



An
Bord
Pleanála

Inspector's Report ABP-310326-21

Development

Change of use of existing underground agricultural storage tank from agricultural storage to storage of brewing and distilling wastes for recovery to agricultural land, tillage and grassland and permission for a new recessed site entrance.

Location

Culmullin, Drumree, Co. Meath.

Planning Authority

Meath County Council.

Planning Authority Reg. Ref.

21496.

Applicant

John Brady.

Type of Application

Planning Permission.

Planning Authority Decision

Grant with conditions.

Type of Appeal

Third Party.

Appellant

Paul Molloy.

Observer(s)

None.

Date of Site Inspection

22nd day of October, 2021.

Inspector

Patricia-Marie Young

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1.0 Site Location and Description

- 1.1. The irregular shaped appeal site has a given 0.79ha area. It is located in the Townland of 'Culmullin', c7km to the south of Dunshaughlin, in County Meath. The eastern boundary of the site has an entrance onto the R125 which at the time of my inspection accommodated a constant stream of traffic in both directions. The site contains a cluster of agricultural buildings, yard areas and associated facilities. With this including the concrete storage tank which is the subject of this application before which is located in the north-western corner of the site and at the time of inspection this partially undergrounded and uncovered tank was empty.
- 1.2. The dense roadside boundary running alongside the western side of the R125 contains mature and dense planting. It therefore screens many of the structures that are present on this site. This natural screening is added to by a number of mature trees that are present along this and the adjoining stretch of the R125 as well as this road's meandering in horizontal and vertical alignment character at this location.
- 1.3. The southern boundary of the site adjoins the curtilage of a modest detached single storey dwelling, which at its nearest point this dwelling is situated c22m to the south of the site's southernmost boundary. To the north there is a small gap of agricultural land with another detached dwelling located in close proximity. This detached dwelling at its nearest point is located c67m to the north east of the site.
- 1.4. The surrounding area has a rural character with a number of farmsteads and a strong proliferation of one-off detached dwellings.

2.0 Proposed Development

- 2.1. Planning permission is sought for the change of use of existing underground agricultural tank from agricultural storage to storage of brewing and distilling wastes for recovery to agricultural land, tillage, and grassland. In addition, planning permission is also sought for a new entrance.
- 2.2. This application is accompanied by a Natura Impact Statement (NIS) and the proposed works will also require a Waste Facility Permit Application.
- 2.3. This application is accompanied by the following documents:

- A cover letter from the applicant's agents dated the 15th day of February, 2021, containing the following information:
 - The waste will come from distilling and brewing industries.
 - The waste will consist of waste beer, pot ale and spent wash.
 - Maximum volume of 10,000 tonnes per annum will be delivered to the storage facility. This will comprise of approx. 100 tonnes per week (5 tanker loads/week on average) delivered by NWPCO permit holders. Each delivery will be weighed prior to leaving the source location (Daigeo Ireland, St. James Gate & Slane Whiskey, Distillery Slane). Deliveries will approach the site from the north via M50/N3/M3/R125.
 - The waste will be recovered to agricultural land, tillage and grassland using a rear discharge muck spreader in accordance with an approved Nutrient Management Plan. This plan will include Buffer Zones to avoid risk to water quality.
 - Proposed operation of the facility is 8am to 6pm Monday to Friday and 9am to 1pm on Saturday.
 - A new entrance is proposed.
- Three Test Reports relating to an analysis of two samples labelled as 'Beer-Waste Beer' and another labelled 'Sludge-Spent Wash Pot Ale' setting out their contents.
- A document titled: *'Assessment of the Potential Impacts on Soil, Geology & Water from activities associated with a Waste Facility Permit at Culmullen, Co. Meath'*, prepared by Hydrogeological & Environmental Services and dated the 12th day of August, 2020. This report indicates that the nearest watercourse to the site is Derrypatrick River which flows 300m to the north of the site. This report also examines the overburden geology; the bedrock and structural geology; the hydrogeology and hydrology and sets out an assessment of potential impacts as well as mitigation measures in relation to the development sought. It concludes that *"assuming that all activities at the site are carried out in accordance with relevant legislation and guidance and within strict parameters specified in the Waste Facility Permit approval, then no adverse risk to soil, groundwater or surface water should arise"* with this *"including the Natura 2000 sites identified by the NIS and AA report"*.

- A document titled: '*Natura Impact Statement in Support of Appropriate Assessment of an Application for a Waste Storage Permit at Culmullin, Drumcree, Co. Meath*', dated July 2020 and prepared by FERS (Forest, Environmental Research Services Ltd. This report concludes that the ecological integrity of the Natura 2000 sites concerned in their assessment would not be significantly impacted.
- A document titled: '*Nutrient Management Plan for 2020 Spread – Waste Facility Permit Reference WFP/MH/14/0010/01*', dated the 29th day of November, 2019, and prepared by OCAE Consultants Ltd. This report indicates that the applicant farms approximately 210ha in the immediate vicinity of the storage site at Culmullin. With this land being described as primarily arable. It also indicates that the applicant proposes to reuse the by-product on this land alongside the grassland of neighbouring farmers with a total spreadable proposed land bank of 262.46ha.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 7th day of May, 2021, the Planning Authority granted permission for the proposed development subject to 6 no. conditions including:

- | | |
|----------------------|--|
| Condition No. 2: | Seeks compliance with previous grant of permission P.A. Ref. No. DA130261. |
| Condition No. 3(i): | Sightline requirements. |
| Condition No. 3(ii): | Requires the recess of the entrance gate 17m from the edge of the road. |
| Condition No. 4: | P.A.'s Environment Departments requirements including subsection (i) which requires authorisation under the Waste Management (Facility Permit Registration) Regulations Statutory Instrument S.I. of 2007, as amended, prior to the commencement of the site activity. |
| Condition No. 5: | Requires the suite of measures proposed in the NIS to be implemented in the full. |

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Authority's Planning Officer's report is the basis of their decision, and it includes the following comments:

- Principle of development is acceptable.
- The proposed development would be set within an existing farm complex and viewed in the context of its existing buildings. The design, siting and layout is deemed to be acceptable.
- The nearest dwelling is sited 70m from the north-eastern corner. This is considered to be an adequate separation from the this established farm.
- No adverse impacts on residential amenity of properties in the vicinity would arise.
- This development is significantly below the threshold for EIA and will not by itself, or in-combination with other developments exceed this threshold. Therefore, a subthreshold EIAR is not required.
- The importation of 10,000 tonnes of spent pot ale for storage and subsequent spreading would be subject to a waste facility permit.
- No Appropriate Assessment issues arise.
- This report concludes with a recommendation to grant permission.

3.2.2. Other Technical Reports

Transportation: No objection subject to safeguards. These safeguards include maintaining a site line of 120m to the nearest side of the roadside edge from a setback of 3m; and the entrance gate be recessed at least 17m from the edge of the road in order to facilitate HGVs pulling in from the R125 prior to the opening of the gate.

