 15.67m to match the parapet height of the existing structure. An additional area of 42.8sqm of office space will also be provided in the existing warehouse.

- A three storey tower extension (with two mezzanine floors), alongside existing towers (located approximately centrally to the main factory building), to provide for increased ingredient storage, filling and loading (836sqm) and office accommodation (72.5sqm). The tower extension will have a maximum height of 22.7m (FFL 160.030) and will exceed the parapet height of the main factory building, but will be lower than existing towers (which have a maximum height of c.40m).
- Provision of:
 - 22 no. car parking spaces to the south of the factory building, to include 2 no. e charging points and 4 no. disabled car parking spaces.
 - 21 bicycle parking spaces to the south west of the factory building and extension area.
 - Removal of 3 no. and provision of 69 no. car parking spaces to the rear of the existing car park (to include 7 no. e charging points).

It is stated in the Planning Report that the development will not result in an increase in employee numbers but that additional car parking spaces are proposed to meet development plan standards (in respect of the proposed extension area) and betterment of overall car parking provision for the site (i.e. remove unregularized parking on verges and undesignated parking areas).

- Provision of temporary construction compound, to the north of the existing car parks, in the location of the proposed 69 car parking spaces.
- Site development/construction works to facilitate connection to existing foul, surface, storm water and services network.
- Removal of existing portacabins (c.300sqm), to the rear of existing car parking spaces.

2.2. The development is licenced by the EPA under the European Union (Industrial Emissions) Regulations, 2013, EPA register no. P-0687-02.

2.3. The planning application includes:

- Drawings.
- Planning statement.
- EIA screening report (and associated appendices).
- Appropriate Assessment screening report.
- Construction and demolition waste management plan.
- Construction environmental management plan.
- Water protection checklist.
- Foul and surface water calculations.

2.4. The proposed development comprises one of three developments proposed at the facility. Under ABP-308725-20 permission was granted for a replacement waste water treatment plant. Under ABP-310721-21, an appeal has been submitted in respect of the planning authority's decision to grant permission for a new site entrance to the north of the subject site.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 15th April 2021, the planning authority decided to grant permission for the development subject to 9 conditions. These include:

- C4 – Requires measures to adequately manage foul and surface water, pollutants, construction and demolition waste and to prevent flooding. Requires the completion of a waste soil management plan.
- C6 – Requires installation of the approved attenuation/SUDS system and obliges the developer to apply for a licence in respect of any pumping of groundwater or discharge of water or effluent during construction or operation.
- C7 – Prescribes the use, surface treatment and sizing of car parking.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 7th December 2020 – The report refers to the planning history of the site and submissions and observations made. It considers the need for environmental impact assessment and assesses the merits of the development under planning principle, roads issues, environmental issues, technical details and appropriate assessment screening. It considers that the principle of the development is acceptable at the location and would be in keeping with the established land use. It raises concerns in respect of the rationale for the development, need for a new entrance under PA ref. 20/433 if there is no change in staff numbers, floor area and adequacy of AA screening report (field survey, concurrent applications). The report recommends further information in respect of screening for EIA and AA, clarification of floor area (existing and proposed), discharge of surface water, treatment of wastewater, final destination/end use of sludge from WWTP, compliance with Waste Management (Use of Sludge in Agriculture) Amendment Regulations, 2001 and matters raised in submissions.
- 15th April 2021 – The report considers the FI submitted. It concludes that an EIAR is not warranted, a Stage 2 Appropriate Assessment report is not required, the nature and extent of the proposed works has been clarified, the FI adequately addresses matters raised in respect of floor areas, management of surface water, wastewater and sludge disposal and third party submissions. The report recommends granting permission subject to conditions.

3.2.2. Other Technical Reports

- Fire and Civil Protection (6th November 2020) – No objections subject to conditions.
- Roads Section (11th November 2020) – No objections subject to standard conditions. Subsequent report (7th December 2020) recommends further information in respect of site drainage. Final report (26th March 2020) raises no objections subject to conditions.
- Area Engineer (19th November 2020) – No objections.

- Water Services (17th November 2020) – No objections subject to standard conditions.
- Environment (Waste) (20th November 2021). No objections subject to conditions.
- EHO (23rd November 2020) – No objections.
- Environment (Water) (13th November and 24th November 2020) – Recommends further information in respect of surface water discharge, capacity of wastewater treatment plant on site and final destination of sludge from wastewater treatment plant and compliance with Waste Management (Use of Sludge in Agriculture) Regulations, 2001. Subsequent report (1st April 2021), no objections subject to conditions.

3.3. Prescribed Bodies

- An Taisce (19th October 2020) – Raise concerns in respect of project splitting, need for EIA screening with concurrent projects, adequacy of AA screening, lack of clarity regarding treatment of waste water, absence of SUDS drainage measures, location of temporary storage compound, volume of soil to be removed and absence of environmental impact appraisal, no assessment of sustainability of milk supply chain effects on water quality (agricultural runoff/dairy herd), biodiversity loss (agricultural pressures including runoff), greenhouse gas emissions (dairy herd) and air pollution from ammonia (bovine agriculture).
- Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media (19th November 2020) – Proximity of site to Monument MO022-024. Recommend archaeological monitoring of works in any grant of permission.

3.4. Third Party Observations

- 3.4.1. There are two third party observations on the proposed development. These are made by John Morehart, the appellant and the owner of the nearby Bellamont Estate which includes Dromore Lough. The observer raises the following issues:

- Lack of clarity regarding gross floor area of the site, given permissions granted and same floor area stated in previous application (PA ref. 08/1192).
- Application is invalid as applicant did not reference the requirement for an IPPC licence in the public notices (article 18 of the Regulations).
- Inadequate detail in drawings and specifications (invalid under articles 22 and 23 of the Regulations).
- No EIA in respect of entire development. Submits a peer review of biodiversity section of EIA screening report which concludes that the assessment is inadequate.
- Inadequate screening for appropriate assessment. No assessment of impact of water abstraction on Dromore Lake and River. Absence of qualifications of persons carrying out screening report. Provides a peer review of AA screening report which considers that the ecological assessment is inadequate and that significant negative effects on European sites could arise. No assessment of how sewage sludge will not have an adverse effect on waterbodies or evaluation of in-combination effects.
- Lack of clarity regarding how the development relates to water supply for the site.
- Lack of clarity regarding whether surface design calculations take account of concurrent application (PA ref. 20/300) which involves works that impact on overall drainage capacity of the site.

4.0 Planning History

4.1. The site's extensive planning history is set out in the Planning Report dated 7th December 2020. It includes the following applications referred to in the appeal and recent/concurrent applications:

- PA ref. 08/1192 – Permission granted in 2009 for installation of liquid storage tanks, construction of single storey canteen bin store and single storey change control room.

