



An
Bord
Pleanála

Inspector's Report ABP-310906-21

Development	Extension to butter processing facility
Location	Kerrygold Park, Mitchelstown, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	21/4516
Applicant(s)	Kerrygold Butter Packaging Ireland Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Kevin T. Finn
Observer(s)	An Taisce
Date of Site Inspection	21 st September, 2021
Inspector	Kevin Moore

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1.0 Site Location and Description

1.1. The 2.62 hectare site is located within the Castlefarm Dairy Complex to the north-west of the town of Mitchelstown in County Cork. There is an established butter packaging facility on the site that is located west of a Dairygold processing plant. The site is bounded to the north by a line of mature trees and the Gradoge River and to the west by the Dairygold operated anaerobic digester and undeveloped industrial zoned land. The site is accessed from a roundabout on the N73 national secondary road to the west via an internal Castlefarm internal access road, providing access to the building complex, and with separate car access to the parking area associated with the Kerrygold plant.

2.0 Proposed Development

2.1. The proposed development would consist of an extension to the Butter Processing Facility for the manufacture, packaging and distribution of butter products. The proposal would comprise:

- Extensions adjoining the main building ranging from c.9.35m to 18.85m in height consisting of c.330m² office/ancillary accommodation over two storeys, c.1,219m² of ground floor production space, c.331m² of first floor / mezzanine production space, c.1,987m² of single storey storage/distribution space, c.118m² of enclosed plant space with open plant area above of c.7m in height and a single storey liquid ingredients intake building extension of c.68m² with open plant area above of c.9.5m in height;
- 7 no. liquid storage silos of c.15m in height with associated access platforms;
- A single storey maintenance store c.103m² in area and c.5.5m in height;
- An enclosure for existing wastewater pre-treatment equipment c.112m² in area and c.4.0m in height;
- An enclosure to the existing process water storage tank c.96m² in area and c.5.5m in height;
- Relocation of an existing liquid storage unit;
- Relocation of external signage on the western elevation;

- 36 parking spaces in a new parking area containing 72 spaces of which 36 are displaced by the proposed extension, 17 bicycle parking spaces, and 4 motorcycle spaces; and
- Landscaping, hardstandings, underground services and ancillary works.

It is projected that the extension would result in a production increase of c.75% up to 2025.

The gross floor space of the proposed works would be 4,364 square metres. The water supply for the development would be from a private supply. Effluent generated from personnel facilities and process water treated at the complex wastewater treatment plant would be discharged to the public sewer, while there would be no changes to the wastewater treatment arrangements for the plant other than relocating some existing equipment.

- 2.2. Details submitted with the application included a letter of clearance permitting the making of the application, a Planning Application report, an Engineering report, a Flood Risk Assessment, a Mobility Management Plan, a Landscape Mitigation Plan, a Construction Environmental and Waste Management Plan, an Environmental Impact Assessment Report, and a Natura Impact Statement.

3.0 Planning Authority Decision

3.1. Decision

On 24th June 2021, Cork County Council decided to grant permission for the proposed development subject to 26 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the site's and adjoining land's planning history, pre-planning consultation, the policy context for the proposal, reports received, and a third party submission. It was submitted that there was no land use objection to the proposal and the design is acceptable. The undersupply of car parking for the facility was acknowledged and the concerns relating to the applicant's mobility management

plan were noted. The applicant's EIAR was considered. A third party concern that the use of local road L-1437 by HGVs is a potential concern was acknowledged and it was submitted that this could be dealt with by way of a condition requiring all HGV traffic to enter/exit via the western N73/R665 entrance. A request for further information was recommended based on the reports received and a revision of the EIAR was sought relating to interactions between environmental attributes set out within the EIAR.

The Senior Planner concurred with the Planner's recommendation.

3.2.2. Other Technical Reports

The Public Lighting Section had no objection to the proposal subject to the attachment of a contribution condition.

The Area Engineer noted the long-standing entrances to the site and the services that are in place. There was no objection to the proposal subject to the attachment of a schedule of conditions.

The Environment Section considered matters relating to wastewater treatment and discharge, storm water, groundwater, air quality (including dust, noise and odour), and the submitted CEMP. There was no objection to the proposal subject to the attachment of a schedule of conditions.

The Ecologist undertook a Habitats Directive Assessment and considered the conclusions of the applicant's NIS to be reasonable and the proposed mitigation measures to be appropriate. It was concluded that the proposal would not pose a risk to the Blackwater River SAC. It was further considered that risks of impact to water quality are dealt with satisfactorily. It was recommended that a condition be attached, if permission is granted, seeking a revised landscape plan to include the retention of trees to the north of the site. There was no objection to the proposal subject to two conditions.

The Water Services Section noted the proposed increase in process wastewater loading to the Dairygold WWTP, even if maintained within the volumes permitted under IED Licence No. P0404-02, may have an impact on the future assimilative capacity available within the receiving waters for the Irish Water Mitchelstown WWTP. It was recommended that further information is sought confirming agreement

and acceptance by Irish Water of facilitation of the combined discharge from the applicant's WWTP.

The Traffic and Transport Section recommended that greater detail should be sought on vehicle occupancy at the construction stage and an estimate of the quantity of construction worker parking to be provided. Reference was made to lack of clarity on how the peak hour 1300-1400 was determined to be the PM peak hour for traffic generation. Further detail on the mobility management plan for the overall facility, having regard to the travel distribution of employees, was considered necessary. A request for further information was recommended, including a detailed timeline for the preparation of a construction traffic management plan.

The National Roads Design Office had no objection to the proposal.

The County Engineer recommended that the application be deferred pending the receipt of further information relating to confirmation of consultation with Irish Water in terms of the potential impact of the treated effluent from the proposed development on Discharge Licence D0202-01 from the municipal WWTP and evidence of Irish Water's acceptance of this.

The County Archaeologist was satisfied with the applicant's submission and considered there was no archaeological input required.

3.3. Prescribed Bodies

Transport Infrastructure Ireland submitted that it had no observations to make.

The Health Service Executive submitted that the applicant's EIAR addressed the likely significant effects on the public and on environmental health. It was noted that any EPA licence review would be notified to the HSE. Provisions set out in the Construction Waste Management Plan were acknowledged. It was considered that appropriate health protection standards are used in the EIAR and it was concluded that significant risk to public health with regard to increased process emissions is unlikely. Reference is made to monitoring the effectiveness of measures implemented to address exceedances of stormwater ELVs. The HSE requested the

planning authority to consider the most up-to-date sample of surface water, following recent measures employed by the operator, prior to any consent being given. It was accepted that there would be no increase in noise exposure at noise sensitive locations due to the proposed development and that noise is controlled by EPA licensing. It was submitted that there is a lack of clarity on what the predicted likely significant residual impact would be from process emissions to air. It was concluded that there is adequate protection of public and environmental health providing all mitigation in the EIAR is implemented, the additional stormwater mitigation measures adopted in 2019 are effective, and residual impacts for emissions to air meet health protection standards in Chapter 9 of the EIAR. Recommendations on site operations were also set in the submission.

An Taisce submitted that the proposed development will rely on the supply of milk as a raw ingredient, the production levels of which are driving environmental and water quality degradation. This impact cannot be disregarded and must be factored into the environmental assessment, with measures to address existing water quality and ammonia issues.

3.4. Third Party Observations

A submission was received by the planning authority from Kevin Finn seeking conditions to be attached to address specific aspects of the development and the overall facilities. Concerns were raised relating to traffic, noise, odour, and environment and climate change.

- 3.5. A request for further information was issued by the planning authority on 26th April, 2021 relating to process effluent, traffic management and mobility management, and an addendum to the EIAR relating interactions. A response to this request was received from the applicant on 12th May, 2021. In the interim, the applicant submitted a letter of correspondence from Irish Water relating to a wastewater pre-connection enquiry. Irish Water confirmed in the response that it was satisfied the development would have no significant impact on the capacity of Irish Water to comply with its

current licence. The applicant also submitted an updated mobility management plan and a summary of the findings of the assessment of interactions set out in the EIAR.

3.6. After the receipt of further information, the following reports were submitted to the planning authority:

The Water Services Section had no objection to the proposal.

Irish Water requested that permission be conditioned subject to a schedule of conditions.

The Traffic and Transport Section set out two conditions to be attached if the development is to be permitted.

The Planner considered the responses to the further information to be acceptable and recommended that permission is granted subject to conditions.

The Senior Planner concurred with the Planner's conclusions.

4.0 **Planning History**

P.A. Ref. 12/5769

Permission was granted for the construction of new entrance walls and piers and signage to the previously approved entrance from the Kildorrery Roundabout to the Castlefarm manufacturing plant.

P.A. Ref. 14/5908

Permission was granted for a butter processing facility.

