



An
Bord
Pleanála

Inspector's Report

ABP-311957-21

Development	A pig finishing unit, 2 no meal bins and associated site works. (EIAR) and (NIS) included
Location	Ballykean, Geashill, Tullamore, Co. Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	21526
Applicant(s)	Aidan Brady.
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Aidan Brady
Observer(s)	None
Date of site Inspection	16 th of May 2022
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The subject site is an agricultural holding of 0.72ha, in a rural area of Co. Offaly, to the north of Clonygown village. It is located in the townland of Ballykean, Geashill and is accessed via an existing farmyard roadway which is 400metres in length from the public road.
- 1.2. The access road is tree lined and structurally complete leading into an existing pig fattening unit. The existing pig fattening unit will be immediately north of the proposed unit the subject of this appeal. The immediate area surrounding the site, consists of agricultural fields (grazing at the time of my inspection).
- 1.3. There are a number of dispersed one -off houses in the area along the main road, but not contiguous to the site. The nearest dwelling is just over 400m and it is a family member owns the dwelling.
- 1.4. The existing pig house (almost identical to the proposed unit) contiguous to proposed unit, is owned by the applicant's brother's unit and it has been recently constructed. I noted no odours during my site inspection, the overall site was clean of soiled water.
- 1.5. There is a stream dissecting the site. The general topography is level.

2.0 Proposed Development

- 2.1. The proposed development as described in the public notices consists of a pig finishing unit, 2No. meal bins and associated site works.
- 2.2. The total capacity of the proposed unit is 1920pigs. The proposed pig house will comply with S.I. No. 311 of the 2010 European Communities (Welfare of Farm Animals) Regulations 2010.
- 2.3. The daily management on site, feeding and husbandry of the pigs is automated. Pigs are transported to the farm as weaners (c.40kg) and remain on site until they reach a sale weight of c. 110-120kg live-weight 12-14 weeks later.
- 2.4. According to the supplementary planning application form, the total acreage of the farm is 12.14Ha. There will be 4800cubic metres of slurry holding capacity. The floor area of the proposed development is 2118sq.m.

2.5. The applicant is proposing to pipe the stream dissecting the site with 1.2m diameter concrete pipe.

2.6. There is an Environmental Impact Assessment Report (E.I.A.R) and the Natura Impact Statement (NIS) with the planning application. The EIAR was support by Technical Appendices which includes:

- Appendix No. 1 -Customer Farmland Details
- Appendix No. 6 – Odour and Ammonia Impact Assessments
- Appendix 10 – Local Water Quality Data
- Appendix 13 – Natura Impact Statement

2.7 ***Environmental Impact Assessment Report (EIAR)***

The EIAR described the site and surrounding area; stated that the proposal would comply with EU, national and local planning and energy policy; considered alternatives; and provided a detailed project description. The main body of the EIAR described the receiving environment; outlined the study methodologies; assessed the potential impacts on the receiving environment under the usual range of headings; proposed mitigation measures for the construction, operational and decommissioning phases; identified residual impacts and interactions and assessed cumulative impacts; and had regard to climate change and the risk of major accidents and natural disasters.

The EIAR was informed by several technical appendices and a Non-Technical Summary and Schedule of Mitigation Measures was provided Section 8.2 and an Environmental Management Programme.

The EIAR concluded that environmental impacts, which relate to biodiversity, water quality and aquatic ecology, will be managed by mitigation measures; the proposed development would comply with agriculture and planning policy; that it would not adversely affect amenities, would not be prejudicial to public health or give rise to a traffic hazard; and that it would be in accordance with the proper planning and sustainable development of the area.

2.8 ***Natura Impact Statement***

A Stage 1 AA screening exercise was carried out for the proposed pig finishing unit, along with 2 meal bins and all associated site works and a Stage 2 Natural Impact Statement was prepared.

Stage 1 AA Screening Report

The AA Screening exercise described the site location and the characteristics of the proposed development, and it identified the European sites within the potential Zone of Influence of the project. It assessed the likely effects on several European sites within a 15km radius of the windfarm site. The report described the individual elements of the project with potential to give rise to effects on these European sites and it described any likely direct and indirect effects on the European sites along with in-combination effects, and it assessed the significance of any effects. This exercise concluded that the proposed pig fattening unit could have likely significant effects, on the Qualifying Interests and Conservation Objectives of some of the European Sites, and that progression to a Stage 2 Natura Impact Statement was considered necessary for those sites.

The Natura Impact Statement Report

The NIS summarised the background to the report and described the AA methodology. It described the proposed development and the baseline ecology of the site and environs, and it assessed the likely significant effects on 4 x European sites which were screened in after the Stage 1 AA exercise. It identified the potential for direct and indirect effects on these European sites and proposed a range of mitigation measures which are contained in the EIAR. It assessed the potential for cumulative effects in-combination with other plans and projects. The NIS was informed by the Stage 1 AA Screening Report, ecological surveys, relevant EIAR Chapters and the Construction & Environmental Management Plan. The NIS concluded that, in the light of best scientific knowledge in the field, all aspects of the proposed project which, by itself, or in combination with other plans or projects, which may affect the relevant European Sites have been considered, and that the Board is enabled to ascertain that the proposed project will not adversely affect the integrity of any of the European Sites concerned.

3.0 Planning Authority Decision

3.1. Decision

Offlay Co. Co. refused the proposed development for two reasons:

1. It is considered inadequate information has been provided in relating to all Chapters of the EIAR. More substantially aspects relating to Land/ Soil, Groundwater, Surface Water and Air are of particular concern. In this regard given the lack of information, the Planning Authority is unable to undertake a full assessment of the proposed development and determine the likely direct or indirect environmental impacts of the proposal. It is therefore considered that the proposed development, if permitted, would be prejudicial to public health/ environmental protection and would be contrary to the proper planning and sustainable development.
2. It is considered that the content of the 'Natura Impact Statement' is inadequate. Many issues relating to the lack of clarity in regard to the assessment of likely environmental impacts of the proposed development thus prevent the planning authority from carrying out a thorough assessment of the proposed development. Issues with Site Specific Ammonia Assessment which was carried out have been identified as some of the conclusions of the NIS are underpinned by this modelling. The impact of ammonia emissions arising from land spreading on both the applicant and customer farmlands should be considered in the NIS.

It is therefore considered that the planning authority is unable to ascertain that the proposed development will not adversely affect the integrity of the River Barrow.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

- *Development Plan* The relevant policies are quoted.
- The Roads Design Office has requested further information
- *Appropriate Assessment:* An NIS was submitted with the planning application. There is a hydrological connection between the site and the Cushina River

which is a tributary of the River Barrow and River Nore SAC. The NIS is considered inadequate, there is a lack of clarity with regard to the likely environmental impacts of the proposed development. It cannot be established that the proposed development would not have an adverse impact on a European site. Site specific ammonia assessment should be carried out.

- *Environmental Impact Assessment Report:* At 1920 production pigs, the proposed development is below the threshold as detailed in Schedule 5 Part 2 of the Planning and Development Regulations. The applicant prepared an EIAR out of an abundance of caution to comprehensively address any concerns. The likely significant effects (Direct and indirect) were assessed with proposed mitigation measures.
- Alternative sites were considered and were deemed less suitable due to poorer access, proximity of houses the existing site has no environmental constraints, and preference is the existing site. A new greenfield site would be less efficient and would involve considerable purchase cost. The planning authority recommended a holistic assessment of alternatives in terms of the effects on the environment.
- A Construction Management Plan be provided detailing the stream diversion, project roles and responsibilities, environmental incidents reporting and management, monitoring on site and continual improvement.
- A site-specific flood risk assessment is required. Details of water supply is required. Assessment of potential surface water quality. Clarification of management of surface water and storm water from concrete apron to prevent contaminated washdown water entering ground and surface water, clarification of section 6.2b of the EIAR should be clarified regarding the aquifer vulnerability. Detailed proposals regarding the realignment of stream and protection of water quality are required.
- Odour emissions during land spreading can be minimised by correct application rates, timing and good practice as outlined in S.I. 605 of 2017.
- No likely impacts to the landscape or visual impact. The operations will not give rise to increase in noise levels.