- ABP-308725-20 (PA ref. 20/300) – Permission granted by the Board in March 2021 for replacement wastewater treatment plant (WTP).
- ABP-310721-21 (PA ref.20/490) – Permission granted by the planning authority for a new site entrance to the north of the existing facility, security hut, entrance signs, new access road and ancillary works. Current appeal with the Board.

5.0 Policy Context

5.1. National Planning Framework

5.2. Under National Policy Objective 23 the government's National Planning Framework supports the development of the rural economy through supporting a sustainable and economically agricultural and food sector (and other sectors) whilst noting the importance of maintaining and protecting the natural landscape and built heritage.

5.3. Development Plan

5.3.1. The appeal site falls within the administrative area of the Monaghan County Development Plan 2019 to 2025. Section 4 of the Plan addresses Economic Development and section 4.5 sets out policies for industry and agriculture respectively. A priority of the Plan is to promote the County as a location for industry, with the overarching challenge to assist in creating more jobs so that more people who live in the county can work there, subject to normal development management requirements (section 4.5, INDP 1, INDP 2). The plan promotes the County's agri-food sector and policies seek to ensure that a high-quality environment and standard of design is provided and maintained in relation to new and existing industrial development and to ensure protection of the environment by promoting application of Best Available Technology (BAT) with regard to pollution mitigation (section 4.5, INDP 9, INDP 10). Section 15 of the Plan sets out Development Management Standards and section 15.14 refers to policies in respect of industrial and commercial development. Policy ICP 1 supports industrial and commercial development, requiring a high standard of development and compliance with the principle of sustainable development.

5.3.2. Section 6 of the Plan deals with heritage, conservation and landscape. Policies afford protection to the county's natural environment, including European sites (Special Protection Areas, SPAs, and Special Areas of Conservation, SACs), national sites of natural heritage importance (Natural Heritage Areas, NHAs) (Policies HLP 4, HLP 13-18).

5.3.3. Dromore River and Lake System (SA11) are identified as an Area of Secondary Amenity. Policy SAP 1 limits development in such areas to those which are compatible amenity developments, and which do not unduly impact on visual amenity.

5.3.4. Section 8 deals with environment, energy and climate change. The Plan refers to the requirements of the Water Framework Directive, to protect and improve water quality in waterbodies, and sets out policies which require assessment of likely effects of development on water bodies and protection of water bodies in decisions on development (WPP 1-3). Section 8.33 of the Plan refers to challenges presented by Climate Change and policy CCP 6 supports and assists a shift to a low carbon society and measures to deliver energy efficiency.

5.4. **Natural Heritage Designations**

5.4.1. Immediately east of the appeal site, Dromore River is designated as a proposed Natural Heritage Area (site code 000001). European sites are >10km by land from the subject site (see attachments). The nearest sites are the Lough Oughter and associated Loughs SAC and SPA. These lie approximately 14.7km and 20km to the west of the site respectively.

5.5. **EIA Screening**

5.5.1. This matter is addressed in section 7.0 of the report.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The third party appeal is made by the owner of Bellamont House, Bellamont Forest, Cootehill. Grounds are:

- Refers to observations made on the planning application (Appendix 1 and 2 of appeal) and to updated Peer review reports of the Biodiversity section of the EIA Screening Report and Appropriate Assessment Screening Report (Appendix 4 and 5 of appeal).
- There are a series of errors in the supporting documentation submitted as part of the planning application, such that the decision to grant permission is flawed and should be overturned.
 - Response to further information - Inadequate response to FI and absence of necessary information to enable a grant of permission.
 - Peer review of Biodiversity Section (5.3) of EIA Screening Report - Inadequate biodiversity section of EIA screening report. No field studies, poorly informed cumulative impact assessment, no reference to National Biodiversity Data Centre database and high quality bat habitat in the area of the site (including for Daubenton's bat), no cumulative assessment of in-combination effects with Cootehill agglomeration WWTP, absence of information required in Schedule 7A of the Regulations (biodiversity section). Need for EIA cannot therefore be screened out.
 - Peer review of Appropriate Assessment Screening Report - Inadequate screening report. No information on existing conditions on the site, habitats and species in vicinity of the site, inadequate desk study, reference only to generic conservation objectives, absence of definitive statement on impact on ecological network supporting Natura 2000 network, lacunae in AA screening reports for PA ref. 20/433, 20/300 and 20/490 and failure to identify in combination impacts, prosecutions for exceedances of emission limit values specified in EPA licence and

other emissions of environmental significance and risk of in combination effects. Lacunae in AA report prevent its use for the purpose of informing the planning authority in decision making. Such use would be contrary to case law, Case C-258/11 which established that determinations cannot have lacunae. The decision issued by An Bord Pleanála in respect of ABP-308725, referred to by the planning authority in their decision to grant permission is subject to Judicial Review.

- Conclusion to Peer Review Reports - Inadequate consideration by PA of deficits identified in Peer Review reports.
- Judicial Review - Matters raised in Judicial Review proceedings (Morehart v An Bord Pleanála 2021/418/JR, ABP-308725) need to be considered by the Board given this third connected planning application on the same site.
- Water Framework Directive - The Board is required to assess the effects of the development on the Dromore Lough network of lakes and Dromore River under the Water Framework Directive.
- Conclusions – Matters raised by third parties are erroneously dismissed in the processing of applications. Matters raised in Peer review reports were dismissed in the absence of scientific information to support their view.

6.2. Applicant Response

6.2.1. The applicant responds to the appeal on the 8th June 2021. The response includes a statement of intent on behalf of the applicant and a response to the issues raised in the appeal.

- Statement of intent.
 - Abbott Nutrition Cootehill produces c.90MM lbs of infant formula per annum. The product is predominantly packed into large metal cans. The site is improving the customer offering, and environmental benefits, by enhancing capacity to package the product into flexible

pouch formats. This will enable package sizing to consumer needs and reduced environmental impact of transport (reduced weight and volume).

- Current manufacturing process entails mixing ingredients with purified water and milk prior to evaporation and spray drying. Energy and water intensive process (making of liquid solution, drying). Proposed development will enable revised manufacturing method where c.20% of ingredients are added via dry blending process, reducing water consumption and energy for spray drying.
- To facilitate flexible packaging offering, new packaging equipment is required, and the proposed dry blending system will be installed above the new flexible packaging lines.
- Development will result in elimination of c.11% of the current site energy consumption associated with evaporation, spray drying and pasteurization cooling; reduction in water consumption, hot air emissions, packaging materials and transport emissions (page 2 of submission).
- New waste water treatment plant will also result in reduction in abstraction requirements on site by c.20.7% per annum (page 2 of submission). This with the new dry blended approach will reduce water usage levels by c.30% of current levels, and result in a reduction in wastewater treatment requirements, with associated energy savings (page 3 of submission).