Environmental Department: No objection subject to the site activity being authorised under the Waste Management (Facility Permit and Registration) Regulations Statutory Instrument S.I. of 2007, as amended, prior to the commencement of any site activity. Other safeguards of land spreading activities to be carried out in accordance with the Good Practice for the Protection of Waters Regulations, 2017; land spreading activities to be subject to accordance with an agreed nutrient management plan and that an

odour management plan shall be submitted to the Planning Authority for their agreement.

3.3. Prescribed Bodies

- 3.3.1. The Planning Authority referred this application to An Taisce, the Heritage Council, DAU, HSE and the EPA. No responses were received.

3.4. Third Party Observations

- 3.4.1. A number of 3rd Party Objections to the proposal were received by the Planning Authority during its determination of this application. These are on file for the Board's information. I consider that the substantive issues contained in them are comparable to those in the 3rd Party Appeal received by the Board which is summarised in Section 6 of this report below.

4.0 Planning History

4.1. Site:

- **P.A. Ref. No. DA130261:** Planning permission was **granted** subject to conditions for a development consisting of the construction of an underground agricultural storage tank for food (vegetable) waste and all associated facilities and site works.
- **P.A. Ref. No. DA40068:** Planning permission was **granted** subject to conditions for a development consisting of the construction of a grain store.
- **P.A. Ref. No. 99796:** Planning permission was **granted** subject to conditions for a development consisting of the construction of a grain store.

5.0 Policy & Context

5.1. Local

- 5.1.1. The **Meath County Development Plan, 2021 to 2027**, is the applicable local plan for the site and its setting. The subject site is located in a rural area of the county that is not subject to any specific land use zoning objectives under this plan.
- 5.1.2. Section 2.2 of the Development Plan sets out a number of Core Principles that align with the strategic planning approach for the county under the plan period.

- 5.1.3. Section 5 of the Development Plan deals with the matter of Transportation.
- 5.1.4. Section 9.1 of the Development Plan deals with the matter of Rural Development and notes that County Meath is a predominantly rural county in terms of land use and ensuring the continued vitality as well as viability of the rural area is a significant issue for the county, particularly in terms of how to best to manage sometimes competing social, economic, and environmental considerations.
- 5.1.5. Section 9.1 further sets out that this chapter is informed by the Core Strategy set out in Chapter 2. It includes the following goal and strategic objectives:
- **Goal:** *“To encourage the continued sustainable development of rural communities without compromising the physical, environmental, natural and heritage resources of the County.”*
 - **RUR DEV SO 1:** *“To support the continued vitality and viability of rural areas, environmentally, socially and commercially by promoting sustainable social and economic development.”*
 - **RUR DEV SO 7:** *“To support the continuing viability of agriculture, horticulture and other rural based enterprises within rural areas and to promote investment in facilities supporting rural innovation and enterprise with special emphasis on the green economy, in the context of sustainable development and the management of environmental resources”.*
 - **RUR DEV 10:** *“To promote rural economic development by recognising the need to advance the long term sustainable social and environmental development of rural areas and encouraging economic diversification and facilitating growth of rural enterprises”.*
- 5.1.6. Section 9.8 of the Development Plan deals with Agricultural Development.
- 5.1.7. Section 9.8.1 on the matter of agricultural buildings states that: *“the provision of well-located structures and facilities necessary for good and environmentally sound agricultural practice shall be supported”*. It also sets out the suitability of a given proposal will be determined by a number of factors including but not limited to the buildings being at locations compatible with the protection of rural amenities and the availability of an effective means of farm waste management to ensure nutrient

balancing between application of farm wastes to land and its balances uptake by agricultural use of land.

- 5.1.8. Section 9.8.2 of the Development Plan deals with the matter of Intensive Agriculture. It indicates that the scale as well as intensity of such activities within a limited area and the appropriateness of the activity in relation to the quantum of waste generated and its effect on the area is an important consideration in assessing such proposals.
- 5.1.9. Section 9.8.3 of the Development Plan deals with Alternative Agri-Enterprise and indicates that whilst the Planning Authority would encourage and endeavour to facilitate the expansion and diversification of agriculture, some agri-business activities may be more appropriately located elsewhere.
- 5.1.10. Section 10.2 of the Development Plan deals with the matter of Climate Change and under Section 10.5.1 indicates that the Climate Change Objectives include supporting implementation of the Climate Action Plan 2019, the reduction of emissions of greenhouse gases including from the agricultural and waste sector.
- 5.1.11. MOV POL 1 of the Development Plan sets out that the Planning Authority will support and facilitate the integration of land use with transportation infrastructure and MOV POL 3 sets out to promote sustainable land use planning measures.
- 5.1.12. Section 10.5.5 of the Development Plan deals with Agriculture and Land Use.
- 5.1.13. Section 10.6.5 of the Development Plan sets out the following goal for agriculture: “*to maintain a vibrant and healthy agriculture sector based on the principles of sustainable development whilst at the same time finding alternative employment in or close to rural areas to sustain communities*” (GOAL 9.7.1).

5.2. Regional

- 5.2.1. Under Regional Policy Objective RPO 6 of the **Eastern and Midlands Regional Spatial and Economic Strategy, 2019-2031**, it states: “*promote best use of Transport Infrastructure, existing and planned, and promote sustainable and active modes of travel to ensure the proper integration of transportation and land use planning*”. It also sets out the need to transition to a low carbon society by reducing transport usage and transitions to lower carbon options through to transport system is firstly about reducing the need for travel and then shifting to economically efficient modes.

National Strategic Outcome 9 – is the Sustainable Management of Water, Waste & Other Environmental Resources. The following RPOs are relevant:

- **RPO 8.1:** *“The integration of transport and land use planning in the Region shall be consistent with the guiding principles expressed in the transport strategy of the RSES”.*
- **RPO 8.3:** *“That future development is planned and designed in a manner which maximises the efficiency and protects the strategic capacity of the metropolitan area transport network, both existing and planned and to protect and maintain regional accessibility.”*
- **RPO 8.7:** *“To promote the use of mobility management and travel plans to bring about behaviour change and more sustainable transport use.”*
- **RPO 10.25:** *“Development plans shall identify how waste will be reduced, in line with the principles of the circular economy, facilitating the use of materials at their highest value for as long as possible and how remaining quantum’s of waste will be managed ...”*

5.2.2. The **Eastern and Midlands Region Waste Management Plan, 2015 – 2021**, of note policy E19 states that: *“the waste plan supports the development of indigenous reprocessing and recycling capacity for the treatment of non-hazardous and hazardous wastes where technically, economically and environmentally practicable. The relevant environmental protection criteria for the planning and development of such activities need to be applied”.*

5.3. **National**

- National Planning Framework – Project Ireland, 2040.
- National Development Plan, 2018 – 2027.
- Climate Action & Low Carbon Development Act.
- National Adaption Framework.
- National Mitigation Plan.
- Climate Action Plan.