P.A. Ref. 19/6855

Permission was granted for a single storey extension to the butter processing facility.

I further note the extensive planning history relating to adjoining lands as set out in the Planner's report.

5.0 Policy Context

5.1. Fermoy Municipal District Local Area Plan

Mitchelstown is designated a 'Main Town' in the LAP. Its strong employment base in the food sector, concentrated on milk production and cheese production, is acknowledged in the Plan.

The site is zoned 'Industry' and forms part of 4.11 hectares of land which is subject to a Specific Development Objective, namely Objective MH-I-03. This objective is as follows:

"Lands reserved for expansion of the existing food-related industry with access via the existing complex."

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be synthesised as follows:

- The conditions of permission:
 - Fail to take adequate account of the malodour which would be generated from effluent from the proposed extension and in combination with the existing facility and its effects on residents;
 - Fail to take adequate account of the malodour generated from the proposed extension and in combination with the existing facility and its effects on residents;
 - Fail to take adequate account of the traffic generated from the proposed extension and in combination with the existing facility and its effects on residents, notably the continued use by traffic from the east via the roads through King's Square amenity area, the effect on the residential and amenity of this area, and on the King's Square architectural conservation area and associated protected structures; and

- Fail to request best practice and BAT standards in the collection, transport and disposal of sludge and other effluent associated with the proposed extension and existing facility.
- It is submitted that the above detrimental effects would be largely dealt with by conditions requiring:
 - The use of BAT standards for the collection, transport and disposal of effluent generated by the overall development;
 - The construction of an internal access road from the effluent plant serving the facilities to the Mallow Road roundabout and all traffic from the effluent plant accessing the site using this road; and
 - All traffic serving the facility to access the site from the Mallow Road roundabout.
- The proposed development would promote further milk production and associated harmful effects on the environment and climate contrary to the objectives to reduce the harmful contribution to climate change from farming.

6.2. Applicant Response

The response to the appeal may be summarised as follows:

Introduction

- It is noted that the appeal is not against the development in itself but rather against aspects of the development which the appellant wishes to have been dealt with by conditions.
- The issue of the transport of wastewater sludge from the Dairygold facility through Mitchelstown is outside the scope of the application and is not under the control of the applicant. The Dairygold WWTP is neither owned nor operated by the applicant. Connection to the Dairygold facility is facilitated by way of a service agreement. The WWTP has the capacity to treat the proposed increased loading and there are no proposed changes to the Dairygold facility.

Conditions relating to Malodour

- Condition 2 of the planning authority's decision requires the Schedule of Commitments set out in Chapter 16 of the EIAR to be implemented in full, which includes the commitments on potential odours from process wastewater.
- Kerrygold and the overall site is managed in accordance with IE Licence P0404-02 and primary conditions of the licence are set out.
- No complaints have ever been received by Kerrygold in relation to malodour from its site.
- Potential odours were assessed in the EIAR.
- Permission is not being sought by the applicant outside of the site boundary. Dairygold's WWTP does not form part of the application.
- The complainant's address is c.640m east of the Kerrygold Park site.
- Regarding in-combination effects with the Dairygold facility, Dairygold has confirmed that it has the capacity to treat the proposed increase loading in its facility and in accordance with the conditions of the IE Licence without any change to odour emissions.

Conditions relating to Malodour from Transport of Effluent

- The Dairygold WWTP is neither owned nor operated by the applicant.
- Sludge generation, equating to one additional truck load per week, would be insignificant in the context of Dairygold operations and the Irish Water WWTP, which uses the same road for sludge haulage.
- Condition 9 of the planning authority's decision requires all HGV and vehicular traffic to use the western entrance on the N73 at the Kildorrery roundabout.
- All existing traffic, DAF sludge and other materials relating to Kerrygold Park are transported via the existing access road to the Kildorrery roundabout and the N73.
- As all access to and from the site will remain by way of the existing access road, King's Square and Mitchelstown centre will be avoided.

- The supply of cream from Dairygold is 50% of the total supply, representing a reduction of 20 trucks per day as the cream is piped to Kerrygold.

Conditions relating to Traffic Generation

- Chapter 14 of the EIAR assesses traffic from the proposed extension in combination with existing traffic from the Kerrygold and Dairygold facilities. This shows that neighbouring road infrastructure has more than adequate capacity to cater for the existing and proposed developments.
- No traffic related to Kerrygold Park accesses the site from the east through King's Square amenity area. No HGVs will access the site via King's Square or Mitchelstown centre.
- Condition 9 of the planning authority's decision requires all HGV and vehicular traffic to use the western entrance on the N73 at the Kildorrery roundabout.
- As no materials, including wastewater sludge, is transported to or from Kerrygold Park via or close to King's Square, the transport of materials could not have any impact on the residential and amenity value of same or the residential and amenity value of the Architectural Conservation Area and associated protected structures.

Conditions relating to Best Practice and BAT Standards on Collection, Transport and Disposal of Sludge and Effluent

- Condition 2 of the planning authority's decision requires the Schedule of Commitments set out in Chapter 16 of the EIAR to be implemented in full, which includes commitments to address BAT requirements on odour management.
- The DAF system and related sludge management have been designed in accordance with BAT as well as other best practice and industry standards.
- All sludge skips will be covered during transport to comply with Condition 8.10 of IE Licence P0404-01.

Required Conditions to Address Detrimental Effects

- Regarding the use of BAT standards, construction of an internal access road, and the request that all traffic from the overall facilities should access the site

from the Mallow roundabout, refer to above considerations and note that the overall facility at Castlefarm does not form part of the application and is not under the applicant's control.

Promotion of Further Milk Production and Harmful Environmental Effects

- The proposal complies with national policy.
- The Board is directed to High Court decision 2020 No. 566 for recent case law.
- Chapter 10 of the EIAR includes a detailed assessment of the impact on climate.

Proper Planning and Sustainable Development

- The grounds of appeal seek to impose conditions which fall outside the scope of the application and on Castlefarm which is not under the control of the applicant.
- The proposal is consistent with the proper planning and sustainable development of the area and with the provisions of the development plan as indicated in the planning authority's decision.

6.3. Planning Authority Response

The planning authority submits that all relevant issues have been covered in the technical reports forwarded to the Board.

6.4. Observations

The observation from An Taisce raises concerns relating to a failure to consider the potential impacts of the predicted levels of future milk production upon which the proposal is predicated, decreases in water quality in the region from dairy intensification, ammonia air pollution from agricultural processes, and greenhouse gas emissions from intensive dairy farming and the need to assess same associated with the proposal and the milk supply in the EIAR.

6.5. Further Submissions

In response to applicant's response to the appeal, the planning authority submits that the appellant is seeking to resolve an odour nuisance from a third party action via the planning process. Mitigation measures proposed in the DAF unit were considered reasonable and pragmatic and conditions to restrict traffic movements are noted.

The appellant, in response to the applicant's response to the appeal, refers to the overlapping nature of planning applications relating to the Kerrygold facility and the Dairygold facility and how the Dairygold permissions and conditions attached (notably in relation to traffic and wastewater) apply with full effect to the Kerrygold site. Reference is made to specific permissions and conditions attached thereto and to how they now apply to the Kerrygold site. It is submitted that the two facilities are connected, interlinked and interdependent. The concerns about the impact on the Architectural Conservation Area are reiterated and it is considered that the applicant's EIAR did not address this issue and the issue of alternatives. It is also submitted that the EIAR failed to consider the downstream impacts of the proposed development. A number of solutions to the appellant's traffic concerns are submitted. It is further considered that the planning reports to the Council were defective in addressing traffic and climate change. The need for the development is also queried, with emphasis on the applicant's intended global expansion plans. The concerns relating to the generation of sludge and its transportation are reiterated. Reference is made to non-compliance associated with licence conditions relating to odours and to complaints made. Reference is also made to works outside the site boundary facilitating the proposed development. The appellant submits that his objection is not an outright objection but rather an objection to the conditions attached where they failed to take account of matters relating to use of Local Road L-1437, malodour from transportation of sludge, damage to the ACA, and impact on the heritage value of King's Square / Kingston College. The Board is asked, should it grant permission, to include a condition prohibiting all HGV and commercial traffic to and from the greater Kerrygold / Dairygold site using the L-1437 through King's Square. The appellant's submission includes a schedule of complaints made in relation to Castlefarm on noise and odour, An Taisce's submission to the planning authority, a copy of the IPPC Licence P0404-02, a copy of the IPCC report summary of "Climate Change

2021- The Physical Science Basis”, and a Board decision relating to a Castlefarm extension proposal under Board Ref. PL 04.233528.

The Environmental Protection Agency noted the site is licensed and that the application was accompanied by an EIAR. Details of procedures relating to any licensing review were set out.