- Peer review of biodiversity section of EIA screening report. Consistent with the government's guidelines on EIA, and the precautionary principle, a high ecological value was assumed by default for the ecological habitats of potential merit (targets). Potential ecological targets identified were the Dromore River system associated habitats and the Lough Oughter system associated habitats. No ecological source-pathway-target connection exists between the proposed development and concurrent developments (ABP-308725 and ABP-310721) and likely ecological receptors. As such no further ecological surveys are necessary, including for bat species or for cumulative

effects (see Table 1 of submission). Development will not result in any increase in milk intake and there will, therefore, be no increase in previously permitted emission levels of potential pollutants. Cootehill agglomeration and Abbott Cootehill are operating under EPA permits and the discharges have been deemed to be of no significant impact, cumulatively on the environment. The construction and operation of the development cumulatively with concurrent developments, will not result in any emissions which would impact on the threshold limits of the two EPA permits. Ecological impact assessment is not a requirement under Schedule 7A of the Planning and Development Regulations, 2001 (as amended). If there is no source-pathway-target connection, an EclA or further ecological investigation is not required.

- Peer review of AA Screening report. The development entails works within the curtilage of the existing operational Abbott facility. The focus of AA is on European sites. Given the distance of the site from the nearest European site (>15km) it is sufficient to address the existing environment of an operational facility and a proposed internal development by collating information from recognised sources (NPWS and National Biodiversity Data Centre). Connecting features (ponds, woodlands etc.) were taken into account in the AA screening process, including all NHAs and pNHAs. The development will not result in disturbance/displacement of the qualifying/special conservation interest species of any European site and there is no potential for any in combination effects. Relevant Annex IV species were considered in section 3.2. Occurrence of Lesser horseshoe bat¹ is highly unlikely at the location due to their geographical range (restricted to western seaboard counties). The site is an operational factory and is of low value to roosting bats and there would be no impacts on bat commuting habitats in the wider area. Two European sites were identified as having connectivity to the proposed development. Screening report specifically addresses potential impacts on otters and waterbirds. Approach to AA screening consistent with Departmental advice (to establish beyond reasonable doubt that adverse effects on integrity will not occur). No lacunae in report. Allows for competent authority to find no significant effects on European sites. The current

¹ Daubenton's Bat is referred to by the appellant, not Lesser horseshoe.

application was considered in combination with PA ref. 20/300 (ABP-308725) and 20/490 (ABP-310721). All past and ongoing emissions (and exceedances) from the facility are subject to a separate permit (EPA P0687). The application does not result in any increased emissions beyond those currently permitted (with the exception of the temporary increase in clean water discharge during the commissioning of the WTP).

- Judicial Review. Cumulative impacts, of development with concurrent developments, have been identified and assessed in EIA and AA screening reports. No significant and realistic doubt of likely significant effects on the environment.
- Water Framework Directive. No significant emissions to watercourses are associated with either the proposed development or concurrent developments.

6.3. Planning Authority Response

6.3.1. The planning authority make the additional comments in their response to the appeal:

- Grounds of appeal do not raise any substantive new issues that have not been addressed.
- Adequacy of EIA/absence of field surveys – PA are satisfied that the development does not give rise to impacts on habitats outside of the site. There is no additional land take beyond the established industrial site, no intensification of operations and no increase in abstraction rates from the River or any proposed increase in discharges.
- EIAR screening report – PA is satisfied that the development in combination with recently permitted developments and/or with other existing developments does not require submission of a mandatory or sub-threshold EIA.
- AA screening report, failure to undertake field surveys and assess ecological implications on the conservation objectives of Lough Oughter SPA/SAC – The adjoining lands (to the site) have no connection to and are not necessary

for the management of the SPA/SAC (page 27, Appropriate Assessment of Plans and Projects in Ireland, 2010). AA screening report has been carried out in accordance with Appropriate Assessment of Plans and Projects in Ireland, 2010. Section 3 states assessment of likely effects can be done on the basis of available information as a desk study or field study or primary research as necessary. Desk study considered sufficient given distance of site from Lough Oughter SAC/SPA and conservation objectives of sites.

- Breach of EPA licence – This is outside the scope of the planning authority and a matter for the EPA.
- No scientific evidence in planning authority's assessment to support their view – The role of the PA is to consider the AA screening report and to determine that no significant impacts are likely to result from the implementation of the project.
- Conclusion – The proposed development, on a brownfield site, does not propose any additional land take or increase in production or intensification of use of the site. In making its final decision, the PA had regard to the Board's determination of ABP-308725-20, in particular with regard to AA screening. The likely significant effects of the development have been satisfactorily identified, described and assessed. They would not require or justify refusing permission for the development.

6.4. Observations/Further Responses

- None.

7.0 Assessment

7.1 The proposed development comprises an extension of an existing long established industrial plant. The National Planning Framework and Monaghan County Development Plan facilitate the development of the rural economy and food sector subject to environmental safeguards. Within this context, the proposed development which comprises works of a modest scale within the existing site, is acceptable in principle.

7.2. Having regard to the foregoing, and having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal (which refer to the matters raised in observations), and inspected the site, I consider that the main issues in this appeal relate to:

- The adequacy of the appropriate assessment and environmental impact assessment for decision making, and
- The impact of the development on waterbodies under the Water Framework Directive.

7.3. In addition, the appellant refers to the following matters in Appendix 1 of the appeal, which I deal with below:

- Validity of the planning application.
- Gross floor area of the site.
- Water supply surface water calculations.
- Judicial review.

7.4. **Validity of Planning Application**

7.5. The appellant argues that the planning application is invalid as it (a) failed to refer to the IPPC licence in public notices and (b) the drawings submitted with the planning applications do not satisfy Articles 22 and 23 of the Planning and Development Regulations, 2001 (as amended). (I note that the appellant does not detail how the application does not satisfy these requirements).

7.5.1. Article 18(d)(iv) of the Planning and Development Regulations, 2001 (as amended), in respect of the newspaper notice, requires a brief description of the nature and extent of the development including '*where the application relates to development which comprises or is for the purposes of an activity requiring an integrated pollution prevention and control licence...., an indication of that fact*'. (My emphasis). Section 3.4 of the government's Development Management Guidelines 2007 states that the purpose of the public notices is to inform the public of the proposed development and to alert them as to its nature and content, whereupon '*Third parties may then examine the files in detail at the planning office (or on the authority's website, where*

applications are put on the website) and, if they so wish, may lodge a submission or objection'.