5.4. Natural Heritage Designations

- 5.4.1. The nearest European Sites are the River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299) and the River Boyne and River Blackwater Special Protection Area (Site Code: 004232) which are located c11.2km to the north west of the site at their nearest point.

5.5. EIA Screening

- 5.5.1. Having regard to the extent, nature and scale of the proposed development, which consists of a change of use of an existing underground agricultural storage tank from agricultural storage to storage of brewing and distilling wastes for recovery to agricultural land, tillage and grassland alongside the permission for a new entrance onto a regional road to accommodate heavy goods vehicles accessing and egressing from the site which is an existing complex of agricultural buildings, yard spaces and associated infrastructure.
- 5.5.2. Under this proposal 10,000 tonnes of waste arising from distilling and brewing industries consisting of waste beer, pot ale and spent wash per annum will be delivered to the proposed change of use storage tank.
- 5.5.3. Under Article 3(1) of the Waste Framework Directive 2008/98/EC, “waste” is defined as any substance or object which the holder discards or intends or is required to discard.
- 5.5.4. Under Article 3(2a) “*non-hazardous waste*” is defined as waste not covered by Article 2(2) which defines hazardous waste as waste that displays one or more of the hazardous properties listed in Annex III.
- 5.5.5. Article 5(1) sets out that Member States shall take appropriate measures to ensure that a substance or object resulting from a production process the primary aim of which is not the production of that substance or object is considered not to be waste. But to be a by-product if certain specified criteria need to be demonstrated. In this case the criteria applicable is that the substance to be stored at the existing underground storage tank can be used directly without any further processing other than normal industrial practice. In addition, that is further use is lawful. That is to say that the substance fulfils all relevant product, environmental and health protection requirements for its specific use and it will not lead to overall adverse environmental or human impacts.

5.5.6. In addition, Article 4 sets out the waste hierarchy as follows:

- a) Prevention
- b) Preparing for re-use
- c) Recycling
- d) Other recovery
- e) Disposal

This Article also indicates that when member states are applying the waste hierarchy that they take measures to encourage the options that deliver the best overall environmental outcome in their considerations.

5.5.7. The Planning and Development Regulations, 2001, as amended, under Part 10, Chapter 1 provides a definition of “*sub-threshold development*” as a type set out in Part 2 of Schedule 5 which does not equal or exceed, as the case may be, a quantity, area or other limit specified in that Schedule in respect of the relevant class of development.

5.5.8. Under Item 11(d) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 to 2019, mandatory EIA is required where waste installations would have an annual intake greater than 25,000 tonnes. Under the current proposal, the annual intake set out is 10,000 tonnes of brewing and distilled wastes, with the waste being described as pot ale/spent wash/beer mix, but none of this would come within the aforementioned definition of “*waste*” having regard the fact that this substance can be used directly without any further processing based on it being stored at the subject site and subsequently recovered to agricultural, tillage and grassland via slurry tankards by way of land spread on the applicants land and as also contended in the documentation submitted on neighbouring agricultural land.

5.5.9. As such it is my considered opinion that the brewing and distilled waste to be stored in an existing underground agricultural storage tank prior to land spreading meets the definition of “*by-product*” in this case.

5.5.10. The current proposal is sub-threshold and so it requires to be the subject of a preliminary examination.

5.5.11. In terms of the four questions that arise in a preliminary examination I note the following:

Question 1:

Is the size or nature of the proposal exceptional in the context of the existing environment?

The site area as given in the planning application form is a modest 0.79ha hectares and the footprints of the buildings and structures on site are not given in the documentation submitted with this application.

It is contended in the documentation provided that the site area forms part of an agricultural landholding of a given 210ha area within the immediate locality of the site and in addition within the vicinity of the site there is an additional 52.46ha available to the applicant for land spread of the recovered wastes that would be stored in the existing subject agricultural storage tank.

According to the information provided with this application the subject facility, which is the aforementioned existing agricultural storage tank is comprised of a reinforced concrete structure. The given dimensions for it are 19.8m wide by 58.6m long by 3m deep with 0.5m of the structure above existing adjoining ground level. It is indicated that it is a permitted structure and agricultural use. Under which it has a capacity to store up to 3,500m³ of agricultural product at any one time. Under this application it is contended that it would have an annual capacity of 10,000m³ with the storage consisting of brewing and distilled waste which would be recovered to agricultural land in its vicinity by land spreading.

In regard to the above, I raise concern that the information provided appears to contradict the information available for public view for the subject agricultural storage tank which was permitted under P.A. Ref. No. DA/130261, with the Managers Order for the same dated the 9th day of January, 2014. With the documentation accompanying this information indicating that the subject structure was designed to have a capacity of c2,500m³.

Of further concern the accompanying documentation for P.A. Ref. No. DA/130261 and having regards to what was permitted by the Planning Authority indicates that the amount of agricultural waste to be imported per week given as: 100 tonnes of

vegetable waste. Given that a calendar year is accepted to comprise of 52.143 weeks this equates to 5,214.3 tonnes.

The current proposal would effectively double existing annual in-take of waste.

Aspects of the proposal would have an agricultural character given that the existing storage facility for which this intensification and change of use is sought forms part of an agricultural yard of associated buildings as well as spaces and aspects would have an industrial character given the intensity of the increased levels of storage of a waste stream that is not arising from the applicants agricultural activities at this location and are related to commercial brewing activities remote from this area.

This is also added to by the overall intensification of operations of the site as put forward in this application, the intensification of land spreading on the accompanying and neighbouring land identified and the increased levels of heavy vehicles accessing and egressing from the site.

Overall, the proposal would have the appearance of an agricultural development in a rural landscape remote from any settlement. Given that the subject site forms part of agricultural farmstead that forms part of a larger agricultural landholding in the applicant's purported ownership.

Arguably the type of traffic and quantum of heavy goods vehicles the proposed development would generate would be out of character with what would normally be expected to arise from the collection of buildings that occupy the subject site. As well as would give rise to additional land spreading of waste nutrient onto land for an agricultural landholding of this size even when the additional over 50ha neighbouring land available for land spread is taken into account.

The latter is also likely to give rise to a larger volume of agricultural vehicles using the local road network to access the different parcels of land. Many of which are not demonstrated to be connected to this site in any other manner by the documentation provided.

In my considered opinion the proposed development sought under this application is in its nature, scope, extent through to intensity materially different to that permitted development on this site in relation to the use of the subject storage tank under P.A. Ref. No. DA/130261. As a result, it has greater potential to give rise to additional

nuisances over and above the existing situation. In particular in terms of environmental impact, greater potential for ground and surface water pollution, potential for adverse impact impacts on properties in the amenity, including residential as well as agricultural properties reliant on proprietary potable water supplies through to potential for additional traffic hazard and road safety concerns.