7.0 **Assessment**

7.1. **Introduction**

- 7.1.1. I consider that the principal planning issues that require assessment are the policy context for the proposed development, the association of Kerrygold with Dairygold, the question of indirect effects and farm practice, the management, treatment and handling of waste, the traffic impact, and the attachment of conditions. An appropriate assessment screening and an environmental impact assessment follows this assessment.

7.2. **Policy Context**

What follows below is a general outline review of a number of key policy documents and plans at EU, national, and regional levels relating to the agriculture sector and also the issue of climate change. This short review does not purport to be exhaustive and is meant to be indicative only of the significance of the agriculture and agri-food sectors and, where applicable, the responsibilities pertaining to climate change. Relevant local plan considerations are also reviewed, including the site-specific provisions relating to the current proposal.

7.2.1. **European Union**

European Green Deal

The European Green Deal, published in 2019, is a set of policy initiatives which aims to deliver net-zero greenhouse gas emissions at EU level by 2050 and to increase the EU-wide greenhouse gas emissions reduction target from 40% to up to 55% by

2030. This includes the aim of decarbonising the energy sector and a 'Farm to Fork' strategy.

EU Farm to Fork Strategy

The Farm to Fork Strategy relates to food sustainability, the pursuit of climate-friendly production, increasing efficiency, developing sustainable agriculture, reducing the use of fertilisers, etc. It aims to accelerate the EU's transition to a sustainable food system that should:

- have a neutral or positive environmental impact
- help to mitigate climate change and adapt to its impacts
- reverse the loss of biodiversity
- ensure food security, nutrition and public health, making sure that there is access to sufficient, safe, nutritious, sustainable food, and
- preserve affordability of food while generating fairer economic returns, fostering competitiveness of the EU supply sector and promoting fair trade.

7.2.2. National Policy

Climate Action Plan 2019

The Plan sets out over 180 actions, together with hundreds of sub-actions, that need to be taken to reduce Ireland's greenhouse gas emissions. The Plan embraces many relevant sectors - electricity, enterprise, the built environment, transport, agriculture/forestry/land use, waste and the circular economy, and the public sector. It identifies the nature and scale of the challenge facing Ireland, outlining the current state of play across the key sectors and it charts a course towards ambitious decarbonisation targets for each of the sectors. The Plan also sets out governance arrangements including carbon-proofing our policies, establishment of carbon budgets, a strengthened Climate Change Advisory Council and greater accountability to the Oireachtas. It recognises that Ireland must fundamentally step up its commitments to tackle climate disruption and put in place a decarbonisation pathway to 2030 consistent with the adoption of a net zero target in Ireland by 2050.

The Plan notes that Ireland's carbon intensity in the agriculture sector is substantially higher than the EU average with Ireland emitting 400% more CO₂eq./capita. This difference is seen to be due to Ireland's agricultural share of total emissions being

over three times greater than the EU average and the lower population density. Key measures relating to agriculture include:

- Deliver substantial verifiable greenhouse gas abatement through adoption of a specified range of improvements in farming practice in line with recommendations from Teagasc.
- Support diversification within agriculture and land use to develop sustainable and circular value chains and business models for lower carbon intensity farming, including organic production, protection and enhancement of biodiversity and water quality, and the production of bio-based products and bioenergy through the Common Agricultural Policy and implementation of the National Policy Statement on the Bioeconomy.

To meet the required level of emissions reduction by 2030 the Plan references a number of targets (Section 11.2). The proposed measures to deliver on targets are set out. Those relating to agriculture include measures relating to reducing emissions on farms, forestry, diversification of land use, opportunities in the bioeconomy, energy substitutes, and better soil management.

The Actions set out for Agriculture in Section 11.4 include adopting carbon abatement opportunities and the encouragement of the transformation by the food industry (Action Nos. 101-114). The actions include a number relating to livestock and fertiliser management.

Climate Action and Low Carbon Development Act, 2015

This Act provides for the approval of plans by the Government in relation to climate change for the purpose of pursuing the transition to a low carbon economy by 2050 and to provide for the establishment of the Climate Change Advisory Council. It provides for the making of a national mitigation plan and a national adaptation framework on which the Advisory Council advises and makes recommendations. Section 15 of the Act requires a 'relevant body' (i.e. a prescribed body and public body), in the performance of its functions, to have regard to the most recent approved national mitigation plan, the most recent approved national adaptation framework and approved sectoral adaptation plans, the furtherance of the national

transition objective, and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State

National Mitigation Plan

The National Mitigation Plan was adopted pursuant to the Climate Action and Low Carbon Development Act 2015. The Supreme Court quashed the Plan as it was found to be non-compliant with the Climate Action and Low Carbon Development Act, 2015. Notwithstanding the Plan having been set aside, this would not preclude the Board from considering the proposed development now before it and the making of a decision on the proposal, with due regard being given to prevailing EU, national, regional and local plan and policy provisions.

Project Ireland 2040 - National Planning Framework

The Framework's National Strategic Outcomes include the goals of "Strengthened rural economies and communities" and "Transition to a low carbon, climate-resilient society." The former recognises the food sector potential as a traditional pillar of the rural economy.

Chapter 5, 'Planning for Diverse Rural Places', sets out a range of National Policy Objectives relating to planning and investment to support rural job creation. These include National Policy Objective 23 which seeks to facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector.

7.2.3. Regional Policy

Regional Spatial and Economic Strategy for the Southern Region

Chapter 4 of the Strategy addresses the economy. The Regional Policy Objectives relating to diversity in the rural economy include RPO 48, which is as follows:

It is an objective to develop innovation hubs and centres of excellence (with particular opportunities for innovation in agri-food, agri-tech, marine research, creative industries, knowledge economy etc) as local drivers for growth.

Chapter 5 addresses climate action and transition to a low carbon economy.

Regional Policy Objectives set out include the following:

RPO 94

Decarbonisation in the Agricultural Sector

It is an objective to support initiatives that advance an approach to achieve carbon neutrality for agriculture and land-use that does not compromise sustainable food production through:

i. Programmes including the Green Low- Carbon Agri-environment Scheme (GLAS) and the Beef Data and Genomics Programme (BDGP) under Ireland’s Rural Development Programme 2014-20;

ii. Support for the Departments of Agriculture, Food and the Marine, and Communications Climate Action and Environment to enhance the competitiveness of the agriculture sector with an urgent need for mitigation to reduce GHGs as well as adaptation measures. The All-of-Ireland Government Plan on Climate Action and Ag-Climatise will guide action in this area.

7.2.4. Local Policy

Cork County Development Plan

Economy and Employment

Objectives include Objective EE 8-1: Agriculture and Farm Diversification, which seeks to encourage the development of dynamic and innovative, sustainable agricultural and food production.

Fermoy Municipal District Local Area Plan

Mitchelstown is designated a ‘Main Town’ in the LAP. Its strong employment base in the food sector, concentrated on milk production and cheese production, is acknowledged in the Plan. The site is zoned ‘Industry’ and forms part of 4.11

hectares of land which is subject to a Specific Development Objective, namely Objective MH-I-03. This objective is as follows:

“Lands reserved for expansion of the existing food-related industry with access via the existing complex.”

7.2.5. I note from the above the important role the agricultural sector and the agri-food sector play in the rural economy and the duties and obligations that follow the further development of these sectors when seeking to reduce and reverse the adverse impacts for climate arising from increased greenhouse gas emissions. It is my submission that there is an understanding by the applicant of the need to actively pursue EU, national and regional policies and objectives to stem the adverse climate change impacts that result from farm practices and the expansion of the dairy sector. The indirect impacts of such activities are referred to throughout the applicant’s EIAR. I specifically address the issues raised by the appellant and observer in the following sections of my assessment.

7.2.6. Further to the above, I am satisfied to conclude that there is clear policy direction given over to the further development of a sustainable agri-food sector at EU, national and regional levels. At the local level, it is apparent that this site is expressly promoted for further development of the nature now proposed in the current planning application the subject of this appeal.

7.3. **The Association of Kerrygold with Dairygold**

7.3.1. The appellant’s submission to the Board places significant emphasis on the interconnectivity and inter-dependence of the Kerrygold development with the Dairygold development at Castlefarm Dairy complex. This submission is reinforced in the response given to the applicant’s response to the appeal when it is contended that planning permissions received by Dairygold for its developments at this complex, and conditions attached thereto, apply with full effect to the Kerrygold site also.