7.5.2. The proposed development is made in respect of a larger industrial development which operates under an Industrial Emissions Licence from the EPA, licence reference no. P0687. I would infer from this that the development is therefore one which supports the larger development and is therefore for the purpose of an activity requiring an integrated pollution prevention and control licence. In this instance the newspaper notice clearly states that '*The Abbott Ireland Cootehill site operates in compliance with a licence issued under Part IV of the Environmental Protection Agency Act 1992 (as amended by the Protection of the Environment Act, 2003)*'. Whilst the notice does not refer directly to an integrated pollution prevent and control licence, it indicates that the site operates under a licence under Part IV of the EPA Act, 1992, which is an Integrated Pollution Prevention and Control Licence (IPPC) licence. I consider that the notice as worded does provide an indication of the fact that the development relates to an activity requiring an IPPC licence, and is sufficient to alert the public to the nature of the development and to seek further information on it if they so wish.

7.5.3. Articles 22 and 23 of the Regulations set out requirements for the contents of planning applications and for particulars to accompany an application. It is the role of the planning authority to validate a planning application and in this instance Monaghan County Council consider that the details submitted are in accordance with the Articles 22 and 23 of the Regulations. From my inspection of the appeal file and applicants documentation I am satisfied that there are no significant lacunae that prevent assessment of the proposed development.

7.6. **Gross floor area of the site.**

7.6.1. In response to the request for further information, the applicant states that a review of the detailed survey of existing and proposed buildings/floor areas concluded that the floor areas as detailed under the subject application are correct, with any errors arising from previous permissions. This position, of itself, is not unreasonable and the applicant's position has been accepted by the planning authority.

7.7. Water supply and surface water calculations.

- 7.7.1. The appellant argues that the applicant should clarify how the development relates to water supply for the site and if the surface water design calculations take account of concurrent application PA ref. 20/300 which involves the installation of a concrete area of 2,140sqm and other works that will have an impact on overall drainage capacity of the site.
- 7.7.2. The applicant's report Foul, Surface Water, Attenuation Calculations and Details, Rev A (submitted 19th March 2021) states that there will be no additional connections required in respect of water supply for the site, with the new offices and warehouse extension to be an extension of the existing internal supply. I also note that the applicant proposes an overall reduction in the volume of water used by the facility as a direct consequence of the proposed development.
- 7.7.3. The applicant's Foul, Surface Water, Attenuation Calculations and Details, Rev. A (submitted March 2021) describes the existing arrangements for surface water drainage for the c.9.4ha site. Clean surface water falling on hard surface is collected through a series of downpipes, gullies, manholes and a pipe network. Three petrol interceptors are installed to treat runoff from the areas they serve, with some reserve capacity (see Masterplan of site surface water layout, drawing no. 20-008-104). Proposed surface water drainage arrangements for the subject development are:
- Front car park – Permeable paved attenuation system to collect surface water from car park and footpath, with restricted flow via hydrobrake chamber to 1l/s. The attenuated surface water will outflow to the existing surface water drainage system (see Drawing nos. 20-008-105, 20-008-106 and Appendix C).
 - Rear car park – Runoff to be collected through gullies and a 225mm pipe and discharge into an existing storm sewer at the proposed new entrance to the car park, via a 400l petrol interceptor, and restricted to greenfield runoff by hydrobrake chamber (Drawing no. 20-008-104 and Appendix B for calculations). The route of the existing storm sewer, installed in c. 2005, is not indicated in the drawings. It is stated that the exact location of the drain is to be confirmed prior to commencement of works.

7.7.4. Under PA ref. 20/490 the applicant applied for permission for a new site entrance at the northern end of the site, security hut and access road to link the new entrance to the existing service road. The application has been appealed to the Board under ABP-310721-21. Drawings for the subject development indicate the location of the new site entrance and the arrangements for the management of surface water within this separate but concurrent development (Drawing no. 20-008-104). Discharges from the new hard surfaces will be managed by attenuation and controlled flow to greenfield rates and discharge to the same existing roadside storm sewer. Arrangements have been accepted by the planning authority's Water Services and are not unclear or unreasonable. Likely environmental effects are considered below (under screening for EIA and AA).

7.8. **Judicial Review**

7.8.1. I note that Judicial Review proceedings have been brought under ABP-308725 in particular with regard to the assessment of cumulative effects. The issue of cumulative impact assessment is addressed in this report under environmental impact assessment and appropriate assessment.

7.9. **Environmental Impact Assessment**

7.9.1. The proposed development comprises the extension of an existing factory making infant formula. Specific works include extension of warehousing to provide storage, alternative packing arrangements, offices, laboratory, car parking and temporary construction site. Concurrent proposed developments include upgrading of the wastewater treatment plant (WTP) and a new entrance to the north of the site.

7.9.2. Part 1 of Schedule 5 of the Planning and Development Regulations, 2001 (as amended) sets out classes and thresholds for development which requires environmental impact assessment. The proposed development, the concurrent developments and Abbot factory at Cootehill as a whole do not fall within Classes of development set out in Part 1 of the Schedule.

7.9.3. Part 2 of Schedule 5 sets out the following classes of development for the food industry:

7. Food Industry

(b) Installations for the packing and canning of animal and vegetable products, where the capacity for processing raw materials would exceed 100 tonnes per annum.

(c) Installations for the manufacture of dairy products, where processing capacity would exceed 50 million gallons of milk equivalent per annum.

10. Infrastructure projects

(b) (ii) Construction of a car-park providing more than 400 spaces, other than a car-park provided as part of, and incidental to the primary purpose of, a development. [my emphasis]

13. Changes, extensions, development and testing

(a) Any change or extension of development, already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:-

(i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and

(ii) (ii) result in an increase in size greater than –

- 25 per cent, or

- an amount equal to 50 per cent of the appropriate threshold, whichever is the greater.

7.9.4. The applicant's facility at Cootehill would comprise a development or sub-threshold development falling within Class 7(b) or 7(c). For example if the plant produces 90 million pounds of infant formula per annum (equivalent to c.41 tonnes) this would comprise a sub-threshold development under Class 7(b). Intake of milk, in gallons per year is not stated and may be above or below threshold.

7.9.5. It is stated in the planning application and appeal that the development will:

- a. Result in an increase in floor area of 2,661sqm in a facility with an existing floor area of 25,290sqm (c.10.5% of existing floor area).
- b. Result in a net increase in car parking of 72 spaces. However, these spaces will be integral to the development served and Class 10(b)(ii), Part 2 of Schedule 5 does not apply.

- c. Will not result in an increase in capacity of the plant, but allow the adoption of alternative manufacturing and packaging processes. In this regard I draw the Board's attention to page 7 of the EIA Screening Report which states that there will be a 0% increase in daily tonnage of raw materials and a 0% increase in gallons of milk being processed.