Based on the above I consider that nature of the proposed development is of a size and nature that is exceptional, materially different, and out of character with its site setting.

Question 2

Will the development result in the production of any significant waste, or result in significant emissions or pollutants?

The proposed development relates to an existing permitted storage tank, a material change in what it stores and the quantity that it stores annually through to a material intensification of land spread on the applicant's landholding as part of accommodating receiving for storage organic waste by-products from the brewing and distilling industry with its subsequent land spread on a total parcel of agriculture land in the applicants and third-party ownership totalling 262.46ha area.

The proposed development whilst relating to waste deals with waste that meets the definition of a by-product and as set out in the documentation accompanying this application will give rise to increased levels of land spread.

Of note the land spread would also be of a materially different composition to the permitted. With this fact clearly demonstrated in the test reports accompanying this application which provides an analysis of:

- 'Waste beer/worts' - which contains nitrogen, phosphorus, potassium and dry matter.
- 'Spent Wash/Pot Ale - which contains aluminium, cadmium, chromium, copper, dry matter, iron, mercury, potassium, nickel, phosphorus, lead, nitrogen, zinc.

There is no specific analysis for the waste arising in the loads from Slane Whiskey Distillery.

Reports addressing this question accompanying this application conclude that the impacts would be capable of being satisfactorily mitigated by way of recommended measures.

However, as said there is no specific analysis for all the waste by-products to be stored and land spread.

There is also little information given on the proximity of all the farmland to water courses through to no analysis of the ground conditions of the 262.46ha agriculture land. And whilst the documentation indicates that most of the land within the applicant's landholding is in arable use there is no robust quantification of their other farming activities with evidence within the farmstead and within the area showing that farming of livestock is the more predominant agricultural land use in this rural locality.

It is therefore my considered opinion that the proposed development has the potential to result in materially more emissions and pollutants over the existing situation due to the material change in the by-product waste and the quantity of said waste to be stored in the subject tank and land spread in this locality.

Question 3

Is the proposal located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location?

The site does not form part of a Natura 2000 site and there is no such site within the surrounding area.

There may be a source/ pathway/receptor route between this site due to the site's proximity to the Derrypatrick River, the nature of drainage man made and natural in the landscape between the agricultural land upon which the applicant proposes to carry out their proposed land spread activities associated with this application.

When regard is had to this and the source, pathway, receptor model there is a potential for a hydrological connection to be present between the land spread area and nearest Natura Sites.

These are the River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299) and the River Boyne and River Blackwater Special Protection Area (Site Code: 004232) which are located c11.2km away. In addition, similarly there may

be a source/pathway/receptor route between the site and the proposed Natural Heritage Area: Royal Canal (Site Code: 002103) located c10.5km away.

Given the significant lateral separation distance between these with any pollution and contamination having the capacity to be diluted and dispersed in the environment prior to it reaching any environmentally and ecologically sensitive protected locations.

Therefore, over the significant distances set out above significant dilution and dispersion would take place even in the event of an adverse pollution and/or emissions event, to the extent that any potential impact on the qualifying interests associated with the nearest Natura 2000 sites or indeed any other such sites would be infinitesimal. I also note that limited development would be required to facilitate the proposed development sought under this application due to it relating to an existing storage tank with the works required to improve access onto the R125 being modest in nature, extent, and scale.

I consider there is no likelihood of significant effects on the environment arising from the proposed development on any ecologically sensitive site or location.

Question 4

Does the proposal have the potential to affect other significant environmental sensitivities in the area?

The site is not within an area of any known environmental and/or is it a proposed development that was as part of the grant of permission for P.A. Ref. No. DA/130261 subject to an archaeological condition, i.e., Condition No. 11. This condition required monitoring by a suitably qualified archaeologist all ground works and top-soil stripping associated with the development in order to ensure the continued preservation of features of archaeological interest. In addition, the site does not form part of an area designated to be of scenic amenity. There are no significant ground works proposed as part of the development sought under this application.

5.5.12. Conclusion

Having regard to the nature and scale of the proposal it is considered that the issues arising from the proximity/connectivity to a European Site can be adequately dealt with under the Habitats Directive (Appropriate Assessment) as there is no likelihood of other significant effects on the environment including the proposed Natural Heritage

Area: Royal Canal (Site Code: 002103) which is significantly remote from the site to have any real likelihood of significant effects on its environment arising from the proposed development, despite the change in storage and intensity of use of the subject storage tank through to the increased level of heavy vehicles the proposed development would generate. Moreover, the discrepancy between the storage capacity permitted of the subject tank under P.A. Ref. No. DA/130261 is in planning terms an enforcement matter and I have borne in mind the potential difference between what is permitted and what is presented by the applicant in their application as existing in this assessment. Either situation would not change my conclusion that it is my considered opinion that EIA can be excluded at this pre-examination stage.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of the 3rd Party Appeal can be summarised as follows:

- The grant of permission is not supported, and the Board is sought to overturn the Planning Authority's decision.
- The appellant contends that over the last five years their residential amenities have been diminished by obnoxious odours arising from the subject storage tank.
- It is contended that the tank burst in November, 2019, and that its slurry contents blocked land drains as well as overflowed into their property as well as neighbouring properties in the vicinity.
- It is contended that during the last two winters that a river of water comes down from the subject site to their property.
- In April 2021 the applicant dug a new drain across his and their land which resulted in the appellant having a cost of 500euros for a replacement hedge.
- The initial leak emanating from the site was discovered by the Councils Engineers and it is contended that the effluent entered the Boyne near Trim.
- The proposed new entrance has not been used in 40 years is only 50 yards from an existing entrance.

- The R125 is a very busy road and has become a rat run from Dunshaughlin to Kilcock. In addition, there is a Church and School located 500yards away.
- Grains attract vermin and would make an unpleasant environment to live beside.
- The last 5-years of smells have devalued their property.

6.2. Applicant Response

6.2.1. The First Party's response to the grounds of appeal can be summarised as follows:

- The storage of vegetable waste was authorised under the grant of permission P.A. Ref. No. 130261 and Waste Facility Permit WFP-MH-14-0010-01.
- This application is for change of use to storage of brewing and distilled wastes only.
- We are not aware of any complaints associated with the odours from these types of products based on experience of similar waste facility storage sites.
- The blocked stone drain referred to by the appellant was replaced with a 300mm uPVC drain in April 2021 with the consent of the appellant as this drain cuts through their property.

6.3. Planning Authority Response

6.3.1. The Planning Authority's response to the grounds of this appeal can be summarised as follows:

- They are satisfied that all relevant planning considerations outlined in the appellants appeal submission to the Board have been considered during the course of its determination of this application.
- In relation the environmental concerns including the historic pollution, flooding and odour concerns the Board will note that the proposed development will be subject of a Waste Facility Permit.
- The Board is requested to have regard to the report from their Environment Department, dated the 6th day of May, 2021, and the Transportation Department report of the same date, both raised no objections to the proposed development, subject to the inclusion of recommended conditions.