- 7.3.2. It is my submission to the Board that the Kerrygold plant is a factory which is reliant on inputs from external sources to produce its butter product. The main input, cream, is acquired from the neighbouring Dairygold factory to the east of the Kerrygold operation via a pipe connecting both factories, as well as from two other cream suppliers, namely Aurivo and Carbery. The cream from the latter suppliers is delivered to the Kerrygold plant by HGV. The Kerrygold plant produces waste from the process which requires disposal. The disposal of this waste is reliant on external infrastructure to carry out appropriate handling, treatment and final disposal. I note that there is a service agreement in place with a third party, i.e. Dairygold, to take, manage and treat the waste product arising from the process. Irish Water treats foul waste generated by the development at its wastewater treatment plant. The proposed extension to the existing development seeks to maintain these arrangements.
- 7.3.3. The Castlefarm Dairy complex presents itself as an agri-food industrial estate. There is connectivity with the Dairygold for much of the on-site infrastructure, including process waste treatment, water supply, electricity, natural gas, etc. The applicant has a service agreement in place with Dairygold. In my opinion, there is nothing particularly unusual about such an arrangement whereby other plant operators at an industrial estate utilise the infrastructure provided by a principal operator within the industrial estate.
- 7.3.4. I acknowledge the appellant's submission on the inter-relationship between Dairygold's planning permissions and the functioning of the Kerrygold plant. I first note that many of the planning permissions issued to Dairygold Co-Operative Society date from times before permission was received for the Kerrygold plant. It is my opinion that, to suggest that a new industrial operation within an industrial complex is tied to the terms and conditions of separate, independent permissions issued to a separate and independent operator prior to the seeking, receipt and coming into existence of a new separate plant, appears somewhat misplaced, when clearly such previous permissions were development-specific and to which it was beholden on the developer of those developments associated with those permissions to comply with the conditions set out therein.

7.3.5. It is my submission that the appellant is seeking to resolve operational issues arising from non-compliance with conditions attached to permissions at the Castlefarm Dairy complex before the Kerrygold plant ever existed on this site. In my opinion, the appellant should be focusing on the enforcement of the relevant conditions of the relevant planning permissions through the planning authority and on the enforcement of the relevant conditions attached with the IE Licence through the EPA. The pursuit of rectifying issues inherently associated with the parent permission and associated permissions received by Dairygold in this current appeal before the Board is in my opinion misplaced and unwarranted.

7.4. **The Question of Indirect Effects and Farm Practice**

7.4.1. The appellant submits that the proposed development would promote further milk production and associated harmful effects on the environment and climate contrary to the objectives to reduce the harmful contribution to climate change from farming. It is contended that the applicant's EIAR did not address these effects. An Taisce has submitted that the proposed development would rely on the supply of milk as a raw ingredient, the production levels of which are driving environmental and water quality degradation. It is argued that this impact cannot be disregarded and must be factored into the environmental assessment.

7.4.2. I note that the current suppliers of cream to the Kerrygold Park facility are Aurivo, Carbery and Dairygold. Each of these are dairy co-operatives who support shareholder farmers. These each operate under Industrial Emissions licences and the facilities were each subject to planning approvals. These industrial facilities produce cream as a by-product of their processing. The milk for these processing facilities is produced by dairy farmers and supplied to the co-operatives. Kerrygold does not receive any raw materials from individual farmers.

7.4.3. My considerations on this issue are as follows:

- The proposed development constitutes an extension to an established industrial plant. The extended facility proposes to continue to produce butter

from surplus cream produced at the adjacent Dairygold production facility and at the Aurivo and Carbery facilities.

- The impact of the dairy industry on climate change is a recognised national policy concern. The request to assess the indirect effects derived from the dairy industry in this planning application are somewhat misplaced in my view. I submit that one cannot reasonably target an individual dairy-related plant to address the inadequacies of a state-wide deficiency in policy relating to the adverse impacts on climate change from increased dairy activity. I acknowledge that there is an evident urgency to adequately address this issue at national level.
- I acknowledge, at local policy level, as determined from the making of the Fermoy Municipal District Local Area Plan, i.e. a plan which went through a public consultation process and adoption by Cork County Council, that the land of which this site forms a part has been designated for the purpose now sought in this planning application. Specific Development Objective MH-I-03 of the Plan designates these lands to be reserved for expansion of the existing food-related industry. I submit that I do not know if there was any objection by the appellant, observer or any other person or body during the public consultation stage of the LAP to the inclusion of this development objective based upon climate change concerns. I acknowledge, however, that this provision was adopted and does apply to these lands.
- The facilities that supply cream to the Kerrygold facility are IE licenced facilities. It is assumed and understood that their potential impact on climate have been assessed by the EPA during their licensing applications. It is apparent that their licences have been approved and it would appear reasonable to conclude that it has not been determined that each or any of these has a negative impact on climate.
- Tying in the assessment of this proposed extension of an established industrial plant with individual farms and farm practices in the pursuit of a national goal of reduction in greenhouse gas emissions in the dairy sector is misdirected in my opinion. The issue raised is not site-specific nor is it specific to this proposed extension of an existing industrial plant and its operations.

- I note that in each chapter of the applicant's EIAR indirect impacts are considered and reference is made to agricultural practice throughout. I acknowledge that the cumulative and in-combination impacts of the Dairygold facility have been taken into account in the EIAR. General consideration is given to indirect, farm-based emissions from the production of dairy in the air, climate and water sections of the report.

7.4.4. Overall, it is my submission that the applicant has adequately addressed the indirect effects of the proposed extension of the industrial plant. One cannot reasonably seek an assessment of the indirect effects on climate change by the dairy sector when considering a proposal for an extension to an established industrial plant. While the serious concerns are accepted, this planning application is not the mechanism to address a national policy issue.

7.5. **The Management, Treatment and Handling of Waste**

7.5.1. The appellant's principal concern with the proposed development appears to be focused on the transportation of sludge arising from Dairygold's wastewater treatment plant (WWTP) through King's Square Architectural Conservation and Amenity Area in Mitchelstown.

7.5.2. The Kerrygold facility discharges process effluent to the Dairygold WWTP, which includes an anaerobic digester. Prior to this, there is balancing and fats removal via a Dissolved Air Flootation (DAF) unit on the Kerrygold site. It is understood that this is in line with Best Available Techniques (BAT) and that the DAF unit is relatively new, being installed in 2020 and sized to accommodate future loadings. Once treated the waste is discharged via the Dairygold licenced monitoring point to the Mitchelstown WWTP discharge pipe in accordance with the Emission Limit Values (ELVs) set out in IE Licence P0404-02. There is no proposed change to the current process wastewater drainage arrangements. The DAF unit is proposed to be moved and enclosed. I submit that this would improve the containment of odours at the site and I note that there are no known concerns relating to odours emanating from the operation of the existing plant. Foul waste at the Kerrygold facility currently

discharges into a pumping chamber located at the Dairygold facility prior to discharge to the Mitchelstown WWTP. This connection is proposed to be maintained.

7.5.3. I make the following observations:

- Kerrygold has a discharge licence (Licence D0202-01). It is not the owner or operator of the existing Dairygold WWTP.
- The holder of IE Licence P0404-02 relating to the Dairygold WWTP is Dairygold Co-Operative Society Limited. I draw the attention of the Board to Licence P0404-02 as contained in the appellant's submission to the response of the applicant to the appeal which confirms this.
- Irish Water manages the Mitchelstown WWTP.
- The Board will note Appendix 8-2 of Volume 3 of the applicant's EIAR. This comprises a letter from Dairygold. Therein it is stated:

“Dairygold wishes to confirm its ability to treat the additional wastewater generated by the Kerrygold Park Expansion Project based on the proposed approximate daily volumes of ~385m³/day at a COD of 850kg/day. This additional wastewater will be treated with the current waste water streams within our Waste Water Treatment Plant, whilst maintaining compliance with Emission Limit Values for SED/CF2 as per Licence P0404-02.”

- I note the applicant's response to the planning authority's further information request. Pre-application consultation took place between the applicant and Irish Water. Further consultation then took place to specifically address the potential impact of the treated effluent from the proposed development associated with the applicant's Discharge Licence D0202-01 on the Mitchelstown WWTP. Irish Water has noted the engagement. Irish Water submitted a letter to the applicant, dated 11th May 2021, which included the following:

“We are satisfied that, having regard to the historic and expected performance of the Dairygold WWTP, the development will have no significant impact on the capacity of Irish Water to comply with its current licence, and that we find the proposal acceptable.”

7.5.4. Having regard to the above, it is reasonable to determine that the owner and operator of the WWTP at the Castlefarm Dairy complex is Dairygold, that the responsibility for the management of this treatment plant lies with Dairygold, and the duty to meet compliance with Licence P0404-02 falls to Dairygold. Furthermore, it is apparent that Dairygold does not raise concerns about any constraints that would be placed on handling, treating or managing the additional waste generated by the proposed extension or concerns about any potential impacts on compliance with its licence requirements. In addition, it is noted that Irish Water considers that the proposal would result in no significant impact on its capacity to meet its licenced obligations. It is, therefore, reasonable, in my opinion, to determine that the management, treatment and handling of the additional waste generated by the proposed extended facility can be adequately accommodated utilising the established arrangements.