7.9.6. Having regard to the foregoing, I am satisfied that the proposed development by itself would not result in any change or extension, that would result in an increase in size greater than 25% (floor area) or an amount equal to 50% of the appropriate threshold (100 tonnes per annum animal products or 50 million gallons of milk equivalent per annum).

Concurrent Developments

Development Requiring EIA

7.9.7. Schedule 5 of the Planning and Development Regulations sets out the following classes of development requiring EIA:

7.9.8. Part 1:

13. Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2, point (6), of Directive 91/271/EEC5 .

22. Any change to or extension of projects listed in this Annex where such a change or extension in itself meets the thresholds, if any, set out in this Annex

7.9.9. Part 2:

10(dd). All private roads which would exceed 2000 metres in length.

11 (c) Waste water treatment plants with a capacity greater than 10,000 population equivalent as defined in Article 2, point (6), of Directive 91/271/EEC not included in Part 1 of this Schedule.

13. (a) Any change or extension of development already authorised, executed or in the process of being executed (not being a change or extension referred to in Part 1) which would:- (i) result in the development being of a class listed in Part 1 or paragraphs 1 to 12 of Part 2 of this Schedule, and (ii) result in an increase in size greater than -- 25 per cent, or - an amount equal to 50 per cent of the appropriate threshold, whichever is the greater.

- 7.9.10. Under ABP-310721-21 permission was granted by the planning authority for a new site entrance, security hut, entrance signs, new access road and ancillary works. The case is currently under appeal. The proposed access road, shown on Drawing No. is c.85m in length. This is considerably below the threshold for EIA as a project in its own right, and in conjunction with the proposed development would not result in any change or extension of the Cootehill facility to result in a requirement for EIA (Class 7(b) or (c) and Class 13 of Part 2).
- 7.9.11. Under ABP- 308725, the Inspector's report, which was excepted by the Board, considered that the wastewater treatment plant did not require environmental impact assessment on the grounds that it was a replacement plant and there was no increase in environmental emissions or intensification of uses proposed. I would concur with this view.
- 7.9.12. Further, the replacement WWTP, in conjunction with the proposed access road and extension to warehouse facility, the subject of this appeal, would not collectively trigger a requirement for environmental impact assessment on the grounds that there is no collective change or extension to the authorised facility which would result in the development being of a Class listed in Part 1 or Part 2 of Schedule 5 or result in an increase in size greater than 25% or an amount equal to 50% of the processing thresholds (Class 7(b) or (c), Part 2, schedule 5).

Sub-Threshold Development

- 7.9.13. I examine below the potential for significant environmental effects arising from the subject development in conjunction with concurrent developments, having regard to the criteria for determining whether sub-threshold development should be subject to EIA as set out Schedule 7 of the Planning and Development Regulations, 2001 (as amended). This approach provides a robust basis for screening for EIA for the subject development.

Characteristics of the proposed development.

- 7.9.14. In summary, the three concurrent developments comprise:

- An extension/alteration to the existing manufacturing facility (extension of warehousing to provide storage, alternative packing arrangements, offices, laboratory, car parking and temporary construction site),

- Removal of existing and provision of replacement wastewater treatment plant, and
- A new road access to the north of the site.

7.9.15. The developments as a whole will not result in any increase in production at the site or increase in staff numbers. Construction of the new entrance will take place first, followed by the concurrent construction of subject development and WTP. Following construction, the plant associated with the proposed development and completed WTP will be commissioned. During this phase the proposed and existing WTPs will run in tandem with an increase in volumetric discharge Dromore River. This was considered by the Board under ABP 308725 and will be progressed under a technical amendment to the existing EPA licence. Once operational the subject development, with new WTP, will result in reductions in water and energy use.

7.9.16. The Abbott plant is situated in the context of a wider rural environment where proposed/permitted developments are a mix of commercial, residential and agricultural development (see Table 1, 2 and 3 of EIA Screening Report). These are generally small scale and removed from the appeal site and pose no evident risks of cumulative effects.

7.9.17. Construction is unlikely to utilise significant natural resources (having regard to the relative scale of the development) and works will take place within the existing site on brownfield sites, landscaped areas or rough grassland. Construction waste will be managed in accordance with a specific Construction and Demolition Waste Management Plan for each development with an emphasis on reuse, recovery and recycling. Pollution and nuisance (e.g. noise, dust, sediment laden run off, traffic) effects are likely to arise during construction and will be managed by Construction Environmental Management Plan (individually and/or collectively). Risk of major accidents and/or disasters are unlikely given the nature and scale of the developments and their location.

The location of the proposed development.

7.9.18. The development is situated within the boundary of the existing Abbot Cootehill site. The proposed development will take place within and adjoining the existing factory building, extending across an existing car park. Replacement car parking will be provided on a landscaped area to the front of the existing building and in the area of

an existing hardstanding (to the rear of the site). The WTP will be on the grassed area between the existing car park and the existing WTP. The proposed access road will be situated on rough grassland to the north of the site. Immediately east of the site, Dromore River and the adjoining woodland is designated as a proposed Natural Heritage Area. The proposed developments (individually or collectively) will have no direct effects on this sensitive ecological site by way of land take. Nearest European sites are c.14km to the west of the appeal site (effects on these sites are considered in the Appropriate Assessment section of this report).

The types and characteristics of potential impacts.

7.9.19. Environmental impacts will arise from the cumulative construction and operational phases of the development. Modest effects are predicted by the applicant in respect of cultural heritage, architecture, land take, material assets, landscape, population and flooding. These conclusions seem reasonable given the location of the development within an existing industrial site and absence of flood events (section 5.13, EIA Screening Report). The potential for impacts on sub-surface archaeology can be addressed by condition.

Construction

7.9.20. Construction effects are assessed in the applicant's technical assessments for emissions to noise, air and water (see Appendix A, D and E of EIA Screening Report Potential).

7.9.21. The Noise Assessment Report refers to background noise levels and predicts likely emissions from typical construction equipment, operating cumulatively. Resultant effects on the nearest noise sensitive receptors are limited with emissions within existing noise emission limits (EPA licence, Table 1). The modest effects arise largely from the location of the development within an existing site (with some screening of noise) and as a result of distance of receptor from the appeal site. Table 5 in the EIA screening report refers to research which indicates that birds only start to experience construction noise-related impacts above 60dB (which is in excess of predicted levels).

7.10. The Air Quality Impact Assessment predicts short-term, localised and imperceptible impacts on air quality (from dust and particulates) primarily given baseline air quality, small number of receptors within 350m of the site, wind direction, likely distance of

dust deposition and modest extent of works. The conclusions of the report are the not unreasonable, given the nature of proposed works and parameters at the site.