- The information in sections 6.9 and 6.10 is insufficient for a full biodiversity assessment to be carried out. There is no quality assurance and competence section regarding the biodiversity sections. There is no scientific evidence presented, there were no desk studies or field surveys carried out. No information provided regarding the ecological receptors and how they were determined. There is no mention of Raheen Lough pNHA within the section. Despite the fact is less than 3km from the site. There is a lack of information regarding the customer farmlands in relation to biodiversity.
- The information provided in sections 7.9 and 7.10 is insufficient for a full biodiversity assessment to be carried out. The statement that the proposal will not adversely impact on a European site is not backed up by sufficient evidence, and it contradicts the AA that states all sites need to be examined further due to potential impacts arising on the site's deterioration in water quality during construction and operation. The impact of the construction on the adjacent high status water body is not assessed yet the proposed development is 7-8metres south-west of it.
- All chapters of the EIAR were assessed and it was concluded that inadequate information had been provided in each chapter, therefore the planning authority was unable to make a full assessment and to determine the likely direct or indirect impact. It was therefore considered the proposed development would be prejudicial to public health/ environmental protection.
- A refusal was recommended.

3.2.2. ***Other Technical Reports***

Area Engineer: Further information regarding construction of concrete apron at site entrance

Environment and Water Services: The environment section of Offaly Co. Co. commissioned Enviroguide Consulting with David Kelleghan to complete a review of the EIAR and NIS submitted with the planning application. It is considered inadequate information has been provided with all chapters of the EIAR. There is inadequate information in the NIS. It cannot be established that the proposed development would not have an adverse effect on the integrity of the River Barrow

and River Nore SAC (002162) or any of the other 3No. European sites. Refusal recommended.

Roads Design Roads reconstruction required both sides of the entrance. A levy should be imposed.

3.3. Prescribed Bodies

3.3.1 **An Taisce** – The EPA Water Quality report (14/07/2021) revealed that more than one third of river sites have increasing levels of Nitrate pollution. No water quality deterioration should occur around the customers lands as indicated. The EPA's publication Pollution Impact Potential mapping tool should be used. Both the EIAR and the NIS extensively rely on adherence to the SI 603/2017 (amended by SI 65/2018 and SI 40/2020), the Good Agricultural Practice (GAP) Regulations for Protection of Waters. Ammonia emissions are another air causing pollution is another result of agricultural processes including manure storage and spreading. The ammonia impacts need to be thoroughly assessed.

3.4. Third Party Observations

(i) Peter Sweetman & Associates:

- The application must be assessed in accordance with the Planning and Development Act 2000
- The planning authority must form and record a view as to the environmental impacts of the development, considering the **EIA Report (EIAR)** if furnished, applying its own expertise or to screen the development for EIA.
- The planning authority is the competent authority having responsibilities under the Habitats Directive.
- The development must be assessed for compliance with the Water Framework Directive.

4.0 Planning History

4.1 PL2/13/71

James Brady applied for permission for the construction of a pig finishing, 4 No. meal bins and associated site works. It was granted planning permission subject to 16No. conditions.

4.2 **PAY/15/006:** A Warning Letter was served on James Brady on the 8th of April 2015 in relation to non-compliance with Conditions 15 and 16 of PL2/12/71.

5.0 Policy Context

5.1. National Planning Framework, 2018

The NPF is the Government strategic plan to shape the future growth and development of the country up to 2040. Relevant provisions include: Agriculture - The agri-food sector continues to play an integral part in Ireland's economy and is our largest indigenous industry, contributing 173,400 direct jobs and generating 10.4% of merchandise exports in 2016. Agriculture has traditionally been the most important contributor to rural economies and it remains important as a significant source of income and both direct and indirect employment. However, it must adapt to the challenges posed by modernisation, restructuring, market development and the increasing importance of environmental issues. Much of the economic benefits in the agri-food sector are dispersed throughout the country making it particularly vital to rural areas and economic development generally. Continued development of the agri-food sector will be supported through the implementation of Food Wise 2025.

Food Wise 2025 has five cross-cutting themes: sustainability, human capital, market development, competitiveness and innovation. Sustainability is key to the strategy, which states that: "environmental protection and economic competitiveness are equal and complementary – one cannot be achieved at the expense of the other". Food Wise also supports technology and processes that result in a more efficient use of resources.

National Policy Objective 23 Facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm

activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.

5.2. Development Plan

5.1.1 Offaly County Development Plan 2021-2027

Agriculture

REDP-04 It is Council policy to support the development of agriculture where it is compatible with the sustainable development of the county and commensurate with sustaining the farming community.

REDP-05 It is Council policy to ensure that agricultural developments are designed and constructed in a manner that will ensure that groundwater watercourses and sources of potable water are protected from the threat of pollution in line with Water Quality Regulations and the requirements of the Water Framework Directive.

REDP-06 It is Council policy to proactively encourage the Bord na Móna Peatlands Rehabilitation Scheme (which is to be administered by the Department of the Environment, Climate and Communications (DECC) and regulated by the National Parks and Wildlife Service (NPWS) of the Department of Housing, Local Government and Heritage) to deliver on potential amenity and tourism benefits for example complimenting the delivery of the Midlands Cycling Destination – Offaly, where routes pass through the rehabilitated bogs, subject to environmental, biodiversity and hydrological requirements’.

Agriculture

REDO-03 It is an objective of the Council to support agricultural development and encourage the continuation of agriculture as a contributory means of maintaining population in the rural area and sustaining the rural economy.

REDO-04 It is an objective of the Council to ensure that all agricultural activities adhere to any legislation on water quality and biodiversity, for example, Phosphorus Regulations, Water Framework Directive, Nitrates Directive and Habitats Directive.

Climate Action

REDP-15 It is Council policy to support the agricultural sector to employ green technologies in the provision of its goods and services, while taking measures to accelerate the transition towards a sustainable, low carbon and circular economy.

REDP-16 It is Council policy to encourage the development of environmentally sustainable practices with a low carbon footprint, particularly agriculture, to ensure that development does not impinge on the visual amenity of the open countryside and that groundwater, watercourses, wildlife.

11.6 Environment Policies

Water Quality

ENVP-01 It is Council policy to ensure that the Water Framework Directive, the River Basin Management Plan and any subsequent Water Management Plans are fully considered throughout the planning process.

ENVP-02 It is Council policy to manage, protect and enhance surface water and ground water quality to meet the requirements of the Water Framework Directive.

ENVP-03 It is Council policy to support the implementation of the Water Framework Directive, the River Basin Management Plan and the Local Authority Waters Programme in achieving and maintaining at least good environmental status for all water bodies in the county. Development proposals shall not have an unacceptable impact on the water environment, including surface waters, groundwater quality and quantity, river corridors and associated woodlands.

ENVP-04 It is Council policy that in assessing applications for developments, that consideration is had to the impact on the quality of surface waters having regard to targets and measures set out in the River Basin Management Plan, and any subsequent local or regional plans.

ENVP-05 It is Council policy that all proposed development which may have an impact on a high status water quality site will require site specific assessment to determine localised pressures and demonstrate suitable mitigation measures in order to protect these sites. *ENVP-06* It is Council policy to promote and comply with the environmental standards and objectives established for: (i) Bodies of surface water, by the European Communities (Surface Waters) Regulations 2009, made to give effect to the measures needed to achieve the environmental objectives established for bodies of surface water by the European Water Framework Directive;

and (ii) Groundwater, by the European Communities (Groundwater) Regulations 2010, made to give effect to the measures needed to achieve the environmental objectives established for groundwater by the European Water Framework and Groundwater Directives, for which standards and objectives are included in the River Basin Management Plan.

ENVP-07 It is Council policy to protect groundwater sources through the implementation of the Groundwater Protection Scheme and Source Protection Zones. Development proposals within these zones which have the potential to pose a risk to groundwater will be required to demonstrate that no reasonable alternative site is available, and that groundwater quality will be protected to the satisfaction of the Council.

ENVP-08 It is Council policy to encourage the use of catchment-sensitive farming practices, in order to meet Water Framework Directive targets and comply with the River Basin Management Plan.

5.3 European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017 SI No 605 of 2017 –

This details the requirements as to manner of application of fertilisers, soiled water etc. European Union (National Emission Ceilings)

Regulations 2018.SI. No. 232/2018

These are regulations to limit emissions of sulphur dioxide (SO₂), nitrogen oxides (NO_x), non-methane volatile organic compounds (NMVOC), ammonia (NH₃), and fine particulate matter (PM_{2.5}) in accordance with the emission reduction commitments specified for each pollutant in tables A and B of Schedule 2, in accordance with the timeframe specified in those tables.

In order to give effect to Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants.