7.5.5. Further to the above, it is my submission to the Board that it is reasonable to conclude that the responsibility for the transportation of sludge from the Dairygold WWTP falls to Dairygold, who is the Licensee of Licence P0404-02. While I wholly understand the nuisance to residents and the occupiers of premises and properties within the King's Square Architectural Conservation and Amenity Area relating to traffic and odours, resulting from the movement of HGVs and the transportation of sludge in uncovered or inadequately covered HGVs, I submit to the Board that the responsibility for shortcomings in such transportation does not lie with the applicant in this instance. The odour and traffic concerns about the transportation of sludge from the Dairygold WWTP are not matters which the applicant is in any position to rectify. I acknowledge that the proposed development would increase waste requiring treatment at the WWTP and I am satisfied to conclude, based on the details provided in the application and the considerations of those responsible for the management and treatment of the additional waste, that there is no reason to determine that the additional waste would add in any significant manner to the volumes of sludge derived from the proposed extended facility.

7.5.6. In conclusion, I repeat that the transportation of sludge from the Castlefarm Dairy complex is the function and responsibility of the WWTP operator, i.e. Dairygold.

7.6. **Traffic Impact**

- 7.6.1. I note the access arrangements for the Kerrygold plant. This site is accessed by car and HGV from the Kildorrery roundabout to the south-west of the site. The access is also one of the points of entry leading to the Dairygold plant. The roundabout also forms the junction of the N73 national secondary road and regional roads R639 and R665. The N73 effectively functions as a western bypass of Mitchelstown and provides links to the M8 motorway. This road network appears to function without any known significant traffic constraints. The additional traffic generated by the proposed development would include car traffic generated by an additional 30 staff on shift work and an increase in HGV volumes from 80-120 per week to 150-175 per week. This additional traffic can be safely accommodated without undermining the carrying capacity of the road network. I note that there are no specific traffic concerns raised by parties to the appeal about the increase in traffic volumes that would result from the extended Kerrygold facility. I have no traffic safety concerns about the impact arising from the increased volumes of traffic, the impact on Kildorrery roundabout, or the likely effect on the road network.
- 7.6.2. I note for the Board the internal access arrangements for the Kerrygold plant. As referred to above, access to this internal road is gained from Kildorrery roundabout. When approaching the plant there is a spur road northwards from this internal road which leads to the car park area in front of the Kerrygold facility. HGVs delivering cream to the plant continue north-eastwards along the internal road and there is a link off this road to a delivery point within the plant site. With due regard to these arrangements, it is noted that all traffic generated by the proposed development would not access or egress onto a road network leading to King's Square Architectural Conservation and Amenity Area in Mitchelstown. The receiving environment for the traffic generated by the existing and proposed development would remain.
- 7.6.3. I acknowledge the proposed car parking provisions within the Kerrygold site. There would be a new layout and additional parking spaces. This would adequately accommodate the additional 30 staff on shift work during the operation of the extended facility.

7.6.4. Overall, I am satisfied to conclude that the proposed development would result in no particular traffic concerns and would not impact on King's Square Architectural Conservation and Amenity Area.

7.7. **The Attachment of Conditions**

7.7.1. I note that the appellant is not opposed to the proposed development in principle but rather the appeal forms an objection to the conditions attached by the planning authority where they failed to take account of matters relating to use of Local Road L-1437, malodour from transportation of sludge, damage to the ACA, and impact on the heritage value of King's Square / Kingston College. These issues have been addressed in my considerations above. I further note that the Board would be dealing with the proposal *de novo* and that, in the event of a grant of planning permission, the Board would set out its own schedule of conditions.

8.0 **Appropriate Assessment Screening**

8.1. ***Background***

The applicant submitted a Natura Impact Statement with the application to the planning authority. Part of this NIS included a screening for appropriate assessment. The document provides a description of the proposed development, identifies European Sites within a possible zone of influence of the development, identifies potential impacts, and assesses the significance of potential impacts. At the screening stage, the applicant determined that a precautionary approach was required and that there were potential significant effects associated with pollution / disturbance during the construction and operation works for the Annex II species otter, Atlantic salmon, Sea lamprey, Brook lamprey, River lamprey, Twaite Shad, and Freshwater pearl mussel within the Blackwater River (Cork/Waterford) SAC (Site Code: 002170). It was further determined, based on a precautionary approach, that there were potential significant effects associated with pollution during the construction and operation phases for the qualifying features of interest Whooper

swan, Widgeon, Teal, Black-tailed Godwit, and Wetlands and Waterbirds within the Blackwater Callows SPA (Site Code: 002162).

The applicant's Stage 2 assessment of potential adverse effects set out mitigation measures to address potential adverse effects arising from impairment to water quality at the construction and operational phases and considered in-combination effects. The conclusion of the NIS was as follows:

"It can be concluded that the proposed development and all associated Site works, alone or in-combination with other plans or projects, will not adversely affect the integrity, and conservation status of any of the qualifying interests of the River Blackwater (Cork/Waterford) SAC, the Blackwater Callows SPA or any other Natura 2000 site."

Having reviewed the NIS and additional submissions to the planning authority, 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.

8.2. Description of Development

The applicant provides a description and characteristics of the project in Section 3 of the NIS. In summary, the development comprises an extension to the Kerrygold butter processing facility at Mitchelstown for the manufacture, packaging and distribution of butter products

8.3. European Sites

I note Figure 4-1 of the applicant's NIS. This identifies five Special Areas of Conservation and one Special Protection Area within a radius of 15km of the site. I note that there are no known pathways and no hydrological connectivity between the site and the distant European sites of Galtee Mountains SAC, Carrigeenamronety Hill SAC, Lower River Suir Sac, and Ballyhoura Mountains SAC. It is reasonable that such sites were screened out from further consideration.

The applicant screened in the Blackwater River (Cork/Waterford) SAC and the Blackwater Callows SPA. The site of the proposed development is 9km from the nearest part of the former European site and is 12.6km from the nearest part of the latter. The qualifying Annex I habitats and the Annex II species for the SAC and the qualifying Annex I bird species for the SPA are set out in Sections 4.1 and 4.2 of the NIS, while the conservation objectives are set out in Section 4.3.

8.4. *Identification of Likely Effects*

It is first acknowledged that the proposed development is not connected with or necessary for the conservation management of any Natura 2000 site. It is further noted that the site does not contain any habitats of conservation value and that the site does not have habitat to support any of the Special Conservation Interests of any Special Protection Area.

The range of activities arising from the construction and operation of the proposed development that would possibly have any potential effects on European sites would mainly involve site clearance and construction of the extension and the operation of the plant and its associated surface and wastewater discharges.

Prior to considering any necessity for appropriate assessment, the following observations are required to be made:

- The proposed development would form an extension to an existing industrial plant. The site comprises buildings, amenity grassland and hardstanding. There are no waterbodies within, traversing or adjoining this site.
- The site of the proposed development is located in an industrial zoned area in Mitchelstown, within Castlefarm Dairy Complex and adjacent to the Dairygold milk processing plant.
- Kerrygold discharges wastewater to the Dairygold WWTP. Once treated, it is discharged via the Dairygold licenced monitoring point to the Mitchelstown WWTP. The Mitchelstown WWTP discharges to the River Funshion at a location 150m downstream of its confluence with the River Gradoge. The

loadings from the proposed development would equate to between 3.85% to 5.81% of the daily maximum discharge limits following treatment. The total future Kerrygold volume loading on the River Funshion represents 0.89% of daily river flow or a dilution factor of more than 112 times. The additional loadings would be imperceptible.

- There is no proposed change to the current arrangements for managing process effluent on site. Dairygold confirms there is sufficient capacity to treat the additional volumes of wastewater within its WWTP whilst maintaining compliance with its licence.
- The site of the proposed development is located within the Blackwater (Munster) catchment and the Funshion _SC_010 sub-catchment. The Gradoge River is located c.120m north of the site boundary and flows in a north-westerly direction c.1km before discharging into the River Funshion. The River Funshion is c.960m north-west of the site.
- The River Funshion flows east, south and south-west for c.33km before discharging to the Blackwater River SAC.
- Surface water runoff from the site would discharge to the Gradoge River c.34km upstream of the River Blackwater River (Cork/Waterford) SAC and the Blackwater Callows SPA.
- Treated process effluent and treated foul drainage generated at the site would discharge to the River Funshion through Mitchelstown WWTP c.33km upstream of the River Blackwater River (Cork/Waterford) SAC and the Blackwater Callows SPA.