7.11. The site synopsis for Dromore Lakes pNHA (page section 3.2, AA Screening Report) identifies the ecological importance of the site '*Some of the lakes feature swamp and marsh development typical of inter-drumlin lakes, and with wet grassland, woodland and recovering felled plantation the site encompasses a diversity of habitats. The main interest of the site lies in its wintering waterfowl population. The site supports nationally important numbers of Whooper Swan...Wigeon. Both of these species require grazing in secluded pastures and suitable areas have been accordingly included in the pNHA. Other bird species present in important numbers include Great Crested Grebe, Cormorant, Grey Heron, Mute Swan, Teal, Mallard, Pochard, Tufted Duck, Goldeneye, Lapwing and Curlew*'. The Air Quality Report refers to the presence of wintering waterfowl as the main interest of the pNHA. The report states that the birds are unlikely to be sensitive to dust. The report does not explain this conclusion. However, given the use of the pNHA in winter (when rainfall levels are likely to be higher and dust levels lower), the separation of the site from Dromore Lough by substantial tree cover and the absence of species of conservation interest within close proximity to the site (see section 8 of this report), this conclusion is not unreasonable. Emissions to air, as a result of increase in HGV traffic are considered to be negligible having regard to likely levels of construction traffic, substantially below DMRB assessment criteria. Again this conclusion seems reasonable.

7.11.1. The primary risk to water quality during construction of concurrent developments, is sediment rich run-off from the site entering watercourses. This is identified in the Water Quality Impact Assessment and the report recommends standard best practice measures for the construction phase to reduce impacts to imperceptible. Given the relatively modest area of groundworks, the absence of complexity in managing surface water flows by standard best practice measures, I do not consider that this conclusion is unreasonable.

Operation

7.11.2. Cumulative operational noise is assessed in the Noise Assessment Report. Having regard to predicted noise levels from proposed plant and equipment, cumulative

noise levels during construction at nearby sensitive receptors are demonstrated to be well within existing EPA noise emission limits for day time and night time.

7.11.3. During operation the applicant proposes no change to the production capacity of the plant or to employee numbers. Consequently, it is considered that there will be no operational stage effects on air quality by way of production emissions or traffic (with the applicant continuing to abide by current emission limits set out in the IE licence). This conclusion seems reasonable given that there is no increase in productivity of therefore, I assume, volume of goods in or out.

7.11.4. Cumulative effects on water quality are examined in the Water Quality Impact Assessment. All surface water runoff will be captured and managed with resultant controlled flows (to green field rates) passing through petrol interceptors prior to discharge (to existing surface drainage system). There will, therefore, be no significant increase in outflows from the site or risk of pollution of downstream waters. The effects of the permitted WTP on water quality in Dromore River have been examined by the Board under ABP-308725. It was accepted by the Board that the replacement WTP would have a lower environmental impact on Dromore River than the existing plant. No additional loadings proposed as a consequence of the development (no additional employees).

7.11.5. The cumulative effects of the on Dromore River from the subject development, proposed access road and upgraded WTP would appear therefore to be negligible or positive (with reductions in water usage and upgraded WTP).

Biodiversity and Ecological Impact Assessment

7.11.6. The appellant argues that the EIA Screening Report has not been informed by comprehensive Ecological Impact Assessment, has not had regard to the location of the site in an area that has the second highest suitability index for all bats (National Biodiversity Data Centre database) or provided an assessment of the cumulative effects of the development with the Cootehill Agglomeration Waste Water Treatment Plant². It is argued that the applicant has not provided information set out in

² The appellant also refers to lack of cognisance of the Environmental Liability Risk Assessment produced in relation to the Industrial Emissions Licence. ELRA refers to the assessment and costing of liabilities arising from incidents and accidents at an activity, with such assessments completed in accordance with the requirements of the EPA. As such, ELRA falls outside the scope of the planning system.

Schedule 7A of the Planning and Development Regulations 2001, as amended, and that the need for EIA cannot be screened out.

- 7.11.7. The applicants EIA Screening Report refers to Biodiversity in section 5.3. It sets out the habitats present on the appeal site and refers to desk top information in respect of Natura 2000 sites, Natural Heritage Areas in the vicinity of the site and EPA data on the status of Dromore River. It also refers to the National Biodiversity Data Centre Database for records of species of conservation interest occurring in the vicinity of the site. The Appropriate Assessment Screening Report refers to published data on Natura 2000 sites connected to the appeal site, designated sites which provide the ecological network supporting European sites and to the Site Synopsis for Dromore Lakes pNHA. I would acknowledge therefore that the appellant has referred only to published data.
- 7.11.8. The purpose of the EIA Directive is to ensure that comprehensive assessment is made of projects which are likely to have significant effects on the environment. Schedule 7 of the Regulations sets out criteria for determining whether sub-threshold development should be subject to EIA. It includes the environmental sensitivity of the geographical area likely to be affected by the development. Further Schedule 7A of the Regulations states that for sub-threshold development, information required for screening includes a description of the environment likely to be affected by the development.
- 7.11.9. Notwithstanding the acknowledged requirement for information on the environment likely to be affected by the development, for screening, the government's guidelines on EIA (Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment) require '*A preliminary examination...based on professional expertise and experience, and having regard to the 'Source-Pathway-Target' model, where appropriate*' (section 3.5). The government's guidelines on EIA for sub-threshold development (Environmental Impact Assessment Guidance for Consent Authorities regarding Sub-Threshold Development), also refer to the use of published data in the first instance when screening for EIA of sub-threshold developments (section 5.29).
- 7.11.10. In this instance, the proposed development and concurrent developments take place within the boundary of an existing manufacturing facility. There is no

encroachment onto adjoining lands. It is acknowledged by the applicant, that the site is situated in an environmentally sensitive area and a high ecological value was assumed by default for the ecological habitats of potential merit (page 3 of response to appeal). Within this context, the applicant's assessment of likely effects i.e. noise, dust, discharges to water, have all indicated the absence of significant effects outside the site, including upstream and downstream of the site, and on species of conservation interest in the wider environment. This would exclude significant effects on bat species as the development will not result in any substantial change to bat habitat outside of the site and the site itself is of low value for roosting, given its operational status. I do not consider it necessary therefore for the applicant to carry out a detailed review of the ecology of lands outside of the site, which it has been demonstrated will not be affected by the development (alone or in combination with concurrent developments). The risk of cumulative effects, with Cootehill agglomeration WTP are considered under Water Framework Directive below.