Schedule 2

Table B Emission reduction commitments for ammonia (NH₃) and fine particulate matter (PM_{2.5}). (The reduction commitments have the year 2005 as base year, and for road transport, apply to emissions calculated on the basis of fuels sold). NH₃

reduction compared with 2005 - for any year from 2020 to 2029, 1%; for any year from 2030, 5%. PM2.5 compared with 2005 - any year from 2020 to 2029, 18%; for any year from 2030, 41%. Schedule 3 - content of national air pollution control programmes referred to in regulations 6 and 9.

Part 2

A. Measures to control ammonia emissions

1. A national advisory code of good agricultural practice to control ammonia emissions shall be established, taking into account the UNECE Framework Code for Good Agricultural Practice for Reducing Ammonia Emissions of 2014, covering at least the following items:

- a) nitrogen management, taking into account the whole nitrogen cycle
- b) livestock feeding strategies;
- c) low-emission manure spreading techniques;
- d) low-emission manure storage systems;
- e) low-emission animal housing systems;
- f) possibilities for limiting ammonia emissions from the use of mineral fertiliser;

3 (c) promoting the replacement of inorganic fertilisers by organic fertilisers. 4 Ammonia emissions from livestock manure may be reduced by using the following approaches: (a) reducing emissions from slurry and solid manure application to arable land and grassland, by using methods that reduce emissions by at least 30% compared with the reference method described in the Ammonia Guidance Document and on the following conditions: (i) only spreading manures and slurries in line with the foreseeable nutrient requirement of the receiving crop or grassland with respect to nitrogen and phosphorous, also taking into account the existing nutrient content in the soil and the nutrients from other fertilisers; (ii) not spreading manures and slurries when the receiving land is water saturated, flooded, frozen or snow covered; (iii) applying slurries spread to grassland using a trailing hose, trailing shoe or through shallow or deep injection; (iv) incorporating manures and slurries spread to arable land within the soil within four hours of spreading; (b) reducing emissions from manure storage outside of animal houses, by using the following approaches: (i) for slurry stores constructed after 1 January 2022, using low emission storage systems

or techniques which have been shown to reduce ammonia emissions by at least 60% compared with the reference method described in the Ammonia Guidance Document, and for existing slurry stores at least 40%; (ii) covering stores for solid manure; (iii) ensuring farms have sufficient manure storage capacity to spread manure only during periods that are suitable for crop growth: (c)reducing emissions from animal housing, by using systems which have been shown to reduce ammonia emissions by at least 20% compared with the reference method described in the Ammonia Guidance Document (d)reducing emissions from manure, by using low protein feeding strategies which have been shown to reduce ammonia emissions by at least 10% compared with the reference method described in the Ammonia Guidance Document.

5.4 Code of Good Agricultural Practice for reducing Ammonia Emissions from Agriculture 2019

Which includes: Techniques that can be considered for reducing ammonia emissions from pig housing, particularly when refurbishing or constructing new buildings. Ensuring that any changes are compatible with the existing housing system and allow for adequate ventilation:

- Reducing the area where manure is gathered,
- Partly slatted floors emit less ammonia, allowing the manure to fall more rapidly,
- Air cleaning systems (such as wet acid scrubber; two-stage or three stage air cleaning system; bioscrubber (or biotrickling filter). These devices are fitted to the outlets of mechanically ventilated pig houses and some systems can reduce ammonia emissions in exhaust air by up to 90%.

5.3. Natura 2000 Sites

There are 4No. Natura 2000 designated sites within 15KM of the application site.

River Barrow and Nore SAC with Site Code SAC 002162 which is located 7.9km south

Mountmellick SAC site code 002141 located 10.1km south

Raheenmore Bog SAC site code 00582 located 13.3km north

Slieve Bloom Mountains SPA Site Code 004160, 13.5km south-west

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 *Introduction*

The proposal:

- is a continued and suitable farm diversification
- is located on a suitable agricultural site and area
- is appropriate to this location for the management of all by-products, waste or other materials
- is well removed from any sensitive receptors.

The development is a carbon copy of the existing development on site. It appears from the planning file the decision to refuse arose from a technical review of the EIAR and NIS by Enviroguide Consulting.

The proposed development is substantially similar to the adjacent site granted by Offaly Co. Co. whereby the issues raised and assessed were the same, visual, traffic, justification, and were potentially more significant when assessing the previous development on a greenfield site, yet all were to the satisfaction of Offaly Co. Co. The planning history and current status of the site do not appear to have been directly or appropriately considered and do not appear to have been part of the scope of the EIAR/ NIS review carried out and there was an over reliance on one report by the planning authority. A broader assessment of the application should have been carried out including characteristics of the development, its setting/location in the local environment and the interaction between the proposed and existing site. The broader consideration is in keeping with the goals of EU Directive 2014/52/EU.

6.1.2 *Technical Review of the EIAR and the NIS by Enviroguide Consulting incorporating a report by David Keeleghan*

The report had recommended further information, but the planning authority refused the development outright, and it is unclear if a final planning report was issued on the case. It is considered by the applicant, Offaly Co. Co. erred in their decision to

refuse the application without first providing the applicant an opportunity to consider and reply to the conclusions reached as appropriate, provide justifications for any positions taken or data used in the completion of the E.I.A.R. and N.I.S. and provide additional information where deemed appropriate. It is hoping the Board will give a fair and balanced review of the development.

- **Planning Policy Context** – The proposed development is adjacent to an existing pig farm site in a rural agricultural area. Section 2 of the EIAR specifically refers to national policies directly affecting the proposed development. Section 2.2. specifically details the EIAR is completed in compliance with E.I.A. Directive (2014/52/EU) and is compliant with all mandatory requirements.
- **Underground Storage Tanks** – The underground storage tanks are to the standards previously prescribed by Offaly Co. Co. for an identical adjoining development. A construction and demolition waste management plan has been provided. The development will follow the DAFM guidelines for construction of farm buildings. Borehole log for existing well on adjacent site, and the extraction volume is 10-20m³/ day.
- **Rational for Water- Feed ratio chosen.** A dry feeding system is to be implemented on the site. Waste Storage on the site will be minimal and will be serviced by Wheelie Bins and skips which are standard operating measures on such farms. Energy usage is presented in terms of Energy consumption per pig place/ years. This is a pig rearing farm only. The authors of the report have compared energy consumption per pig over the full life cycle of the pig, to include the breeding herd. The figures relate to two different systems and are not comparable. The amount of fuel storage for a generator will be minimal, and any generator will have a bunded fuel storage tank. There will be agricultural plant material required to transport organic fertilizer off-site, this will be predominantly be by a hired contractor. The only additional machinery will be a power washer.
- **Alternatives:** Section 5.1 of the EIAR deals with alternative sites, and alternatives to intensive pig farming.

- Flood Risk Assessment:** A updated report accompanies the appeal submission. It was prepared by Hydrec and dated 12th of November 2021. The OpW's PFRA does not indicate that the site is susceptible to fluvial/ pluvial flooding as a consequence of overflow from Kilcooney Stream. It is proposed to re-route a portion of the Kilcooney Stream that passes through the development site, it was deemed prudent that a hydraulic assessment of the stream be completed. It was carried out to predict 1 in 100 year in 1000-year flood levels in the current and proposed watercourse channels. Based on the hydraulic model produced for the site, the current stream channel was found to have sufficient capacity to contain all flood waters associated with the 1 in 100year and 1 in 1000 year event. There is no increase in flood water elevation or water velocities modelled to occur at downstream cross section post the channel realignment works. This is dependent on the new channel mirroring the dimensions and invert levels found within the current Kilcooney Stream Channel. The site is within a Flood C Zone and deemed to be acceptable from a flood risk perspective. There will be loss of floodplain as a consequence of infilling or developing the site.
- Water Quality** – The proposed development will not alter the nature and extent of the activities carried out by the customer famers and or the amount of fertiliser nutrients spread on their lands. The proposal just provides an alternative source from which these customer famers can meet existing fertiliser requirements. All fertiliser has to be applied in accordance with the Nitrates Directive S.I. 605 of 2017 as amended.

There are 2 storm water discharge points proposed. There is no discharge from the concrete apron to the stream. The concrete apron will drain to a soakaway representing 283sq.m. or <12%.
- Customer Farmlands:** The authors of the report that support rather than find fault with the EIAR. The report confirms there are no lands within Source Protection area, confirm that lands are within areas of moderate, high and extreme vulnerability, with the extreme vulnerability being excluded, and detail that land spreading of organic material is acceptable. Customer farmers have

290% capacity and all that they find issue with is potentially one plot that may be in close proximity to a source protection area. The report contradicts itself.