- The Appellant has not substantiated that the proposed development would give rise to actual depreciation of their property value.
- The issue of hedgerow would appear to be a historic matter between the applicant and the appellant.
- The Board is requested to uphold its decision.

6.4. Referrals

- 6.4.1. The Board referred this appeal to the Environmental Protection Agency's – Environmental Licensing Programme. No response was received.

7.0 Assessment

7.1. Overview

- 7.1.1. Having carried out an inspection of the site and it's setting together with having examined the application details and all other documentation on file, had regard to all relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are the principle of the proposed development and the issues raised in the grounds of appeal. These issues are addressed under the following headings:

- Planning History & The Principle of the Proposed Development
- Residential Amenity Impact
- Visual Amenity Impact
- Property Depreciation
- Traffic
- Environmental Capacity

- 7.1.2. The matter of 'Appropriate Assessment' also requires examination.

7.2. Planning History & the Principle of the Proposed Development

- 7.2.1. By way of this application planning permission is sought for the change of use of an existing underground agricultural tank to storage of brewing and distilling wastes for recovery to agricultural land, tillage, and grassland. In addition, planning permission is also sought for a new recessed site entrance onto the public road (Note:R125).

- 7.2.2. I have examined the planning history pertaining to the subject site and its setting. In particular the documentation available for P.A. Ref. No. DA/130261 and the conditions imposed in the under the notification to grant permission for this previously permitted development which is of relevance to this appeal case.
- 7.2.3. Under P.A. Ref. No. DA/130261 the Planning Authority granted planning permission subject to conditions for an underground agricultural tank for the storage of vegetable waste together with all associated works and services.
- 7.2.4. As previously mentioned in 5.5.11 of my report above there appears to be discrepancies between the development granted under this application and what is presented as being on site. Of particular concern is the cubic capacity of the underground agricultural tank. The permitted tank under this previous grant of permission had a given 2,500m³ and under this application the given cubic capacity of the tank is 3,500 m³.
- 7.2.5. This gives rise to difference of 1,000 m³ which is in my opinion significant. I can find no regularisation of this difference in any intervening planning applications. Including if it is the case that in 2019 this tank burst and any works that were carried out at that point in variance of the structure as permitted under P.A. Ref. No. DA/130261 and whilst there appears to be a material increase in the subject tanks storage capacity this application does not seek retention for the same and/or explain how this has arisen.
- 7.2.6. Whilst I acknowledge that unauthorised development if it has occurred in this case is a matter for the Planning Authority to deal with as they see fit I am nonetheless concerned that there is concerning ambiguity present in the documentation on this matter and that the change of use relates to a development that appears to be materially different from what has been permitted with the change of use being sought describing that the tank as being 'existing' and as permitted under P.A. Ref. No. DA/130261.
- 7.2.7. In the absence of clarity on this matter in my view it would be inappropriate for the Board to consider a grant of a permission for the proposed development sought under this application. I also further raise concern that to grant permission in the absence of such clarity and if deemed required rectification through the making of a retention

application I am not satisfied that a grant of permission would not be contrary to the conditions attached to P.A. Ref. No. DA/130261.

- 7.2.8. I also raise another concern to the Board in that Condition No. 9 of the grant of permission P.A. Ref. No. DA/130261 states that: *“the use of the structures, site shall be strictly limited for use as an agricultural food storage tank store/barn only and no other agricultural, commercial nor industrial uses shall be conducted from same”*. The given reason for this condition reads: *“in the interest of proper planning and sustainable development”*.
- 7.2.9. Given that the proposed development sought under this application relates to the storage of waste and the recovery of waste that is a by-product of commercial operations. With these commercial operations undertaken at significant lateral separation distance from the site. i.e., Slane Whiskey Distillery, Slane, Co. Meath, and St. James Gate (Diageo), Dublin. These are located c35.5km and 35.1km respectively from the site based on the shortest public road route. The proposed development is one that effectively is synergistic to commercial/manufacturing operations and is one that is therefore out of character and disconnected from agricultural development that occurs within the applicant’s landholding, neighbouring agricultural enterprises through to agricultural activities within this immediate and wider rural setting.
- 7.2.10. If permitted, therefore, it is my view that the proposed development would arguably be contrary to this condition.
- 7.2.11. In my considered opinion it would also be contrary to the local planning provisions. On this point I note that Section 9.8 of the Development Plan it sets out the following Goal for agricultural development: *“to encourage the continued sustainable development of rural communities without compromising the physical, environmental, natural and heritage resources of the County”*. In addition, the Development Plan under Section 9.8.1 indicates that well located structures and facilities necessary for good and environmentally sound agricultural practices shall be supported; under Strategic Objectives RUR DEV SO 1 it states that the Planning Authority will: *“support the continued vitality and viability of rural areas, environmentally, socially and commercially by promoting sustainable social and economic development”*; and, under RUR DEV SO 7 it states that the Planning Authority will: *“support the continuing viability of agriculture, horticulture and other rural based enterprises within rural areas*

and to promote investment in facilities supporting rural innovation and enterprise with special emphasis on the green economy, in the context of sustainable development and the management of environmental resources”.

7.2.12. I consider that there are also other Development Plan policy provisions that are relevant to this proposal. Including but not limited to MOV POL 1. This policy seeks to support and facilitate the integration of land use with transportation infrastructure. In addition, MOV POL 3 promotes sustainable land use planning measures to facilitate transport efficiency and the minimisation of environmental impacts.

7.2.13. These particular policies in my view are consistent with RSES including RPO 8.1 which states: *“the integration of transport and land use planning in the Region shall be consistent with the guiding principles expressed in the transport strategy of the RSES”* and RPO 8.3 which advocates: *“that future development is planned and designed in a manner which maximises the efficiency and protects the strategic capacity of the metropolitan area transport network, both existing and planned and to protect and maintain regional accessibility.”*

7.2.14. In addition to this I note that Section 11.5.1 of the Development Plan sets out a Climate Change Objective 1. This objective supports the implementation of the Climate Action Plan 2019 by way of seeking to reduce emissions of greenhouse gases through sectors including but not limited to transport, agricultural and the waste sector. With land use and spatial planning playing indicated as playing a critical role.

7.2.15. It is therefore a concern that there is no justification for the storage of the proposed by-products arising from the brewing and distilling process at Slane and/or St. James Gate. Nor is there any clarity given as to why there are no viable alternatives to recovery the subject by-products closer to where they are produced.