7.12. Conclusion in respect of Environmental Impact Assessment

7.12.1. Having regard to:

- (a) The nature and scale of the proposed development, which is significantly under the threshold for environmental impact assessment, as set out in Class 7 of the Planning and Development Regulations 2001 (as amended),
- (b) The location of the site on lands that comprise an existing manufacturing facility,
- (c) The location of the site outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended) and the absence of any relevant connectivity to any sensitive location,
- (d) the guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003), and "Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment", issued by the Department of Housing, Planning and Local Government (2018), and

(e) the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report is not therefore required.

7.13. Water Framework Directive

7.13.1. As stated previously, the proposed development alone and in conjunction with concurrent developments will not lead to an increase in discharges from the site, except for a short period when the existing and proposed WTPs are operated in tandem. This aspect of the development has been previously considered by the Board and no significant additional loadings will arise as a consequence of the subject development, to question this conclusion. I am satisfied therefore that there will be no direct, indirect or in-combination effects on water quality either upstream or downstream of the site, or therefore of cumulative effects with Cootehill agglomeration WTP. I note the appellant's reference to breaches of the IE licence, for both Cootehill WTP and Abbott Cootehill facility. However, these are matters for the EPA and do not undermine my conclusions of the assessment in respect of EIA (which is properly based on the emission limits in place under the existing licence regime).

8.0 Appropriate Assessment - Screening

Compliance with Article 6(3) of the Habitats Directive

8.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section. The applicant has submitted a screening report for Appropriate Assessment as part of the planning application 'Report for the purpose of Appropriate Assessment Screening'. The Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. The Report concluded that it can be excluded, on the basis of objective information, that the proposed development,

individually or in combination with other plans and programmes, will have a significant effect on a European site.

- 8.2. Having reviewed the documents and submissions I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites. In section 2.2 of the report, the applicant describes the data sources used for the appropriate assessment screening report. Data is desk based and includes data from the National Parks and Wildlife Service, Ordnance Survey of Ireland and the National Biodiversity Data Centre. Guidance provided by government on appropriate assessment (Appropriate Assessment of Plans and Projects in Ireland), states that the assessment of likely effects in a screening exercise, be undertaken '*on the basis of available information as a desk study or field survey or primary research as necessary*'. Further, it is stated in the guidelines that screening is iterative and involves consideration of the project and its likely effects, of the Natura 2000 sites and their sensitivities and the likely interaction between them. In this instance, the proposed development is significantly removed from nearest European sites, and it is appropriate in the first instance that a desk study of higher level environmental information is used to establish the likely effects of the development, with detailed field survey or primary research carried out if warranted.

Screening for Appropriate Assessment - Test of likely significant effects

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

Brief description of the development

- 8.3.1. The applicant provides a description of the project in section 3 of the AA screening report (it is also described in the EIA screening report and its associated technical reports). In summary, it comprises an extension of warehousing, to provide storage, alternative packing arrangements, offices, laboratory, car parking and temporary

construction site. The proposed development will take place within the confines of the existing site and includes:

Construction

- Removal of existing portacabin.
- Excavations to facilitate construction of foundations and installation of services.
- Construction and commissioning of extension/tower/car parks.

Operation

- The development will facilitate the broadening of the plant's packaging capabilities, office and laboratory space. There will be no increase in production as a consequence of the proposed development.
- All surface water drainage within the site is captured and discharged under licence into Dromore River, downstream of Dromore Lake. No amendments to the licencing of stormwater from the site are required for the proposed development.
- All wastewater from the site is treated in the on-site wastewater treatment plant and discharges under licence to Dromore River downstream of the lake. There is no proposed increase in wastewater production or amendment required to the licencing of wastewater from the site.

8.3.2. Concurrent developments on the site are the permitted replacement of the existing WTP (ABP-308725-20) and construction of a new entrance to the north of the site (ABP-310721-21).

Submissions and Observations

8.3.3. None.

European Sites

8.3.4. Having regard to the source-pathway-receptor model, European sites which are connected to the subject site are Lough Oughter and Associated Loughs SAC (site code 000007) and Lough Oughter Complex SPA (site code 004049). These lie c.15km+ to the west of the site and are connected to it via Dromore River to the

south of the site. Dromore River discharges into Annalee River c.7km downstream of the subject site. From here the Annalee flows into the River Erne system (approximately at Butlers Bridge) and to Lough Oughter Loughs (see attachments). The applicant's appropriate assessment screening report states that hydrological connectivity (as measured on GIS mapping) is c.24km to the SAC boundary and c.32km to the SPA boundary. There is no connectivity to any other European site. Qualifying interests of Lough Oughter sites are set out below.

European site	Qualifying Interests	Distance from site	Connections	Considered Further
Lough Oughter and Associated Loughs SAC (site code 000007)	Natural eutrophic lakes with <i>Magnopotamion</i> or <i>Hydrocharition</i> - type vegetation Bog woodland Lutra (Otter)	c.15km	Yes, via discharges from the site to Dromore River.	Yes
Lough Oughter Complex SPA (site code 004049).	Great Crested Grebe (<i>Podiceps cristatus</i>) Whooper Swan (<i>Cygnus cygnus</i>) Wigeon (<i>Anas penelope</i>) Wetland and Waterbirds	c.15km	Yes, via discharges from the site to Dromore River.	Yes

8.3.5. Conservation objectives for the sites are generic:

- Lough Oughter and Associated Loughs SAC – To restore the favourable conservation condition the feature of interest by reference to specified attributes and targets.
- Lough Oughter Complex SPA – To maintain or restore the favourable conservation condition of the wetland habitat at Lough Oughter Complex SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

8.3.6. Section 4.2.1 of the screening report describes the conditions under which favourable conservation conditions are achieved for habitats and species. Table 4 of the report sets out the key environmental conditions supporting the integrity of the site (by qualifying objective), current threats to the qualifying interest and potential impacts.

8.3.7. Section 4.3.2 of the screening report refers to the ecological network supporting Natura 2000 sites i.e. the network of ponds, woodlands, hedgerows and wetlands that may provide stepping stones between European sites for mobile species. It refers to all of the pNHAs within 15km of the site, including Dromore Lakes pNHA which adjoins the applicant's landholding. The importance of the site for wintering waterfowl is indicated in section 3.2 of the Report, with the site supporting nationally important species of Whooper Swan and Wigeon and important numbers of Great Crested Grebe and other wetland and waterbirds.

Assessment of Likely Effects

8.3.8. The appeal site is removed from European sites. Consequently no direct effects on the qualifying interests (habitats or species) of Lough Oughter and Associated Loughs SAC or Lough Oughter Complex SPA will arise e.g. by way of land take, fragmentation.