- **Climate Change** : The Food Vision 2030 Strategy is a new strategy for Irish agricultural sector. It is detailed in the EIAR that pigs produce significantly less greenhouse emissions than beef and lamb. A transition to poultry and pork in the Irish diet may help reduce emissions. Climate change is a global/national issue. The efficiencies in pig farming in terms of feed conversion and resource consumption per unit are improving with genetics, housing and feed management. The organic fertiliser from the farm will replace synthetic fertiliser which has significant carbon emissions associated with its production.
- **Visual Aspects and Landscape** - Given the existing pig house, and distance from road, the noise levels are acceptable. Detailed information regarding traffic has been submitted. There are 10-25 journeys per week, depending on the time of year and slurry movement. The proposal will not significantly impact on hedgerow habitats around the site and/ or require the removal or disturbance to any mature trees. The adjacent watercourse has not been impacted by the existing pig house. The NIS is part of the EIAR and the recommended measures form part of the EIAR. While the appropriate assessment detailed some areas that needed further consideration, the conclusions of the NIS detailed no significant impact, and any mitigation measures that are reached in the EIAR are appropriate.
- **Biodiversity** – The author of the report details that a biodiversity assessment of the customer farmlands is required, the farmers are not party to and are not seeking planning permission for that part of the application. They are and will continue to apply fertiliser to their lands as part of the lawful practice within the requirements of the S.I. 605 of 2017, as amended. The applicant will make available organic fertiliser to utilise as part of the fertiliser substitution programme to replace existing imported chemical fertiliser, and significant emissions associated with chemical fertiliser production (GHG & Carbon).

While the field drain bisecting the site is connected to it is not identified as part of a high-status waterbody and has been described by the planning

authority as a tributary of Enaghan Stream. It is not identified on the maps as a watercourse for the purposes of DAFM Spec S123.

- The impact on the material assets on site will not materially change by the proposed development.
- **Potential Effects** – The planning authority and the authors of the report failed to identify a fundamental reason and or aspect of the environment likely to be significantly impacted that on balance would warrant a complete refusal of the application. The report for Offaly Co. Co. listed recommendations that if required from the basis of a further information request.
- **Conclusion** – The proposed development is a simple and relatively standard animal housing project, it is below the mandatory threshold requiring an EIA or EPA licencing. There is no significant hazardous process, practice or materials used or generated on site, and the proposed development for all significant purposes is identical in nature and scale to that operating to the site.
- **Additional Comments** –
 - (i) On the previous planning application relating to the adjoining pig house the planning report stated, principle of the development is in accordance with the development plan policy.
 - (ii) The siting and design are considered acceptable.
 - (iii) The development will not have significant effects on the environment.

6.2. Planning Authority Response

Offaly County Council responded in December 2021 by requesting the Board supports its decision to refuse planning permission for the proposed development.

7.0 PLANNING ASSESSMENT

7.1 Having considered the appeal file, which included the planning application, the interdepartmental reports, an independent review report commissioned by the

planning authority, the EIAR, an NIS, and the grounds of appeal, I consider the following issues arise in this case:

- Compliance with planning policy
- Other issues
- Section 8.0 deals with the Environmental Impact Assessment
- Section 9.0 of this report deals with Appropriate Assessment

7.2 **Compliance Planning Policy**

(i) The National Planning Framework, 2018-2040 published by the government in 2018 states that the agri-food sector plays an integral part in Ireland's economy. Agriculture is traditionally the most important contributor to rural economies and remains an important source of income. Specifically, National Policy Objective 23 states to *facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector.*

(ii) Local Planning Policy is included in the recently adopted Offaly County Development Plan 2021-2027. Accordingly, it is planning authority's policy to support the development of agriculture where it is compatible with the sustainable development of the county and commensurate with sustaining the farming community. In this regard, the proposed development is in a rural farming location. It adjoins an existing piggery operated by the applicant's brother. The site is surrounded by agricultural holdings. It is also a policy of the planning authority to ensure all agricultural activities adhere to legislation on water quality and biodiversity e.g. the Water Framework Directive and Nitrate Directive and Habitats Directive. The land spreading of organic manure generated on the farm is in accordance with this legislation and policy.

According to policy ENVP-04 it is policy to consider the impact of the proposed development on the quality of surface waters having regard to targets and measures set out in the River Basin Management Plan. This issue is examined later in the report.

On balance and on principle the proposed development complies with national and local planning policy, as outlined in Section 5 of this report above.

7.3 **Other Issues**

- The closest third-party residence is over 400metre form the subject site which is in line with BATNEEC guidance. The BATNEEC Guidelines were replaced by 2017/302 establishing techniques under EU Directive 2010/75/EU for the intensive rearing of poultry and pigs which did not specify a distance from residential homes but incorporated a more holistic approach involving spatial planning, local conditions, and pig genetics, operating systems and feed formulation.
- The farm is located in close proximity to Rosderra's meat processing premises in Co. Offlay.
- The site is accessed via an existing surface farm road (400metres) from public road. The entrance is a wide splayed entrance with a palisade gate.
- The general topography is flat, dominated by a patchwork of fields, and is not designated as a high amenity area or scenic route in the current development plan. The proposed farm buildings will be setback considerably from the public road. There is an almost identical development located alongside proposed development. Therefore, the overall visual impact on the surrounding landscape will be modest and not adverse when viewed from nearby houses and road. The pig house is low profile. Having considered the existing unit within the wider landscape, I believe an additional unit to the south of the existing pig fattening unit, will have minimal impact on the visual amenities of the area. These are agricultural units and are normal structures within a rural landscape.
- The location of the farmyard has the advantage of being centrally located within a signifigant tillage farming area, maximising the availability of suitable land spreading areas while minimising transport distances. The organic fertilizer from the farm will be used by the customer famers as a substitute to chemical fertiliser. It is important to note that the proposal will not increase the level of nutrients to be applied to the customer farmer lands, it will act purely as a replacement to the current practice of applying the chemical fertiliser.
- The proposed development will operate alongside an existing family piggery. The proposal is substantially similar to the previously approved by Offaly Co.

Co (***Planning Reference 13/71***) and operating pig finishing unit on site. The previous development was on a totally greenfield site which had greater environmental implications to be assessed than the current proposal as it was setting a new precedent for the area. The planning history of the site and its current status as an existing piggery has a significant bearing on the justification for locating the proposal at this location. On the day of my site inspection, I observed no soiled water or experienced no odour from the existing pig fattening units on site.

- Enviroguide Consulting Report. The planning authority commissioned a report on the EIAR and NIS accompanying the applicant's planning application. The findings of the report were the basis for the reasons for refusal contained in the planning authority's decisions to refuse. It is worth noting that although the report considered there were shortfalls in certain aspects of the EIAR and the NIS there were no specific issues raised that would warrant a refusal of the proposal outright. Given the existing status of the site and the planning history of the site, I consider it would have been reasonable and more prudent of the planning authority to request further information as opposed to refusing the proposal outright.
- ***Planning Reference 13/71*** (Decision included in appendix of this report) > Mr James Brady (applicant's brother) was granted planning permission for a pig finishing unit, 4No. meal bins and site development works on the adjoining site in October 2013. The Environment and Water Services department within the planning authority had no objection to the proposal. There was further information requested during the assessment of the planning application regarding roads, access and surface water drainage. There was no EIAR or NIS accompanying the application. The development was granted subject to 16No. conditions which included development contributions €7000, and €18,000, noise restrictions, construction management plan, waste storage and disposal, and compliance with relevant guidelines and EU directives.
- A construction and demolition waste management plan has been submitted in line with DAFM (Department of Agriculture, Food and Marine) requirements.
- There is an existing borehole on site that will service the proposed development.

- The existing stream dissecting the site will be piped, this is ensure there is limited risk of contamination arising form the proposed development into the nearby surface water channel.