7.2.16. In conclusion

The Development Plan is generally supportive of continued viability of agriculture including other rural based enterprises as well as agricultural diversification. Notwithstanding, this is subject to safeguards including those set out above. With RUR DEV SO 7 of the Development Plan clearly setting out that this support is subject to the caveat that such developments should be in the context of sustainable development, the circular green economy through to the sustainable management of resources as part of the determination of appropriateness of proposed developments.

In addition, the Development Plan also clearly seeks to promote land use planning measures which facilitate transport efficiency through to minimising environmental impacts as a consideration in the determination of the appropriateness of proposed developments. There is a no land use or spatial synergy between the site and where the by-products the proposed development seeks to store as well as recover by land spread. As set out there is a significant lateral separation distance between both locations and therefore a high reliance on the public road network to facilitate this development. Thus, the proposed development arguably is one that would be highly reliant upon private heavy vehicle transportation on the public road systems that would contribute to anthropogenic greenhouse gas emissions more so than a site for recovery that is closer to where it is produced. This would be added to by the additional land spreading activities that would arise as part of the recovery process of the by-product in the surrounding hinterland of the site. This approach is not consistent with the waste hierarchy model alongside is a type of development that would result in unnecessary additional demands as well as wear and tear on the public road network.

I therefore consider that the principle of the proposed development is not acceptable in this case and the fact that there is an existing storage tank present at this site should not pre-empt the developments acceptability. It is in accordance with planning law that the change of use proposed and the associated works that are sought under this application are determined on their merits in the interests of the proper planning and sustainable development of the area.

7.3. Residential Amenity Impact

- 7.3.1. The appellant in this case puts forward a number of concerns in relation to the permitted adverse residential impact the existing operations on the site have had on the enjoyment of their property. With the adverse impacts set out as being a diminishment of residential amenity by way of a variety of nuisances including poor site management that has given rise to blocked drains and subsequent flooding of their property and noxious odours. It is their contention that the proposed development, if permitted, would significantly add to the diminishment of their residential amenities.

- 7.3.2. At the time of my site inspection the subject tank was empty and as such it was not giving rise to any observable nuisance, and I found no issue to suggest existing and/or recent blockage of drains on the site or in its immediate vicinity that could have arisen from the permitted and established agricultural operations at the subject site.
- 7.3.3. I do consider that there is potential for the proposed development, due to the tank being an uncovered tank and therefore exposed to the elements, that if the proposed development were to be permitted as proposed that there is a high probability that throughout the year that it would have the potential to give rise to noxious odours to the appellants adjoining property and properties within its immediate vicinity.
- 7.3.4. I also consider that with this there is also potential for the uncovered by product from the brewing processes to be attractive to flies and other pests. Thus, potentially addition to the population of these that could give rise to a further nuisance to the appellants adjoining property as well as properties within the wider vicinity.
- 7.3.5. It is unclear from the documentation how these nuisances would be controlled so that they would not give rise to additional diminishment of residential amenities of properties in its vicinity. It was also not apparent any control measures to abate nuisances including the landscaping scheme required under the parent permission for the tank to visually screen it from the residential property to the north has not been planted.
- 7.3.6. Given that the level of the operations proposed would result in double the volume the 5,000 tonnes delivered to the storage facility currently to 10,000 tonnes per annum should the proposed development be permitted it is reasonable to consider that diminishment of residential amenities has the potential to be more serious than the existing permitted use.
- 7.3.7. There is also the potential for greater odour nuisance and contamination of ground as well as surface water. Both of which have the potential to give rise to residential disamenity and could be prejudicial for properties in the vicinity of the land spreading or indeed the tank should it breach.
- 7.3.8. I am cognisant that slurry odours are not uncommon in agricultural predominated landscapes like that surrounding the site and that the associated land spreading would be subject to the necessary authorisation permit under the Waste Management (Facility Permit and Registration) Regulations Statutory Instruments S.I. 821 of 2007

and in accordance with the requirements of the Good Agricultural Practice for the Protection of Waters Regulations, 2017. Subject to the applicant meeting the requirements of the permit the potential for significant impact arising from land spreading should be abated.

- 7.3.9. Notwithstanding, the two nearest residential properties are situated just over 60m and 65m respectively from the subject uncovered tank. The appellant contends that the use of this tank to date has given rise to noxious odours. There are no measures proposed to abate this nuisance included in this application or any indication that the odours arising even though the type of waste to be stored is different and the quantum to be stored would be increased requires any controls so as to ensure that no additional adverse impact arises for these properties.
- 7.3.10. The proposed development also would give rise to increased noise nuisance given the additional heavy goods accessing the site and unloading directly into the uncovered tank. The documentation accompanying this application indicate "*the proposed hours of the operation of the facility are 8am to 6pm Monday to Friday and 9am to 1pm on Saturday*". Given the modest nature of agricultural buildings in this farmstead the proposed development in my considered opinion would give rise to greater potential for noise nuisances than currently arises.
- 7.3.11. I also observed at the time of my inspection the majority of the buildings within this farmstead were empty.
- 7.3.12. The appellant has also raised it as a concern that the level of impact that has arisen since the subject tank was permitted has been exacerbated by the applicant failing to be compliant with their grant of permission. While I have noted previously in my assessment above that there does appear to be a level of discrepancy to what has been permitted on this site, in particular relating to the grant of permission P.A. Ref. No. DA/130261, these I consider are largely enforcement matters that should be directed to the Planning Authority to deal with as they see fit.
- 7.3.13. Furthermore, the appellant has also made mention to other nuisances that appear to have arisen from the operations occurring at the subject site which necessitated drainage works and that have resulted in additional costs to them by reinstatement of boundaries. These nuisances and concerns are in my view civil matters. With such matters outside of the Boards remit in its *de novo* determination of the proposed

development subject of this appeal case. Notwithstanding as a precaution the Board could attach an Advisory Note to any grant of planning permission in terms of encroachment and/or the carrying out of works outside of the applicant's legal authority to do so in the absence of the landowner's consent.

7.3.14. In conclusion, having regard to the information provided with this application I am not convinced that the applicant has robustly demonstrated that the proposed development would not give rise to significant additional injury to the residential amenities of properties in its vicinity if permitted in the form proposed. Therefore, it is my considered opinion that to permit the proposed development would be contrary to the Development Plan's strategy for rural development set out in Section 9. This strategy encourages the continued sustainable development of rural communities without compromising the physical, environmental, natural and heritage resources of the County and with Section 9.8.1 of the said Plan which advocating well located structures and facilities through to ensuring compatibility with the protection of rural amenities. In this case I am not convinced based on the information provided and having carried out a site inspection of the site as well as the vicinity that the proposed development is one that would be compatible with the protection of rural amenities. I am further not convinced that the site has the capacity for intensification of use of the existing uncovered storage tank in the absence of measures that ensure that no additional diminishment of rural amenities would arise.