I submit to the Board that, given the nature and extent of the proposed development (an extension to an existing industrial plant within an existing industrial complex), which includes discharge of process and foul waste to treatment plants with substantial capacity to accommodate the proposed extension, the flow distance to the nearest European sites with which there is hydrological connectivity at distances of over 30km, and the dilution factor associated with the relevant waterbodies before connectivity with such distant European sites, it is not likely that that there would be any significant effects on habitats at the distant Blackwater River (Cork/Waterford)

SAC. It is reasonable to determine that any potential pollutants from this site would dilute, attenuate or settle out before any connectivity with this distant European site. Furthermore, it could not reasonably be ascertained that the site itself and the construction and functioning of the proposed extension to the established facility in the urban area of Mitchelstown could have any known significant effects on the birds of conservation interest at the distant Blackwater Callows SPA.

I submit to the Board that there would be no likely adverse significant effects for European sites arising from the proposed development.

8.5. *In-combination Effects*

If there are no likely significant effects on any European sites, then it may reasonably be determined that there can be no significant in-combination effects arising with any other plans and projects.

8.6. *Screening Determination*

The proposed development has been 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 the Blackwater River (Cork/Waterford) SAC (Site Code: 002170), the Blackwater Callows SPA (Site Code: 002162), or any other European site, in view of their Conservation Objectives, and appropriate assessment is therefore not required.

This determination is based on the following:

- The proposal forming an extension to an existing industrial plant within an established industrial complex;
- The flow distance to the nearest European sites with which there is hydrological connectivity being at distances of over 30km and the dilution

factor associated with the relevant waterbodies before connectivity with such distant European sites; and

- The site for the proposed development having no habitat to support the Special Conservation Interests of Special Protection Areas within 15km of the proposed development.

9.0 Environmental Impact Assessment

9.1. Introduction

- 9.1.1. This application falls under Directive 2014/52/EU on the assessment of the effects of certain public and private projects on the environment (i.e. the 2014 EIA Directive). I have examined the information presented by the applicant, including the EIAR, and the submissions made during the course of the appeal. I have considered whether the information contained in the EIAR and the supplementary information provided by the applicant to date in the application process adequately identifies and describes the direct and indirect effects of the proposed development on the environment and complies with relevant legislative provisions.
- 9.1.2. A range of third party and prescribed body submissions have been received. The issues raised are addressed in detail in my planning assessment.
- 9.1.3. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality to allow consideration as to whether the information contained in the EIAR and any supplementary information provided by the applicant adequately identifies and describes the direct, indirect and cumulative effects of the proposed development and complies with article 94 of the Planning and Development Regulations 2000, as amended. The Board will note that each chapter of the submitted EIAR on environmental impacts expressly addresses cumulative and in-combination impacts, indirect impacts, and interaction with other environmental attributes.

9.2. **Alternatives**

- 9.2.1. As the proposed development forms an extension to an existing industrial facility, it is reasonable that alternative locations were not considered by the applicant in the submitted EIAR. I acknowledge that alternative locations were examined in the original application for the established facility. The applicant addressed the 'Do Nothing' scenario, with emphasis placed on the need to utilise future excess cream supply and the suitability of the expansion of the existing facility to significantly reduce environmental impacts arising from this. The EIAR also considered an extensive range of alternative designs and layouts, with the aim of achieving the avoidance of significant environmental impacts and identifying the achievements of the proposed design and layout.
- 9.2.2. I am satisfied that an appropriate examination of alternatives was reviewed in this application and that the applicant's assessment and reasons for the selection of the site for the proposed extension are well-founded. I further note that this location is an established agri-food industrial centre which is clearly promoted for such intended uses in local planning policy.

9.3. **Population and Human Health**

- 9.3.1. The applicant examined population, economic activity, employment, and human health.
- 9.3.2. My considerations are as follows:
- The site of the proposed development is located within an industrial complex of agri-food facilities on industrial zoned land separate from the nearby town of Mitchelstown and the residential areas of the town.
 - The site is a brownfield site on which there is an established industrial plant and at a location in which there is an established pattern of industrial use.
 - Land uses in the vicinity comprise mainly industry and agriculture. There is no significant density of residential properties in the immediate vicinity.

- The site itself is of no notable amenity or tourism value and is associated with the established Kerrygold facility.
- The proposed development would facilitate the further development of an established agri-food facility and would support the established industrial base. This would be consistent with the established and recent land uses on this site. 30 new jobs by 2025 are intended to be provided as a result of the proposed development.
- There is a wide range of proposals and mitigation measures in this application to address potential impacts by way of noise, vibration, dust, traffic, water quality impacts, etc., with a synopsis of commitments set out in Chapter 16 of the EIAR. The environmental impacts of these will be considered further in this assessment.

9.3.3. Overall, I am satisfied to conclude that significant adverse impacts would not be likely to arise for the local population, human health, and those intended to construct the proposed development.

9.4. **Biodiversity**

9.4.1. The applicant's EIAR detailed the methods and results of a desk study and field surveys undertaken to establish the baseline ecological status of the site and its surroundings, reviewed the relevant policy context, described the ecology of the site, considered designated sites, and detailed mitigation measures.

9.4.2. My considerations are as follows:

- The site of the proposed development is located within an industrial complex of agri-food facilities on industrial zoned land.
- The site is a brownfield site on which there is an established industrial plant and at a location in which there is an established pattern of industrial use.

- The site is comprised of amenity grassland, hardstanding areas and buildings. There are no waterbodies traversing or adjoining the site and no hedgerows on or bordering the site.
- There are no known flora or fauna of conservation value on the site.
- The applicant proposes an extensive range of mitigation measures at the construction and operational phases to ensure that flora and fauna encountered are managed in accordance with best practice.

9.4.3. Overall, it is acknowledged that the proposed development constitutes an extension to an existing industrial facility within an industrial area. This is an area of low ecological value. With regard to potential significant effects on European sites, the Board will note my conclusions on this earlier. It may reasonably be concluded that the proposed development would not have any significant impact on biodiversity.

9.5. **Land and Soils**

9.5.1. The EIAR described and assessed the likely impact of the proposed development on land, soils and geology.

9.5.2. My considerations are as follows:

- The proposed development would consist of an extension to an industrial building and would take place on a brownfield site consisting of amenity grasslands, buildings and hardstanding areas.
- The proposed development would include site clearance and levelling, the excavation of the site and construction of a range of industrial structures, provision of infrastructure, parking, lighting, etc. These works would not have any significant impact on the soils and geology of this area.
- Any importation of materials for fill, regrading, surfacing, etc. and the importation of materials associated with infrastructure provision would not have any significant impact on the soils and geology of this site.
- There would not be any significant impact on the soils and geology of this site arising from the management of waste materials during the proposed works.

The applicant is to prepare a Construction Environmental and Waste Management Plan in advance of the construction works.

- The proposed development would not have any significant impact on the soils and geology of this site at the operational phase.
- The applicant proposes an extensive range of mitigation measures at the construction and operational phases to meet with best practice at the construction stage on soil management, materials handling, etc. and appropriate containment measures at the operational stage.

9.5.3. Overall, I am satisfied to conclude that significant adverse impacts would not be likely to arise for land, soils and geology.

9.6. **Water**

9.6.1. This chapter of the EIAR describes and assesses the likely impact of the proposed development on surface waters and groundwater, including consideration of recent groundwater investigations on the site and of surface water quality. Established control measures are identified for the facility's operation. Cumulative and in-combination impacts relating to the Dairygold and Mitchelstown WWTPs are examined. The flood risk associated with the proposed development is also alluded to. The main concerns arising from the proposed development on the water environment are identified and mitigation measures are provided.

9.6.2. My considerations are as follows:

- The proposed development would consist of an extension to an existing industrial facility. This facility has established infrastructure to manage surface waters. The overall site is managed in accordance with IE Licence P0404-02 with regard being had to process and foul waters generated. Treatment of process and foul waste can be adequately accommodated at the WWTPs servicing this site and the proposed development would not affect the conditions of the existing licence.

- The potential risk to ground and surface waters at the construction stage arises from accidental spillages and from siltation and there is the potential for adverse impacts on groundwater arising from any excavation works coming into contact with groundwater.
- Groundwater conditions are not likely to undergo any significant changes at the operation stage.
- I note that upgrade works at the Mitchelstown WWTP are proposed to remedy percolating filters and reduce the concentration of ammonia being released to the River Funshion and the works are scheduled to be completed by 2024. Irish Water has confirmed that the WWTP has the capacity to accept and treat the additional loadings from the proposed development and the impact on the receiving water would be understood to be imperceptible.
- The Dairygold WWTP is subject to an IE licence. The additional loadings from the proposed development would equate to between 3.85% and 5.25% of the daily maximum discharge limits following treatment. The change in the future Kerrygold loadings into the River Funshion would be minimal and would not impact on the ability of this river to achieve good status under the Water Framework Directive. Dairygold WWTP has the capacity to treat the proposed increased loadings using existing infrastructure without any change to its licence conditions.
- There is an established surface water management system at the existing facility and the existing interceptor has the capacity for proposed stormwater flows and discharge flows would be designed to greenfield runoff rates for the site.
- The overall groundwater abstraction rates would remain unchanged for the Castlefarm Dairy Complex.
- The applicant proposes a range of mitigation measures, including adherence to best practice at the construction stage, implementation of a Construction Environmental and Waste Management Plan, some improvements to the process wastewater system, stormwater storage improvements, and measures relating to storage and transportation of materials.