8.0 Environmental Impact Assessment

8.1 Assessment of the likely effects on the environment

Class1(e)(ii) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001-2018 requires that an Environmental Impact Assessment is carried out for intensive pig rearing installations with more than 2,000 places for production pigs (over 30 kilograms). The proposed development, for 1,920 production pig places, is therefore sub threshold for *Environmental Impact Assessment*. The applicant submitted an EIAR to the planning authority on the 25th of August 2021. The EIAR is presented in one volume, comprising the following chapters:

Chapter 1 – Non -Technical Summary,

Chapter 2 - Introduction

Chapter 3 - Description of development

Chapter 4 - Description of the physical characteristics of the proposed development, the land use requirements during construction and operation and the likely significant effects of the project on the environment

Chapter 5 - Description of reasonable alternatives

Chapter 6 - Description of the relevant aspects of the current state of the environment and an outline of the likely evolution thereof without implementation of the project as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of environmental information and scientific knowledge

Chapter 7 - Description of the aspects of the environment with potential to be significantly affected by the proposed development

Chapter 8 - Interaction of Effects

Chapter 9 - Environment Management Programme, and

Chapter 10 - Summary.

The EIAR is accompanied by a revised Natura Impact Statement, attached as appendix no. 13, and needs to be read in conjunction with the NIS in relation to biodiversity, (with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC).

Article 3(1) of the EIA Directive, requires that the EIAR identifies, describes and assesses in an appropriate manner, the direct and indirect significant effects of the project on the following factors: (a) population and human health; (b) biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC; (c) land, soil, water, air and climate; (d) material assets, cultural heritage and the landscape and the interaction between the factors referred to in points (a) to (d).

The requirements of Article 3(2) to include the expected effects deriving from the vulnerability of the project to risks of major accidents and/or disasters that are relevant to the project concerned, do not arise in this case.

In accordance with Article 5 and Annex IV, the EIAR provides a description of the project comprising information on the site, design, size and other relevant features of the project. It also provides a description of the likely significant effects of the project on the environment and a description of the features of the project and/or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment.

Alternatives studied are addressed in Chapter 5 of the EIAR. Alternatives considered were: other locations on lands owned by or available to the applicant (Mr. Aidan Brady) - deemed less suitable for reasons including poorer road access, higher density of residential dwellings in close proximity, failure to visually integrate with existing structures, the purchase and re-development of an existing pig farm site was considered – there are no suitable sites located close to the applicants existing activities, with which the proposed development would integrate; the purchase of an entire green field site was considered – a separate site would be significantly less effective due to the additional costs involved and would be remote from existing farmyard, would put the development under financial strain. The proposed site was considered the most suitable to visually integrate with existing framing activities.

I am satisfied that the details comply with the requirements of the legislation, insofar as a description of the reasonable alternatives studied by the developer, together with an indication of the main reasons for selecting the chosen option have been provided.

The EIAR includes a non-technical summary of the information referred to in Article 5 (a) to (d).

No specific difficulties are stated to have been encountered in compiling the required information. The participation of the public has been effective, and the application has been made accessible to the public by electronic and hard copy means with adequate timelines afforded for submissions.

I am satisfied that the information provided is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment.

Overall, I am satisfied that the information contained in the EIAR complies with the provisions of Article 3, 5 and Annex (IV) of EU Directive 2014/52/EU amending Directive 2011/92/EU.

8.2 *Direct and indirect significant effects*

I have carried out an examination of the EIAR and other relevant information presented by the applicant in this case, together with the submissions received during the course of the application.

The direct and indirect significant effects of the development against the factors set out under Article 3(1) of the EIA Directive 2014/52/EU, which include:

- i. population and human health;
- ii. biodiversity, with particular attention to species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC;
- iii. land, soil, water, air and climate;
- iv. material assets, cultural heritage and the landscape;
- v. the interaction between the factors referred to in points (a) to (d). are considered hereunder, structured to follow items (a) to (e).

8.3 Population and Human Health

Population and human health impacts are dealt with under various chapter headings. It is stated that in excess of 7000 jobs nationally are directly dependent on the pig industry and that due to ever increasing costs associated with chemical fertiliser, organic manures such as pig manure are becoming ever more sought after by tillage/livestock farmers in order to reduce their fertiliser costs. The development will employ 1 additional person on a part-time basis. The proposed development will modify existing farming activities and provide for a sustainable farm diversification in line with supermarket and consumer requirements. The development will be located in a rural area, significantly removed from any population centres; away from any designated areas and/or tourist attractions; well-integrated into the local environment with sympathetic design and layout. All organic fertiliser will replace the use of organic/chemical fertiliser on the applicant's lands. In chapter 3 it is stated that the applicant and/or other designated person(s) will be available at all times should any emergency arise. It is stated that the peak noise periods in the pig house are associated with feed deliveries, and the removal of the pigs off the farm, which will occur during the normal working day. The farm will have state of the art buildings with high insulation standards. Due to its remote location and the area's low population density, this pig house will not create a disturbance or annoyance to anyone.

Noise will not be detected outside the site boundary. It is proposed to restrict deliveries to daytime periods only. The predicted noise from the ventilation fans will be 23dB LAeq,T at 500m; the location of the nearest noise sensitive location, a dwelling is 400metres from the unit. A generator will be required for emergency use. A low noise generator (≤ 65 dB(A) at 3m) is recommended in order to minimise any potential nuisance. Predicted construction noise from various items of equipment, during the various stages of construction, has been considered. However, given the >400metres distance to the nearest third-party dwelling, this issue is unlikely to create a negative material impact.

Odour is dealt with in Appendix 6 Air Quality Impact Assessment. The assessment included the existing pig farm on the total calculating the worst-case emissions,

3,852 pigs. A low protein diet will be incorporated into sheds to reduce odours. Odour associated with pig farming enterprises may arise from two situations:

- The pig farm site, and
- The manure spreading operation.

According to the EIAR the pig farm is located in an entirely agricultural hinterland where typical levels of farm odour are to be found and expected. Well maintained, properly ventilated pig farms with modern manure management systems will minimise any potential adverse odour impact and will be practically odour free outside the confines of the site/immediate area. Transient increases in odour emissions may be associated with manure removal from the site. The house will be continuously cleaned after each batch of pigs, stocked at optimum levels and adequately ventilated, ensuring minimal odour emissions. There are no noise/odour sensitive locations likely to be affected by the proposed development.

All lands currently identified for the receipt of manure are predominantly tillage, farmed by the customer farmers. The European Union (National Emission Ceilings) Regulations 2018, which are intended to limit emissions to air of atmospheric pollutants, include provisions in relation to land spreading, which will also have the effect of reducing the odour impact of the proposed development. It is worth noting that land spreading of organic fertilisers is already carried out on the customer lands and that organic fertiliser is the preferred method (per the European Union (National Emission Ceilings) Regulations 2018) of supplying the requisite nutrients to these arable lands. Some odours from land spreading of slurry is intrinsic to productive agricultural areas. There were 12No. locations identified to the north of the site ranging in distance from the proposed pig shed from 330m (applicant's family) to 585metres, as per Figure 6.4.1 and an odour impact assessment was completed based on potential cumulative impact of existing development and utilising low protein diets. Odour modelling was carried out for each individual year with the results at the nearest sensitive locations presented in Table 7.4.2. There is no exceedance of the 60u/cubic metre in each of the five years.

I am satisfied and that there will be no significant impact from odour from the proposed development, over and above that already experienced in this rural area.

8.4 Traffic

EIAR outlines the level of traffic associated with the proposed development. It is anticipated 10-25 journeys per week to and from the premises which will depend on the time of year and slurry movement. There are 45-50 existing premises including farms along the main public road providing access to the farm, and the proposal will not represent a significant increase in existing traffic levels.

I am satisfied the proposed development will not give rise to a traffic hazard or endanger the safety of other road users

Health

I am satisfied that the impacts identified can be avoided, managed and/or mitigated by measures forming part of the proposed scheme, and through suitable conditions. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of population and human health. I am also satisfied that cumulative effects are not likely to arise and that approval should not be withheld on the grounds of such cumulative effects. Based on the information included in the EIAR and appeal file I am satisfied the proposed development would not adversely affect population, human health, and air.

8.5 Biodiversity

Biodiversity is dealt with in Chapters 6 & 7 of the EIAR. In the submission documents biodiversity is more comprehensively dealt with in the NIS which is attached as an appendix to the EIAR. The potential impact on designated sites has been dealt with under the separate heading of Appropriate Assessment section of this report. The following section concentrates on the broader environmental impact of the proposed development on the biodiversity considerations. The proposed development is to be completed on agriculturally managed farmland. The management practices include regular cutting, grazing and soil conditioning and drainage improvements. There is an adjoining watercourse to the proposed development which has maintained a high-status water quality therefore it has not been adversely impacted by the operation of the similar development located contiguous to the pig fattening unit. The NIS is part of the EIAR, and therefore the recommended measures within same, constitute part of the EIAR. It is noted the

NIS detailed no significant impact, and the conclusions reached in the EIAR are the same and appropriate.