7.4. Visual Amenity Impact

7.4.1. The required landscaping under the grant of permission P.A. Ref. No. DA/130261 which relates to the subject storage tank by way of Condition 1 and 6 have not been implemented. Notwithstanding, views towards the tank structure itself are limited and localised from the public domain but the achievement of the required sightlines for the new entrance would change this. Should the Board be minded to grant permission for the proposed development I recommend that a suitable landscaping condition is included for visual screening of the tank and the roadside boundary flanking the proposed entrance.

7.5. Property Depreciation

7.5.1. The appellant raises concern that the proposed development if permitted would give rise to a diminishment in the property value of their home. While I do not consider this

to be an unreasonable concern given the proximity of their dwelling to the uncovered storage tank; the additional quantum to be stored and having regard to the waste by-product to be stored therein. Notwithstanding, the appellant has not substantiated this by way of a report indicating the same prepared by a suitably qualified expert on such matters. In the absence of this I do not have necessary information before me to make any informed conclusion on this particular matter.

7.6. Traffic and Road Safety

- 7.6.1. This appeal site adjoins a stretch of the heavily trafficked R125 at a point where the posted speed limit is 80kph and seeks to provide a new entrance onto this road in order to facilitate improved access onto the site and egress from the site for HGV's.
- 7.6.2. I note that the Planning Authority's Transportation Department in their report dated the 6th day of May, 2021, raised no objection to this subject to the applicant providing and maintaining sightlines of 120meters to the nearside road edge from a setback of 3.0metres; that the works required to provide unobstructed sightlines shall be completed prior to any other works commencing on site and that the entrance gate shall be recessed at least 17m from the edge of the road.
- 7.6.3. I raise it as a concern that the accompanying drawings do not seek to close the existing farmyard entrance but shows it would be maintained and internally served by a gate to the side of the entrance which would effectively separate the main farm buildings within the site from what is essentially proposed to become a 'storage facility'.
- 7.6.4. I consider that in the at a minimum the absence of blocking up this existing entrance that the proposed development would be contrary to MOV POL 33 of the Development which seeks to avoid the creation of any additional access point from new development/intensification of traffic from existing entrances onto national road outside of the 60kph speed limit. I note that this development does not meet any of the exceptional circumstances for new entrances and/or intensification of traffic from existing entrances. I am therefore of the view that the proposed development would be contrary to this policy and in turn would be contrary to Section 2.5 and Section 2.6 of the DoECLG's publication Spatial Planning and National Roads – Guidelines for Planning Authorities, (2012), respectively, which seek no additional entrances onto such roads where the posted speed limit exceeds 60kmph and/or no intensification of

existing entrances onto such roads where the posted speed limit exceeds 60kmph outside of exceptional circumstances.

- 7.6.5. Therefore, should the Board be minded to grant permission I recommend that it requires the existing entrance to be blocked up within a specified timeframe upon completion of the new entrance and prior to the commencement of the change of use proposed.
- 7.6.6. I also raise a concern that this section the road has a curving and undulating vertical as well as horizontal alignment. In addition, I observed a constant stream of traffic though my inspection occurred outside of peak hours. This further supports that if the proposed development is permitted that two entrances to serve this one farmstead is not necessary as it has the potential to give rise to further traffic conflict with existing road users. Particularly, if as it appears to be suggested in the submitted documentation, there would be internal compartmentalisation and separation of uses of buildings as well as spaces to accommodate the proposed development effectively being an independent functioning operation.

7.7. Appropriate Assessment

- 7.7.1. The site is not located within any designated Natura 2000 European site. The closest European Sites are the River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299) and the River Boyne and River Blackwater Special Protection Area (Site Code: 004232) which are located c11.2km to the north west of the site at their nearest point respectively.
- 7.7.2. As part of the documentation accompanying this application the applicant has submitted a Screening Report for Appropriate Assessment of the proposed development, prepared by Karen-Lee Ibbotson, a Hydrogeologist, of Hydrogeological & Environmental Services.
- 7.7.3. This report analyses the potential impacts and effects of the proposed development on the special conservation interests of the two aforementioned European Sites. This report also evaluates the significance of potential impacts and effects of the proposed development, in view their individual conservation objectives.
- 7.7.4. This report concludes that in view of best scientific knowledge, on the basis of the objective information available, and assuming that the activities on site are carried out

in accordance with relevant legislation and guidance including but not limited to the parameters specified in the Waste Facility Permit approval required for such a development, that the proposed development, whether individually or in combination with other plans and projects, will have no impact on the aforementioned European Sites and the NIS identified by the AA and NIS reports accompanying this application. As such the integrity of these sites will be maintained and the habitats and species associated with these sites will not be adversely affected.

7.7.5. The Planning Authority in its Appropriate Assessment and the accompanying Appropriate Assessment submitted by the applicant as part of their suite of documentation. With this report prepared by Forest, Environmental Research and Services Ltd. Both conclude that the proposed development, by itself or in combination with other plans and developments in the vicinity, would not be likely to have a significant effect on European sites.

7.7.6. Having reviewed the documentation available to me, I am overall satisfied that there is adequate information available in respect of baseline conditions to clearly identify the potential impacts on any European site and I am therefore satisfied that the information before me in this file is sufficient to allow me to carry out a screening for appropriate assessment of the proposed development.

7.7.7. Stage 1 Screening

The proposed development is for the importation of a maximum volume of 10,000 tonnes per annum of what is described as waste beer, pot ale and spent wash from the distilling and brewing industries of Slane Whiskey Distillery, Slane, Co. Meath and St. James Gate (Diageo), Dublin City, County Dublin, at a rate of 100 tonnes per week delivered by articulated tankers operated by NWCPO permit holders to the 'storage facility' with this waste to be recovered to agricultural land, tillage and grassland by way of land spreading through a rear discharge muck spreader (end use).

It is proposed under this application for a change of use of an existing underground agricultural storage tank from agricultural storage to storage of brewing and distilling wastes via a new entrance onto R125 and operated from an existing collection of farm buildings which does not appear to be served by a toilet for staff and those visiting the facility during operational hours of 8am to 6pm Monday to Friday and 9am to 1pm on Saturday.

As said the underground tank is existing and it is located in a farmstead containing a collection of farm buildings and historic single storey outbuildings. The main boundary consists of mature mixed hedge along the roadside boundary with the R125 which also may accommodate drainage infrastructure according to the appellant in their grounds of appeal.

However, this conflicts with the documentation provided which indicates the presence of no surface water drainage infrastructure on the boundaries of the site outside of a small drain on the northern side of the site which is indicated as being a conduit for surface water runoff during wet winter weather.

This is located c45m at its nearest point from the storage tank. There are no identified watercourses in or adjoining the site. The nearest watercourses are located c250m to the north of the site, i.e. The Kilcooly (EPA name) which flows eastwards eventually discharging to the River Tolka and The Augherskea (EPA name) which flows to the north and discharges to the west to the River Boyne.

The area around the tank and buildings on this modest in area 0.79ha site comprises part concrete hard stand and mainly hardcore.