8.3.9. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, indirect effects may arise from:

Construction:

- Sediment laden runoff entering Dromore River/Dromore Lake, with consequential effects on downstream water quality dependent habitats and species (European sites and sites within the ecological network).
- Disturbance by way of noise, human activity and dust during construction works.

Operation:

- Discharge of surface water from the site to local water bodies and the risk of pollution with effects on downstream water quality dependent habitats and species (European sites and sites within the ecological network).

- Disturbance by way of noise and human activity.

In combination effects

- With potential to arise from concurrent projects proposed on the site and from projects and plans affecting the wider environment.

Construction

- 8.3.10. During construction, and in the absence of any mitigation measures, there is a risk that surface water which is laden with sediment and/or petrochemicals will enter local waterbodies. Whilst this would have a deleterious effect locally, such effects are unlikely to have a significant effect on downstream national sites (supporting the network of European sites) or on European sites which are significantly removed from the appeal site (c.24k+ by water).
- 8.3.11. Mobile species of conservation interest have the potential to be adversely affected by changes in water quality. However, I note that there are no records, from the National Biodiversity Data Centre database, of otter in the vicinity of Dromore Lough or river at the Abbott facility or downstream. Nearest records are of locations >1km to the north east of the site and upstream of it. Similarly, whilst there are records of Whooper Swan, Great Crested Grebe and Wigeon in Dromore Lough and upstream in Drumlona Lough, there are no records from a polygon within 1km of the Abbott site (section 3.2 AA Screening report). The AA screening report acknowledges that the paucity of records for the annexed species is not evidence of absence but a likely indicator of the existing level of human activity in the Dromore River in the 1km upstream and downstream of the site. This acknowledgement is not unreasonable, given the busy road network and public recreation area in the vicinity of the site.
- 8.3.12. The applicant's Noise and Air Quality reports predict limited effects outside of the subject site during construction, principally due to relatively limited extent of works, location within an existing site and dissipation of effects with distance. Further, predicted noise levels are less than the level (60dB) at which birds start to experience construction noise related impacts (Table 5, EIA screening report) and dust effects are unlikely to be significant outside of the immediate area of the site (where no species of conservation interest have been observed). The AA screening report also refers to TII standards which indicates no disturbance effects on otter

beyond 150m of construction sites and to research which indicates no disturbance to waterbirds beyond c.300m of a construction site.

8.3.13. Having regard to the foregoing, I am satisfied that the construction effects of the development, will not extend significantly beyond the site boundary. Consequently, significant effects on the local ecological network (which supports European sites) and species of conservation interest, associated with the Lough Oughter sites, are unlikely.

Operation

8.3.14. During operation discharges from new structures (roofs, hard surfaces) will be directed via the site surface water management system to Dromore River. Whilst local effects may arise (in the absence of mitigation), downstream effects at Lough Oughter are highly unlikely by virtue of the likely modest flows and diluting and dissipating effects of intervening water bodies. Effects (without mitigation) on local ecological networks would be short term and restricted to the immediate area of the site and unlikely to result in consequential effects for species of conservation interest or European sites.

8.3.15. The Noise and Air Quality Assessments again predict little effects of the development outside the confines of the site. Consequently, significant adverse effects on the local ecological network, or downstream European sites, are unlikely.

In-combination

8.3.16. In-combination effects may arise from the construction and operation of the proposed development in conjunction with the construction and operation of the two concurrent developments proposed by the applicant, the permitted wastewater treatment plant and proposed new entrance to the site, and/or other developments or plans proposed in the area.

8.3.17. Section 5.2.1 of the screening report refers to planning applications in the immediate area of the site. In combination effects are excluded by virtue of the relatively modest scale of proposed works and distance from the subject site (>500m). This conclusion seems reasonable. Further, Monaghan County Development Plan sets out policies to guide physical development in the area of the site. The Plan requires compliance with the Habitats Directive. Having regard to distance of other

permitted/planned development in the area and policies of the County Development Plan, the risk of significant in-combination effects, from development in the wider area, can be excluded.

8.3.18. The board has previously determined that the proposed WTP will not have an adverse effect on European sites (directly or indirectly) during construction and operation. It has been demonstrated here that the subject development is unlikely to have any significant effect on water quality locally (ecological network) or downstream (European sites). In-combination effects on water quality from these two concurrent developments are therefore unlikely. The proposed new entrance to the appeal site, may also give rise to contaminated runoff during construction and/or operation. However, in the absence of any mitigation measures, this additional load in conjunction with an unmitigated load from the subject development are unlikely to have a significant adverse effect on water quality beyond the immediate area of the site and are therefore unlikely to adversely affect water quality in the wider ecological network or to the detriment of downstream European sites.

8.3.19. The applicant's Noise Report and Air Quality Impact Assessment considered the in-combination effects of the development on ecological receptors. Cumulative noise effects during construction and operation are demonstrated to be below existing EPA criteria for day time and night time noise and the level where birds are likely to be affected (Table 13, Noise report, Table 5, EIA screening report). The Air Quality Assessment predicts a low risk of significant effects during construction principally due to the low dust emissions, short duration of works and limited sensitivity of wintering waterfowl to dust (see the EIA section of this report). Impacts to air during operation are negligible given the absence of any increase in productivity.

8.3.20. The conclusions drawn in both the Noise and Air Quality reports are not unreasonable, essentially given the modest magnitude and extent of likely effects and the distance of the development from species of conservation interest. Consequently, there is no evidence to suggest a risk of substantial deterioration in the local ecological network, significant effect on species of conservation interest or related European sites.

Mitigation Measures

8.3.21. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

8.4. Screening Determination

8.4.1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site Nos. 000007 and 004049, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required. This determination is based on the following:

- The distance of the proposed development from the European Site,
- The nature, scale and location of the proposed development and concurrent developments,
- The absence of species of conservation interest in the vicinity of the site, and
- The absence of significant effects on the ecological network connecting the site to European sites.

9.0 Recommendation

9.1. I recommend that permission for the development be granted.

10.0 Reasons and Considerations


Having regard to the nature, scale and form of the proposed development which provides for no increase in production capacity and its location within an existing industrial and manufacturing facility, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 19th day of March 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.</p> <p>Reason: In the interest of sustainable waste management.</p>
4.	<p>The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to</p>

	<p>commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures, arrangements for soil management, sedimentation and pollution controls, traffic management and provision of wheel wash facility.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
5.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
6.	<p>(a) The car parking areas hereby permitted shall be permanently surfaced and laid out in bays, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(b) Prior to the use of the proposed structures, the car parks shall be surface and laid out to the satisfaction of the planning authority.</p> <p>Reason: To ensure that adequate off-street parking provision is available to serve the proposed development.</p>
6.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p>

	<p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
7.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>


 Deirdre MacGabhann
 Planning Inspector

3rd February 2022