The customer farmlands are not subject to planning permission for fertiliser spreading. The farmers do and will continue to spread fertilizer on their lands, however the proposal will enable a fertiliser substitution programme to replace the existing application of chemical fertiliser with organic fertiliser. The field drain beside the proposed development is not identified as part of the high-status waterbody and has been previously been described by the planning authority as a tributary of the Enaghan Stream. The EPA has defined the ecological status of the Enaghan Stream and its tributaries at points close to the application site as high status. Under the Water Framework Directive this is satisfactory and it is imperative that this status remains.

The proposed development is 7.9km from the closest Natura 2000 site, i.e the River Barrow and Nore SAC 002162. The customer farmlands are well removed from any Natura 2000 site as per Figure 6.10.a2. In relation to the operational phase - organic fertiliser from the farm will be allocated for use in accordance with the Nitrates Directive, SI 605 of 2017 as amended. In order to prevent any adverse impact on flora and fauna in the area, per the NIS, the following practices are to be implemented as per Chapter 7 of the EIAR:

- Organic fertiliser is not to be allocated to areas of woodland/scrubland habitat.
- Organic fertiliser is not to be allocated within 10m of hedgerows.
- Organic fertiliser is not to be allocated within 5m of a watercourse or 20m of a lake shoreline.
- Organic fertiliser is not to be applied to areas where it is likely to adversely impact on a NHA, SAC and/or SPA or other such sensitive area.
- Organic fertiliser is not to be applied within 10m of an archaeological feature.
- All organic fertiliser from the proposed development will be utilised by the applicant, direct from the manure storage tank in the proposed house to his lands to replace existing organic / chemical fertiliser use as part of a fertiliser substitution programme, under optimum soil and weather conditions.

Assessment Biodiversity

The proposed development, which includes the production of 2,396m³ of pig slurry all of which will be disposed of / utilised by application to farmlands owned by the customer tillage farmers in the vicinity of the site. Provided the mitigation measures outlined for the construction and operational phases of the development are applied, I am satisfied that residual impacts on the ecology of the area would not be significant, as a result of construction works or during the operational phase.

Conclusions on Biodiversity

I have considered the issue of biodiversity and the nature of the receiving environment, the managed and / or mitigation measures included in the EIAR which form part of the proposed scheme. I am therefore satisfied that the proposed development would not have any unacceptable direct or indirect impacts in terms of biodiversity. I am also satisfied that cumulative effects are not likely to arise and that approval should not be withheld on the grounds of such cumulative effects.

8.6 Land, Soil, Water, Air and Climate

Land, Soil, Water, Air and Climate factors are dealt with in Chapters 6 and 7.

Land & Soil:

The site is located in central Ireland in a predominantly flat and undulating agricultural landscape coupled with a peat landscape. It is a Low Sensitivity landscape. The site is not visually obtrusive and the proposal will visually integrate with existing developments in the area.

The underlying bedrock consists of a variety of Limestones with a small area of volcanic rocks forming Croghan Hill. The soil profile is important in many aspects of plant growth, root development, nutrient supply and absorption.

The customer farmland areas cover a significant area and the soil geology will be more varied and were deemed to be beyond the scope of the EIAR. The issue of substituting chemical to organic fertiliser will be governed by the Nitrates Directive as already stated.

8.7 Ground Water

The groundwater adjacent to the site is overlain by a low permeability overburden, there is a vulnerability rating of Moderate. The site is split between a Regional and Locally important aquifer. There will be minimal excavation on the site during construction works to provide partially underground manure storage tanks. On the customer farmlands the hydrogeology will be more varied and is beyond the scope of the EIAR. The proposed development will not alter the nature and extent of activities carried out by customer farmers or the amount of nutrients spread on lands. The proposal is providing an alternative source of fertiliser to meet with existing fertiliser requirements.

8.8 **Surface Water**

The subject site is within the Barrow Hydrometric Area (14) and Catchment (14) and the Barrow Sub-Catchment (040) and the Enaghan Stream Sub-Basin (010) . The Kilcooney Stream flows along the north-eastern site boundary and divides the proposed pig farm from the existing pig farm on the site. The stream is to be re-aligned to facilitate the proposed development. The subject stream flows in an easterly direction until its confluence with the Garrymona Stream flows in a south-easterly direction towards the Enaghan Stream. This is a tributary of the Cushina River, and the Cushina River eventually meets the River Barrow just north-west of Monasterevin. The EPA as part of the water Framework Directive has defined these water bodies as high status, and the water quality should remain the same. The site is 20km from the River Barrow, and there is limited hydrological links from the site to the significant river.

Climate Change

The wind direction is from the west/ southwest. The rainfall levels are low, with annual rainfall for Birr and Mullingar stations on average 845-941mm on average. The manure will be spread during regulatory times, therefore emissions will be kept to a minimum. The operation of the farm is not directly significantly susceptible to climate change.

Overall conclusion

Having regard to all of the above, I am satisfied that the proposed development would not have a significant adverse effect on land, soils, geology, ground water, surface water or climate change subject to the full implementation of the mitigation

measures and any recommended conditions as per the EIAR. The proposed development would not give rise to any significant adverse cumulative impacts in combination with other pig farms or plans and projects in the wider area.

8.9 ***Landscape and Visual Impacts***

There is an existing pig unit on the site which is setback from the public road amidst agricultural fields. The general rural topography of the area is level. There are no sensitive or designated landscapes in the general vicinity of the applicant's landholding. The proposal will integrate into an existing piggery and agricultural setting. The proposed buildings will be clad in juniper green or grey roofing.

I am satisfied the proposed will not materially impact on the landscape or the visual characteristics of the area. I inspected the site and the general area in May 2022. I had regard to the visual amenities of the area which are correctly described in the EIAR. There are no significant visual impacts anticipated.

8.10 **Reasoned Conclusion on Significant Effects**

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 one observer in the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment have been identified in this report as summarised below.

- ***The risk of pollution of ground and surface waters during the construction phase*** through a lack of control of surface water during excavation and construction, the mobilisation of sediments and other materials during excavation and construction and the necessity to undertake construction activities in the vicinity of existing watercourses. The construction of the proposed project could also potentially impact negatively on ground and surface waters by way of contamination through accidents and spillages. These impacts would be mitigated by the agreement of measures within a Construction and Environment Management Plan and the implementation of mitigation measures related to: - design and avoidance; accidental spills and contamination; and drainage management.

- **Impacts of Land/ Soil on Water. Landscape and Biodiversity:** The organic fertiliser will have a positive impact on soil adding nutrients in accordance with S.I. 605 of 2017 to prevent the leaching of nutrients to water. All the application lands are productive agricultural lands for the production of crops or improved grassland.
- **Impacts of Water on Biodiversity:** The organic manure generated and the soiled water from the site has the potential to negatively impact on water quality. This in turn could negatively impact on the biodiversity of the area. The mitigation measures are imposed under S.I. 605 of 2017, and it is further mitigated through the provision of appropriate onsite stormwater drainage and soakage, separation of clean and soiled water and the provision of sufficient organic manure storage. This will ensure there will be no negative impact on biodiversity.
- **Impacts on Air and Climate:** The generation of mal-odour might have a negative impact on biodiversity, in particular human health/ population, however the proposal is to be built to the highest standards of construction and operation. Based on the detailed odour impact assessment and dispersion modelling, odour is not anticipated to be a significant issue on the farm. Low emission spreading techniques are to be recommended to all customer farmers utilising organic manure from the site.
- **Impacts on Traffic, Air and Climate, Noise and Human Health/ Population:** The change in traffic associated with the development will not cause a significant impact, and the traffic exists with the existing farm on site. The development is located close to a good road infrastructure, and the impact is considered to be neutral

On balance the EIAR has demonstrated the pig farm and its production processes will minimally impact upon the landscape, archaeology, terrestrial, water quality and climate.

In conclusion having regard to the above identified significant effects, I am satisfied that subject to mitigation measures proposed, the proposed development would not have any unacceptable direct or indirect impacts on the environment.