To the north and south the site is bound by mature residential properties and to west the site is bound by a large and recently ploughed agriculture field that appears to form part of the applicant's landholding in this area of c210ha with a given 262.46ha overall area indicated as being available in neighbouring agricultural land available for land spreading of this by product of the distilling and brewing operations.

There are no habitats which are examples of those listed in Annex I of the Habitats Directive and no evidence of species listed in Annex II of the said Directive present on site.

Within a 1km radius of the site there is a species of conservation concern, i.e., the Eurasian Badger with the accompanying screening report setting out the number of this species recorded is low likely owing to a lack of surveys.

In addition, it sets out that there are numerous other species of conservation concern that are most likely to occur in the immediate vicinity of the proposed development, including bats, which it is considered are likely to forage in the vicinity of the facility.

There are a number of archaeological monuments in the wider landscape setting with previous development on this site being subject to archaeological monitoring. It indicates that this including the construction of the underground storage tank for which the change of use is sought. The works sought under this application relate to construction of a new entrance onto the R125 and the provision of the required sightlines. There are no wastewater provisions made for staff or visitors to the 'storage facility'.

There is one area designated as a special area of conservation (SAC) and one area designated as a Special Protection Areas (SPA) within c11km of the site:

Table 1

Name of European Site	Conservation Objectives	Qualifying Interests/Special Conservation Interests	Distance
River Boyne & River Blackwater SPA (Site Code: 004232)	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.	Kingfisher (Alcedo atthis)	C11.2km to the north west.
River Boyne & River Blackwater SAC (Site Code: 002299)	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which this SAC has been selected.	Alkaline fens. Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>).	C11.2km to the north west.

With regard to direct impacts, the application site is not located in, adjacent or in close proximity to a European site or sites. Therefore, there is no risk of habitat loss, fragmentation, or any other direct impacts.

Having regard to the nature, extent and scale of the proposed development sought, including having regard to the limited ground works that would be associated with the proposed development sought. Together with the significant lateral separation distance between the site and the nearest European sites which is c 11.2km at its nearest point. In addition to the nature of the landscape, topography, and hydrogeology of the area in between. It is concluded that no Appropriate Assessment issues arise in relation to these European sites identified in Table 1 above or any other such sites located at further distances from the site itself.

In the absence of direct source – pathway – receptor linkage to the River Boyne & River Blackwater SAC and SPA, no Appropriate Assessment issues arise in relation to either of these European sites.

Any potential indirect impacts would be restricted to overspill of the storage tank and discharge of surface run off from the surrounding area associated with accessing and egressing the storage tank from the R125. Given the nature, extent, and scale of the proposed development together with the lateral separation distance of c11.2km to the nearest European sites, it is considered that no impacts will occur.

Cumulative impacts have been considered. There is no similar development that are present in the locality and/or wider setting likely to give rise to cumulative impacts on any European site.

7.7.8. Conclusion

Having regard to above considerations; the nature, scale and extent of the proposed development on un-zoned agricultural land, the characteristics of the landscape and land uses in between the site and the nearest European Sites, it is considered reasonable to conclude that on the basis of the information on file, which I consider is adequate in its content and scope to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the European Sites listed in Table 1, in view of their said site conservation objectives and a Stage 2 Appropriate Assessment is not, therefore, required.

7.8. Environmental Capacity

- 7.8.1. Whilst I consider that there is nothing in principle against the applicant seeking to further develop their farm operation and to seek to diversify their activities on their 210ha landholding and whilst the proposed development would not be visually more intrusive in the landscape setting than the existing operations. Notwithstanding, I consider that the documentation submitted is deficient in the details on the nature and extent of their farming activities, the extent of their farm buildings and the relationship with the neighbouring landholdings on which the applicant proposes to land spread the waste by product proposed to be stored at their existing uncovered storage tank under this application. I do accept that the site is remote from the nearest designated European site and the potential for the proposed development to give rise to any adverse impact on these would be infinitesimal. There is some serious deficits in the information provided including those concerns already mentioned but more specifically including the lack of numbers and types of animals that are housed on their and the neighbouring farms to be used given that it is indicated that the applicants farm is not fully tillage or arable in its nature; there is no seasonal breakdown of the farming activities relating to the subject land spread lands; there is no real understanding of the farm operation and the overall waste generated by the applicants farming activities or indeed information that there is capacity in the neighbouring lands also for land spread through to there is little clarity in regards to the proximity of these lands to water courses, the ability of these lands to assimilate the land spread and the vulnerability of these areas to pollution given that there is no indication that the area is served by a group water scheme but appear to be dependent upon proprietary potable water supplies.
- 7.8.2. I am therefore of the view that there is insufficient information to provide a true understanding or to make an informed conclusion on the potential environmental impacts arising to soils and water quality arising from the proposed development were it to be permitted, from the changed nature of operations, the management and disposal of overall waste generated by the applicants farm operation at a minimum.

7.9. Other Matters Arising

7.9.1. Waste Management (Facility Permit & Registration) Regulations Statutory Instrument S.I. 821 of 2007, as amended.

The proposed development is a type of development that is subject to a Waste Facility Permit but there is no record of a waste permit application on Meath County Council's on-line register of waste facility permits for the site. Notwithstanding, I am satisfied that this application for permission may be determined as a standalone matter which will not relieve that applicant/developer from additional responsibilities under the Waste Management Acts.

Should the Board be minded to grant permission for the proposed development despite the concerns raised in my assessment above given the type of development sought, its nature, scale, and extent I recommend that Condition 4(i) of the Planning Authority's notification to grant permission be included.

I also consider in the absence of the documentation providing clarity on the totality of land spreading that may arise from the proposed development together with their existing agricultural activities on their landholding which I note is a **new issue**, I recommend that Condition 4(ii) of the Planning Authority's notification to grant permission be included and that a further condition(s) are imposed requiring the applicant to comply with all the requirements of their NIS and to prepare a new Nutrient Management Plan that takes account more fully of all the applicants agricultural and proposed waste storage facility with its associated land spreading on their landholding and any other land associated with their activities at this location.

8.0 Recommendation

8.1. I recommend that permission be **refused**.

9.0 Reasons and Considerations

1. On the basis of the information provided with the application and the appeal, particularly in relation to the lack of details on slurry production, land spreading, land management, and surface water drainage, the Board cannot assess the direct, indirect, and cumulative effects of the proposed development on the

environment and whether or not the proposed development would be prejudicial to public health given the reliance of properties in this area on proprietary water supplies. In such circumstances, the Board is precluded from granting permission for the proposed development.

2. Having regard to the planning history of the site, the site's setting including proximity to established residential properties, the intensification and change of use of an existing storage tank proposed under this application together with the potential additional nuisances this would generate, it is considered that the proposed development would seriously injure the residential amenity of properties in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

23rd day of December, 2021.