- The issue of flood risk has been addressed in the submitted Flood Risk Assessment and the proposed development would not be subject to any flood risk nor would its construction or operation pose any flood risk beyond the site.

9.6.3. Overall, I am satisfied to conclude that the proposed extension to the established facility would not be likely to result in any significant environmental impacts on ground and surface waters.

9.7. Air Quality

9.7.1. The applicant's EIAR described existing air quality and weather conditions and identified the sensitive receptors in the area. Dust emissions from the proposed development at the construction phase were identified and their impact on human and ecological sensitive receptors were assessed. Emissions from traffic, from process-related emissions from boilers, and from potential odours at the operational phase were also assessed. Mitigation measures were set out.

9.7.2. My considerations are as follows:

- Having regard to the distance to sensitive receptors, including residential properties and watercourses in the environs, it is accepted that the impact of dust emissions at the construction phase would be low, with appropriate management of the site works.
- The proposed development would consist of an extension to an existing industrial facility. This facility has established infrastructure to manage air emissions. Two existing boilers, powered by natural gas, are already in place and the proposed development would introduce a third boiler. They would share the existing flue, which is designed with sufficient height, and the development is set up such that only two boilers can operate simultaneously. The third boiler would only operate during maintenance or break down of one of the duty boilers.

- The applicant's predictions on air quality and human health from point sources arising from the proposed development, including cumulative impacts, are noted, with the assessment demonstrating that there would be no significant impact.
- I acknowledge that estimated operational traffic would be significantly below requirements for screening model in accordance with the DMRB Manual, with impact on air quality estimated to be imperceptible.
- Acknowledging that wastewater pre-treatment in the Dissolved Air Flotation (DAF) unit and associated sludge has the potential to generate odour, the applicant has submitted that a feasibility study on installation of sludge dewatering equipment will be completed in 2021 and, if successful, equipment will be installed that will reduce DAF sludge volumes by c.70-80%. The EIAR states that food waste is regularly collected and taken off site. I acknowledge that odour emissions are regulated and managed in accordance with the IE licence and conditions are enforced by EPA.
- The applicant proposes a range of mitigation measures at the construction and operational phases. Construction measures include the preparation of a Construction Environmental and Waste Management Plan, employing best practice, while the operational measures include regular maintenance and monitoring of boilers and enclosure of the DAF unit.

9.7.3. Overall, I am satisfied to conclude that the construction of the proposed extension to the established facility and the air emissions from the new plant would not be likely to result in any significant environmental impacts on air quality.

9.8. **Climate**

9.8.1. The applicant's EIAR described and assessed the potential, likely and significant direct and indirect impacts of the proposed extension on climate. Emissions from construction-related activities and from the operational phase were identified and assessed. Mitigation measures were also set out.

9.8.2. My considerations are as follows:

- The proposed development would consist of an extension to an industrial building and would take place on a brownfield site.
- I note the applicant's submission that the proposed development would not create any new demand for milk/cream production but rather it would be built in to the existing and projected supply of the raw materials. It is further submitted that, as a result, indirect emissions arising from the production of raw materials would occur regardless of whether or not the proposed development proceeds.
- The greenhouse gas emissions at the construction stage would primarily relate to traffic and on-site plant. I acknowledge the short-term nature of the works.
- The greenhouse gas emissions at the operational stage of the facility would relate to combustion of fossil fuels, electricity use, and transport. The new combustion source would be the new boiler and this would be a back-up boiler.
- The applicant proposes an extensive range of mitigation measures at the construction and operational phases. The Construction Environmental and Waste Management Plan is proposed to contain a range of reduction measures at the construction stage, while reuse of excavated soil and local sourcing of materials are proposed to be maximised. At the operational phase, I note that electricity to be used would be sourced from the CHP plant at the Dairygold site, with greenhouse gas emissions from this plant managed under the Emissions Trading Scheme and a Greenhouse Gas Permit. The applicant proposes a range of carbon reduction measures across the site, with reductions in carbon intensity and total emissions predicted. Transport mitigation through the employment of a mobility management plan is also proposed.
- I note that the applicant estimates that, with mitigation measures, the proposed development would result in 0.021% of the national projection for 2025 or 0.0052% total national greenhouse gas emissions projection for 2025. This would not be significant in the national context.

- I acknowledge the applicant's considerations on indirect impacts, namely in relation to indirect supplier emissions and indirect agricultural impacts.

9.8.3. The Board will note my considerations earlier in my planning assessment on indirect impacts from agricultural activities. Overall, I am satisfied to conclude that the construction of the proposed extension to the established facility and the emissions from the operation of the new plant would not be likely to result in any significant environmental impacts on climate.

9.9. **Noise and Vibration**

9.9.1. The applicant's EIAR considered the proposed development with due regard to sensitive receptors in the vicinity and examined existing noise sources and noise and vibration sources derived from the proposed development.

9.9.2. My considerations are as follows:

- The site is an established industrial site. The proposal constitutes an extension to an existing industrial facility. The site is separate from established residential properties in the wider area.
- Noise from the construction of the proposed extension would comply with established standards for the assessment of noise during construction sites. The construction phase would be short, estimated to be over twelve months, and the site would be separated from sensitive receptors by fields and road infrastructure.
- Due to the nature and extent of the works, the separation distances, and the existing environmental conditions, impact from vibration at the construction phase would be estimated to be negligible.
- Noise from the operational phase would be operated under IE licence regulated by the EPA, with limits set by way of condition. It is anticipated that the noise generated would be similar in character to that present in the established facility.
- It is not predicted that vibration impacts would arise at the operational phase.

- The applicant's mitigation measures at the construction and operational phases are acknowledged.
- Traffic associated with the proposed development would utilise the existing road network, consisting of the M8, N73, R665 and R639. The proposal would result in only a small increase in HGV movements on this road network.

9.9.3. Overall, I am satisfied to conclude that the construction of the proposed extension to the established facility and the noise and vibration emissions from the operation of the new plant would not be likely to result in any significant environmental impacts.

9.10. **Landscape and Visual**

9.10.1. The applicant has assessed the landscape and visual impact of the proposed works on this site and the environs.

9.10.2. My considerations are as follows:

- The proposed development would consist of an extension to an industrial building and would take place on a brownfield site consisting of amenity grasslands, buildings and hardstanding areas. It would adjoin established industrial structures and infrastructure.
- The site is located within a large geographical area (including the town of Mitchelstown) that is designated a 'High Value Landscape' in the Cork County Development Plan. Notwithstanding the site being located within such a landscape, the proposed extension would be understood, in landscape and visual impact terms, to form part of the established industrial complex and would have no significant discerning or disconcerting landscape or visual impacts over those that already exist.
- The proposed development would have no impacts on designated scenic routes or views.
- The site forms part of lands designated for industrial use in the Fermoy Municipal District Local Area Plan and the site has a specific development objective to accommodate the expansion of the existing industry.

- The applicant's mitigation measures at the operational phase include tree planting to soften and screen the proposal and these are seen to be appropriate.

9.10.3. Overall, it may reasonably be concluded that the proposed development would have negligible landscape and visual impacts.

9.11. **Cultural Heritage**

9.11.1. The applicant's EIAR examined the potential impacts of the proposed development on recorded archaeology, architecture and the cultural heritage of the site and area.

9.11.2. My considerations are as follows:

- The proposed development would consist of an extension to an industrial building and would take place on a brownfield site consisting of amenity grasslands, buildings and hardstanding areas.
- There are no recorded archaeological monuments, protected structures, or features of cultural heritage value within the site.
- No archaeological finds or features were identified in the archaeological testing undertaken for the construction of the existing butter processing and packaging development.
- The site was subject to archaeological monitoring during the construction of the existing facility and no finds or features were identified.

9.11.3. Overall, it may reasonably be concluded that the proposed development would have no known impacts on cultural heritage.

9.12. **Material Assets**

9.12.1. The EIAR described and assessed the likely direct and indirect impacts of the proposed development on traffic and transport and on waste and use of natural resources.