9.0 Appropriate Assessment

9.1 ***Compliance with Articles 6(3) of the EU Habitats Directive***

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

9.2 ***Natura Impact Statement***

The application was accompanied by a Natura Impact Statement (NIS) which contained a Stage 1 AA Screening Report and a Stage 2 NIS. The report described the site and the proposed development, and data collected as part of the EIAR desk and field surveys. The reports confirmed that the proposed development would not be located within any European site. The AA screening exercise identified 4 x European sites within a potential 15km Zone of Influence, it had regard to the EIAR ecological surveys and assessments [water quality, aquatic & terrestrial ecology] and it screened out the sites which would not be affected by the proposed development. The NIS report also dealt with several European sites located in the vicinity of the proposed forestry replanting areas in other parts of the country, which will be the subject to Forestry Licence requirements. The AA Screening exercise identified the following European sites that have the potential to be affected by the proposed piggery development:

- River Barrow & River Nore SAC 002162
- Mountmellick SAC 002141
- Raheenmore Bog SAC 000582
- Slieve Bloom Mountains SPA 004160

The Natura Impact Statement listed the Conservation Objectives, Qualifying Interests and Special Conservation Interests for each of these sites. It identified the potential sources of direct and indirect impacts on the sites, assessed the potential impacts relative to the Conservation Objectives for each site. It had regard to the EIAR water quality assessments and ecological surveys and concluded that the risk

for the habitats and species which are designated as Qualifying Interests and Special Conservation Interests for the European sites was minimal subject to the implementation of the EIAR mitigation measures to protect water quality. The desk top studies and site surveys described the site and surrounding area along with potential connections to nearby and further afield European sites. The reports assessed the site and their environs for terrestrial, aquatic and mobile species of Special Conservation Interest and Qualifying Interest and for the European sites. The ecological characteristics of the sites were described as was the recorded presence of any QI and SCI species, and WFD/EPA/ERBD water quality data for the receiving watercourses was provided. The NIS formally concluded that, in the light of best scientific knowledge in the field, all aspects of the proposed project which, by itself, or in combination with other plans or projects, which may affect the relevant European Sites have been considered, and that the Board is enabled to ascertain that the proposed project will not adversely affect the integrity of any of the European Sites concerned. Having reviewed the NIS and supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge, and details of mitigation measures are provided. I am satisfied that the information is sufficient to allow for the appropriate assessment of the proposed development, subject to the further consideration of European sites located within the Zone of Influence (further analysis below).

9.3 AA Screening Assessment

The following 4 x European sites are located within the Zone of Influence of the windfarm site and their Qualifying Interests and Special Conservation Interests and approximate separation distances from the site are listed below.

European sites	Site code	Qualifying Interests	Separation distances	Links
River Barrow & River Nore SAC	002162	Estuaries & Reefs Mudflats & sandflats Salicornia &	7.6km south/ - 20km downstream via Cushina River and its	Aquatic

other annuals tributaries

Atlantic &

Mediterranea

n salt

meadows

Floating River

Vegetation

European dry

heaths

Tall herb

fringe

communities

Petrifying

springs

Old sessile

oak woods

Alluvial

forests

Desmoulin's

Whorl Snail

Freshwater

Pearl Mussel

& Nore Pearl

Mussel

White-clawed

Crayfish

Sea, Brook &

River

Lamprey

Twaite Shad

& Salmon

Otter &

Killarney Fern

Mountmellick SAC	002141	Desmoulin's Whorl Snail	10.1Km south	There is considerable separation distance and a lack of hydrological connectivity.
Raheenmore Bog SAC	000582	Active Raised Bog Degraded raised bog Depression in peat substrates	13.km north	There is considerable separation distance and a lack of hydrological connectivity.
Slieve Bloom Mountains SPA	004160	Hen Harrier		There is considerable separation distance and a lack of hydrological connectivity.

9.4 AA Screening Conclusions:

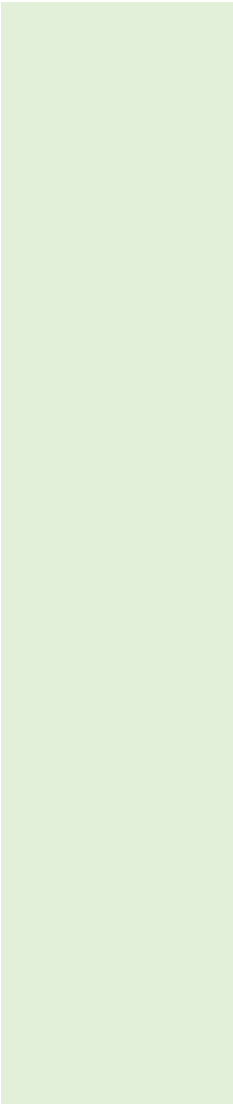
The potential effects relate to the release and transport of pollutants in ground or surface water flowing into the European sites via tributaries and watercourses, in addition to air borne pollutants.

Based on my examination of the NIS report and supporting information (incl. the desktop studies & field surveys), NPWS website, the NPWS, aerial and satellite imagery, the scale of the proposed works and nature of the likely effects, the substantial separation distance and functional relationship between the proposed works and the European sites and their conservation objectives, the site specific characteristics, the species specific characteristics and requirements (incl. habitat

preference, diet & foraging distances), and the absence of suitable support habitats or an aquatic connection between the European site and the proposed works, taken in conjunction with my own assessment of the subject site and surrounding area, I conclude that a Stage 2 Appropriate Assessment is required for the following 1 European site which I consider to be within the Zone of Influence by reason of aquatic and airborne connections.

The European site is the River Barrow and Nore SAC whose Qualifying Interests may be impacted upon by the proposed development. The other 3 sites, Mountmellick SAC, Raheenmore Bog SAC and Slieve Bloom Mounatins SPA can be screened out due to separation distance and lack of hydrological linkages between the site and the designated sites.

European sites	Site code	Qualifying Interests	Separation distances	Links
River Barrow & River Nore SAC	002162	Estuaries & Reefs Mudflats & sandflats Salicornia & other annuals Atlantic & Mediterranean salt meadows Floating River Vegetation European dry heaths Tall herb fringe communities Petrifying	7.6km south/ - 20km downstream via Cushina River and its tributaries	Aquatic



springs
Old sessile
oak woods
Alluvial
forests
Desmoulin's
Whorl Snail
Freshwater
Pearl Mussel
& Nore Pearl
Mussel
White-clawed
Crayfish
Sea, Brook &
River
Lamprey
Twaite Shad
& Salmon
Otter &
Killarney Fern

Favourable Conservation Status is achieved when:

1. Habitats

- The natural range (and area covered) is stable or increasing.
- The specific structure and functions which are necessary for its long-term maintenance exist now and for the foreseeable future.
- The conservation status of its typical species is favourable.

2. Species

- Population dynamics data indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats.

- The natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future.
- There is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

The **River Barrow and River Nore SAC** covers extensive areas of the south-east of Ireland. It passes through eight counties, and therefore there are certain features of the SAC that will not be potentially impacted upon from the proposed development.

European site description:

The River Barrow & River Nore SAC extends from the Slieve Bloom Mountains in Co. Offaly to the Creadun Head estuary in Co. Waterford, and it is designated for a wide variety of habitats and species.

Qualifying Interest habitats and species:

The River Barrow & River Nore SAC is designated for its importance to a wide variety of terrestrial and aquatic habitats (incl. heathland, woodland, riparian vegetation, estuarine & coastal), along with one species of mammal (Otter), several species of fish (incl. Salmon, Shad & Lampreys), and 3 x freshwater invertebrate species (incl. pearl mussels & crayfish). The full list of QI habitats and species is set out in the table above. It is noted from the NPWS documentation and accompanying maps that several of the QI estuarine and coastal habitats are located a considerable distance downstream of the proposed works and they will not be included for further consideration.

These features can be screened out from further assessment because they are outside the Zone of Influence. The screened out features include, Desmolin Whirl Snail, Freshwater Pearl Muscle, Killarney Fern, Nore Freshwater pearl mussel, Twaité shad, sea lamprey, Atlantic salt meadows, estuaries, European dry heaths, Mediterranean salt meadows, mudflats and sandflats not covered by sweater at low tide, old sessile oak woods, Alluvial forests, petrifying springs with tufa formation, Salicornia and other annuals colonizing mud and sand, and Spartina swards.

9.5 Potential direct effects:

The proposed development would not be located within a European site. It is not relevant to the maintenance of any European site. No potential for direct effects having regard to the location and scale of the proposed development and to the separation distance between the works and the QI habitats and QI/SCI species.

9.6 Potential indirect effects:

There is potential for indirect effects on the European site and several of their QI habitats and QI/SCI species during the construction phase as a result of water pollution from the unmitigated release of fine sediments during construction works and hydrocarbons by way of accidental spillages from machinery, which could give rise to water pollution, chemical contamination and clogging of fish gills, with resultant impacts on the availability of prey biomass for the QI and SCI species Otter and Salmon. The uncontrolled introduction of invasive species from works vehicles could give rise to the colonisation of habitats by invasive species, with resultant impacts on the attributes and targets for the QI and SCI species, in the absence of mitigation. There are potential of impacts arising on the vegetation of the SAC due to atmospheric emissions from the site.

The River Barrow and Nore SAC is 20km downstream of the application site. Taking a conservative approach, in a worst case scenario and in the absence of mitigation, an accidental pollution event of a sufficient magnitude arising from the construction and or operation of the farm itself, either alone or in combination with other pollutants sources, could potentially affect the water quality downstream in the Cushina River or the River Barrow and River Nore SAC to an extent it could undermine the conservation objectives of the site. However, given the downstream distance of the SAC (20km) and the resultant dilution effect that could be achieved over the distance, it is considered that the conditions where an event of this magnitude could arise and give effect to the SAC is unlikely.

There may be potential impacts on water quality associated with the use by the customer farmers of organic fertiliser

There is no potential for any additional significant indirect adverse effects during the operational phase when the works are complete.

9.7 Relevant Qualifying Interest of the Site Screened in.

Hydrophilous Tall Herb Fringe Communities (6430)

The distribution of the habitat type within the Barrow/ Nore SAC is unknown. The habitat is sensitive to grazing, atmospheric emissions, pollution and invasive species. This habitat is potentially hydrologically connected to the application site and its spread lands.

River Lamprey and brook lamprey

Lamprey require clean gravel for spawning whilst juveniles require fine sediments for burrowing. Free upstream migration to complete their life cycle is important. The threat to lampreys by the proposed development is limited. The threat to lampreys from the proposed development is limited, it is possible where there are hydrological linkages, therefore mitigation measures are necessary.

Salmon:

The salmon occurs throughout the Barrow system. The threat to salmon from the proposed development is limited, it is slightly possible where there hydrological linkages occur, therefore mitigation measures are necessary.

Otter:

The otter occurs throughout the Barrow system. Otters have two basic requirements – aquatic prey and safe refuge to rest. The main threats are habitat destruction, and pollution, in particular organic pollution from fertiliser. Recent records indicate the otter is found downstream of the application site, although it is possible the application site and surrounding lands fall into the territory of the otter, therefore effects on the otter cannot be ruled out.

White-clawed Crayfish :

Records exist for crayfish from the Cushina River. Crayfish need high habitat heterogeneity. The greatest threat to the species is to introduce non-native crayfish and disease. Crayfish are also sensitive to pollution. Mitigation measures are recommended for the protection of the species.

9.8 Mitigation measures:

The NIS mitigation measures (Section 5 of NIS) state in order to avoid reductions in water quality in the area surrounding the proposed development and in order to protect certain designated sites and species by reducing atmospheric emissions from the farm, a number of mitigation measures must be implemented and followed.

- The construction of the building and tanks in accordance with the EU Regulations 2017, Department of Agriculture Farm Building and Structures Specification.
- The field drain that occurs mid-site will be maintained with a naturally vegetation buffer zone of 5metres if possible.
- There will be no discharge of contaminated waters to ground or surface waters from the development, either during the construction or operation of the development by implementing certain measures on the site during construction phase.
- Best Practice concrete management measures must be employed on the site.
- All silt drains and farm yard discharge should be in accordance with specifications within the Dept of Agriculture's 'Minimum specification for Farmyard Drainage, Concrete Yards and Roads'.
- The storage and handling of all wastes to be in accordance with S.I. 605 of 2017.
- Diet selection and management along with improved feed efficiency will reduce ammonia and nitrogen emissions from pigs. An optimal low protein diet will reduce emissions from the farm by 25%.

9.9 Appropriate Assessment Conclusion:

I concur with the conclusions reached in the NIS that the proposed pig finishing unit will have no significant adverse effects (direct, indirect or in-combination) on the Conservation Objectives, Qualifying Interests or Special Conservation Interests for the River Barrow and River Nore SAC (Site code: 002162), or for any other European Site.

I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site Nos. 002162 or any other European site, in view of the site's Conservation Objectives.

10.0 Recommendation

I recommend that planning permission should be granted for the proposed development for the reasons and considerations set down below, subject to compliance with the attached conditions and in accordance with the following Draft Order.

11.0 Reasons and Considerations

Having regard to:

- i. The National Planning Framework – Ireland 2040,
- ii. European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017 SI No 605 of 2017 –
- iii. the policies of the planning authority as set out in the Offaly County Development Plan 2021 to 2027,
- iv. the distance to dwellings or other sensitive receptors,
- v. the submissions made in connection with the planning application,
- vi. the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European Sites, and
- vii. the report and recommendation of the Inspector.

Proper planning and sustainable development:

It is considered that subject to compliance with the conditions set out below the proposed development would accord with European, national and local planning, other and related policy, it would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and it 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.

Appropriate Assessment:

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the River Barrow and River Nore Special Area of Conservation Site code 002162 should be the subject of Appropriate Assessment.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites in view of the site's Conservation Objectives for the River Barrow and River Nore Special Area of Conservation Site code 002162. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's conservation objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following:

- (i) Site Specific Conservation Objectives for the European Site,
- (ii) Current conservation status, threats and pressures of the qualifying interest features,
- (iii) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (iv) mitigation measures which are included as part of the current proposal,

In completing the AA, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the implications of the proposed development on the integrity of the aforementioned European Sites, having regard to the site's Conservation Objectives. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European sites in view of the site's Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

Environmental Impact Assessment:

The Board completed an environmental impact assessment of the proposed development taking account of:

- (a) the nature, scale, location and extent of the proposed development on a site,
- (b) the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the application,
- (c) the submissions received from the prescribed bodies and observers, and
- (d) the Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the application. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- The risk of pollution of ground and surface waters during the construction and operational phases which would be mitigated by the implementation of measures set out in the Environmental Impact Assessment Report (EIAR) and the Natural Impact Statement (NIS) which include specific provisions relating to groundwater and surface water.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed as set out in the EIAR, and the implementation of the measures proposed in the Natural Impact Statement, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are

- potential for water pollution during construction and operation of the pig house site and from inappropriate application of manure as a fertiliser to land, and
- potential for air pollution and odour associated with the building ventilation and the inappropriate application of manure as a fertiliser to land,

which will be mitigated by construction environmental management measures and through adherence to regulations which control spreading of slurry to land (including codes of best practice). In this regard, the Board noted that the effluent arising can be spread on the applicant's lands in the vicinity of the site, where it will replace the use of imported fertiliser.

The Board is satisfied that this reasoned conclusion is up to date at the time of taking this decision.

Proper Planning and Sustainable Development

Having regard to the provisions of the Offlay County Development Plan 2021-2027, the nature, scale and extent of the proposed development and the associated lands, the location of the proposed development in an area of fertile agricultural lands, and the distance to dwellings or other sensitive receptors from the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenity of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 25th of August 2021 and by the further plans and particulars received by An Bord Pleanála on the 15th of November 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All mitigation measures included in the Environmental Impact Assessment Report and Natura Impact Statement shall be implemented in full.

Reason: In the interest of clarity.

3. The proposed underground tank shall be constructed to Department of Agriculture, Food and The Marine specifications with leak detection underneath. The structure shall be certified by an indemnified structural engineer prior to use and at least every five years following an inspection and a report submitted to the planning authority confirming its structural stability.

Reason: In the interest of sustainable development and pollution control.

4. All silt drains and farmyard discharge shall be in accordance with the specifications within the Department of Agriculture's Minimum Specifications for Farmyard Drainage, Concrete Yards and Roads.

Reason: In the interests of proper planning and sustainable development.

5. The storage, handling and use of all wastes and fertilisers arising on site shall be in accordance with SI 605 of 2017, as may be amended.

Reason: In the interest of sustainable development and pollution control.

6. Entrance details, including gates, shall comply with the requirements of the planning authority for such works.

Reason: In the interest of traffic safety.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

8. 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.

Caryn Coogan
Planning Inspector

09/ November/ 2022