9.12.2. My considerations are as follows:

Traffic and Transport

- The site of the proposed development adjoins a road network comprising the N73, R665 and R639, with good accessibility onto the M8 motorway. There is an existing vehicular access from Kidorrery roundabout to the established facility.
- The construction phase of the proposed development would be short-term, over a period of approximately twelve months. A maximum of 50-60 construction-related workers would be on the site at any one time during the peak construction period and between 30 and 40 heavy construction vehicles would arrive and leave from the site daily. The established road network and access can safely accommodate the traffic generated at this phase without significant adverse traffic impact.
- The extended facility would accommodate an additional 30 staff operating in shifts. The number of HGVs serving the existing plant is between 80-120 per week. The extended development is estimated to increase this to between 150-175 HGVs per week. Such activity is anticipated to be spread evenly throughout the day. Existing access for the facility would remain. The Kildorrery roundabout has sufficient capacity to accommodate the proposed development and would be subject to no traffic constraints in such circumstances.
- The proposed development would provide adequate on-site parking to accommodate the development and operation of the facility.
- The applicant proposes a range of construction phase and operational mitigation measures. The former includes a Construction Traffic Management Plan and the latter includes a mobility management plan to reduce car travel to work.
- There are no particular traffic or transport concerns with the proposal.

Waste and Use of Natural Resources

- The wastes generated by the existing facility, including organic DAF sludge, are sent to the licenced AD plant for recovery. The proposed development would give rise to an increase of 90% of waste. This would be sent to the existing licenced anaerobic digester, which has sufficient capacity to accommodate the increase.
- It may reasonably be concluded that the proposed development would have no known significant impacts from waste generated or from use of natural resources

Utilities

- The proposed development would have no known significant impacts on electricity, gas, water supply, wastewater infrastructure, materials management, and other utilities such as communications. It is understood that existing infrastructure can accommodate the proposed development at the construction and operational phases.

9.13. **Major Accidents**

9.13.1. The risk of accidents and unplanned events which may have an impact on the proposed development were assessed in the EIAR. A risk-based approach was employed and details are set out in the sections of the report relating to biodiversity, land and soils, water, air, climate, and noise and vibration.

9.13.2. I acknowledge the existing industrial nature of the site and its location within an established industrial complex. I further note that the proposal is outside the scope of the Control of Major Accident Hazards Regulations (COMAH). It is reasonable to conclude that, given the understanding of the nature and extent of the proposed development being an extension to an existing facility, the established protocols in place such as compliance with health and safety legislation, fire control measures, and the intended implementation of a site-specific health and safety plan for the

construction phase, the vulnerability of this site arising from the proposed development to major accident risks would be low.

9.14. **Cumulative Impacts**

9.14.1. I note considerations under all environmental factors given within the applicant's EIAR to cumulative and in-combination effects. There are no plans or projects which could reasonably be determined to constitute development that would derive significant cumulative environmental impacts with the proposed development.

9.15. **Interaction of Impacts**

9.15.1. I note considerations under all environmental factors given within the applicant's EIAR to interactions. Invariably, environmental impacts would be inter-related in some manner. However, it has been determined that there would be no significant adverse impacts arising from each of the environmental factors individually assessed and, as a result, there would be no significant impacts anticipated with the interaction of the impacts projected to arise.

9.16. **Reasoned Conclusion**

9.16.1. Having regard to the examination of environmental information contained above, and in particular to the EIAR and the submissions from the planning authority, prescribed bodies and third parties in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- Potentially significant positive environmental impacts in terms of increased employment and provision of a development that supports the established agri-food industrial base.
- The risk of pollution arising from the additional process waste that would be generated. It is acknowledged that the overall site is managed in accordance with IE Licence P0404-02 and the treatment of process waste can be

adequately accommodated at the WWTPs servicing this site without affecting the existing licence provisions.

- Direct and indirect impacts of the proposed extension on climate. The proposed development, forming an extension to an existing facility, would utilise future excess cream supplies. Greenhouse gas emissions at the operational stage of the facility would relate to combustion of fossil fuels, electricity use, and transport. The new combustion source would be the new boiler and this would be a back-up boiler. Electricity to be used would be sourced from the CHP plant at the Dairygold site, with greenhouse gas emissions from this plant managed under the Emissions Trading Scheme and a Greenhouse Gas Permit. There would not be a significant increase in traffic generated by the proposed development.

9.16.2. In conclusion, the likely significant environmental impacts arising as a consequence of the proposed development have been satisfactorily identified, described and assessed. I am satisfied that there would be no significant residual impacts and, therefore, the construction of the proposed extension and the operation of the proposed extended facility would not have any unacceptable direct or indirect impacts on the environment.

10.0 Recommendation

10.1. I recommend that permission is granted in accordance with the following reasons, considerations and conditions.

Reasons and Considerations

Having regard to:

- (a) the established nature of the existing butter processing facility on the site, the nature, scale and form of the proposed development, and its location within an established agri-food industrial complex,
- (b) mitigation measures which are proposed for the construction and operation phases of the proposed development,

(c) the provisions of the current Cork County Development Plan and the Fermoy Municipal District Local Area Plan 2017, including the zoning of the subject lands under the latter plan for industrial use and the specific development objective for the expansion of the existing food-related industry on the site, and

(e) the pattern of development in the area including the proximity to the existing Dairygold facility and the separation distance of the site from existing dwellings and the town of Mitchelstown,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the current Cork County Development Plan and Fermoy Municipal District Local Area Plan, would not seriously injure the residential amenities of the area, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 22nd March 2021, 27th April 2021, and 12th May 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 proposed development shall be carried out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All environmental mitigation measures set out in the Environmental Impact Assessment Report and associated documentation submitted by the applicant

with the application shall be implemented in full except as may otherwise be required in order to comply with the conditions of this Order.

Reason: In the interest of clarity and to protect the environment during the construction and operational phases of the development.

3. All HGV and vehicular traffic accessing and exiting the site at the construction and operational phases shall use the western entrance to the Castlefarm Dairy complex from the N73 Kildorrery Roundabout only.

Reason: In the interests of orderly development and traffic safety,.

4. Monitoring of the construction phase shall be carried out by a suitably qualified competent person to ensure that all environmental mitigation measures contained in the documentation which accompany the application are fully implemented. A designated member of the company's staff shall interface with the planning authority or members of the public in the event of complaints or queries in relation to environmental emissions. Details of the name and contact details and the relationship to the operator of this person shall be available at all times to the planning authority on request whether requested in writing or by a member of staff of the planning authority at the site.

Reason: To safeguard the amenities of the area.

5. (1) Prior to the commencement of development, the developer shall enter into a connection agreement with Irish Water.
(2) Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

6. Lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes, details of which shall be submitted to, and

agreed in writing with, the planning authority prior to commencement of development. The scheme shall minimise obtrusive light outside the boundaries of the development at all times.

Reason: In the interest of amenity and public safety.

7. 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 commencement of development. This plan shall include all mitigation measures arising from the EIAR and provide details of intended construction practices for the development, including:-
 - (a) hours of operation,
 - (b) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
 - (c) location of areas for construction site offices and staff facilities,
 - (d) details of site security fencing and hoardings,
 - (e) details of car parking facilities for site workers during the course of construction,
 - (f) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,
 - (g) measures to obviate queuing of construction traffic on the adjoining road network,
 - (h) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
 - (i) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,
 - (j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,

- (k) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,
- (l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains,
- (m) a maintenance contract for the oil interceptor to ensure it is emptied on a regular basis shall be submitted,
- (n) details of construction lighting, and
- (o) details of key construction management personnel to be employed in the development.

The plan shall include measures for monitoring dust, noise, groundwater and surface water and shall include a proposal for periodic reporting to the planning authority. A record of daily checks that the works are being undertaken in accordance with the Construction and Environmental Management Plan and monitoring results as appropriate shall be available for inspection by the planning authority. A Construction Manager shall be appointed to liaise directly with the Council for the duration of the construction of the scheme.

Reason: In the interests of amenities, environmental protection, and public health and safety.

8. 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.

Reason: In the interest of sustainable waste management.

9. During construction, the wheels of all trucks shall be washed prior to their exit from the site in a wheel wash facility. Details of the construction, installation and

operation of this facility shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To safeguard the amenities of the area.

10. All solid wastes arising on the site shall be recycled as far as possible. Materials exported from the site for recovery, recycling or disposal shall be managed at an approved facility and in such a manner as is agreed with the planning authority. In any case, no such wastes shall be stored on the site except within the confines of the buildings on site. Adequate on-site arrangements for the storage of recyclable materials prior to collection shall be made to the satisfaction of the planning authority.

Reason: To safeguard the amenities of the area.

11. The site shall be landscaped and planted in accordance with a scheme to comprise predominantly native and naturalised hedgerow, shrub and tree species reflecting those species naturally occurring in the locality. Full details shall be submitted in a landscape plan to be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interests of visual amenity.

13. Prior to the commencement of development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car pooling by staff employed in the development and to reduce and regulate the extent of staff parking.

Reason: In the interest of encouraging the use of sustainable modes of transport.

13. 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.

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

Kevin Moore
Senior Planning Inspector

28th October 2021