



An
Bord
Pleanála

Inspector's Report

ABP-313378-22

Development

Construction of 4 poultry houses.
EIAR and NIS submitted planning application. This application relates to a development which is for the purposes of an activity requiring a Licence under Part IV of the Environmental Protection Agency (Licensing) Regulations 1994 to 2013

Location

Rathescar
Middle/Gunstown/Whiteriver, Dunleer,
Co Louth.

Planning Authority

Louth County Council

Planning Authority Reg. Ref.

21/1499

Applicant(s)

Michael Callan.

Type of Application

Permission.

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party V Grant

Appellant(s)

1. John McGrane
2. Grogan family

Observer(s)	3. Sean Johnston
	4. Patricia Fuentes
	1. Neil and Aoife Foy
Date of Site Inspection	31 st August 2023 & 7 th February 2024
Inspector	Susan McHugh

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1.0 Site Location and Description

- 1.1. The site is located at Rathescar Middle, Dunleer, Co. Louth in a rural area served by a minor local road (L6270) which extends from another local road to the west (Corlis Road), to the regional route R169 Collon to Dunleer c1.5km to the east. The local road is narrow, c.3m wide, and between the site and the regional road there are two right angled bends. The local road is bounded by clay banks and hedges with little verge width. The site is approximately equidistant from the N2 to the west and the M1 junction 12 to the east.
- 1.2. The site is set back c. 250m from the road and although relatively elevated is behind a low ridge, relative to the minor local road. To the north the land slopes down gently to a river, beyond which is a dwelling. To the west on the opposite side of the minor road is a large site, secured by high perimeter fencing, behind a hedge, is where a Louth County Council landfill, no longer in use, is located. The site has a stated area of 4.94Ha.

2.0 Proposed Development

- 2.1. The proposed development, as amended following a request for further information consists of:
 - 4 No. poultry houses.
 - 1 No. office.
 - Ancillary structures, including generator store, bin/general purpose store, ancillary structures (to include gas storage tanks, soiled water tanks, meal storage bins wastewater treatment system and percolation area.
 - Associated site works including new/upgraded site entrance and internal laneway and provision of 4 no. passing bays on the local public road.
- 2.2. Each of the four poultry houses would have a stated area of c. 2,400sq m (measuring 112.8m x 21.35m internally), while the proposed office would have a stated area of 61.56 sq m, resulting in a total stated gross floor space of 9,661 sq m.
- 2.3. The proposed poultry houses would have a ridge height of c. 5.95m, with 10 No. ventilation exhausts per house extending above this. The finishes comprise dark

green panel on top of concrete wall to the lower level, and dark green metal cladding above on the roofs. The meal bin associated with each poultry house would have a height of 9.1m.

- 2.4. The poultry houses would be set back from the public road (LS-6270-0) by approx. 250m. The poultry houses are located to the rear of the appeal site, with the office and a car parking area towards the front (southwest) of the site. A 4m x 2.5m landscaped soil bank is proposed along the southwestern, southern and south-eastern of the site boundary to screen the poultry houses from the public road.
- 2.5. The four poultry houses would have a total stated capacity of 200,000 birds during each rearing cycle, with an average of 7 cycles per annum. It is stated that the reared chickens would be transported to the Carton Brothers/Manor Farm facility in Shercock, Co. Cavan. It is stated that c.225 tonnes generated from one batch 1,575 tonnes per annum of organic manure will be produced, and that this will be used as an organic fertiliser at a mushroom composting facility. Soiled water production will equate to 325m³/annum.
- 2.6. The planning application included an Environmental Impact Statement, an EIS Addendum, and a letter of consent from the landowner (Kenneth Dowling).
- 2.7. The response to further information was accompanied by the following;
 - Alternative Sites
 - Letter of consent from Louth County Council in relation to correct no. of lay-by's.
 - Details of Site Services include (An updated drawing detailing provisional connection to the public water supply submitted).
 - Details of Layby and Passing Areas and site entrances
 - Site Characterisation Report (Updated EPA form 2021)
 - Details of proposed finishes.
- 2.8. This assessment makes reference to the plans submitted at further information stage and the original application stage.

- 2.9. The statutory notices state that the application relates to a development which is for the purposes of an activity requiring a licence under Part IV of the Environmental Protection Acts 1994 to 2013.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority **granted** permission subject to 24 no. conditions. A brief description of the conditions of note are as follows:

Condition 2	EIAR and NIS mitigation measures and monitoring.
Condition 5	No land spreading of organic fertiliser, Compliance with 2017 Regulations
Condition 6	Organic fertiliser to be taken offsite and utilized in accordance with requirements.
Condition 7	Record of poultry manure movements and/or disposal and all soiled water disposal shall be maintained and kept up to date.
Condition 8	No increase in numbers of poultry being accommodated.
Condition 9	Upgrade of the access road.
Condition 10	Access route to poultry houses.
Condition 11-13	Site entrance sightlines and lay-bys.
Condition 14	Cost of repair of damage caused to adjoining roads.
Condition 15	Surface water.
Condition 16-17	Wastewater Treatment
Condition 18	Landscaping.
Condition 19	Construction Management Plan to be prepared.
Condition 22	Pre-development archaeological testing.
Condition 23	Development Contributions.
Condition 24	Security Lodgement.

3.2. Planning Authority Reports

3.2.1. The **1st Planners Report** dated **17/02/2022** is the basis for the Planning Authority decision. It includes;

- Proposed development is acceptable in principle.
- Proposal would not have a significant adverse impact on the visual amenities of the area.
- Noise will not significantly impact surrounding properties.
- Proposal not to spread any poultry manure generated on land will negate any potential impacts of the land spreading of the poultry manure on any watercourses or groundwater.
- Removal of hedgerow proposed would not significantly affect local biodiversity.
- Development Contributions – Under Section 6.2 of the Development Contribution Scheme, proposed development would qualify for a 90% reduction in development contributions.
- No detail regarding the locations of the mushroom compost facilities that will collect the waste and any alternative arrangements for dealing with the waste if these facilities do not have the capacity to accept the waste.
- In the absence of sufficient information to deal with poultry manure generated, not satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of the European Sites Dundalk Bay SPA and Dundalk Bay SAC in view of the sites Conservation Objectives.
- Recommends further information.

3.2.2. The **2nd Planner's Report** dated **22/03/2022** dealt with the applicant's response to further information and is summarised as follows:

- *Alternative Sites* - Satisfied that the applicant has considered sites available for development and the constraints and sensitivities on these sites.

- Satisfied requirements of Article 94 of the Planning and Development Regulations 2001 (as amended) have been met and that the application site is a suitable location for a poultry farm.
- As part of the licencing of any poultry farm the recording of the final destination of poultry manure would be required.
- *Land spreading* - Recommends a condition that no land spreading of poultry manure from the facility be permitted.
- *Soiled Water* - Applicant clarified typographical error and satisfied that only soiled water from the proposed facility will be spread on agricultural land.
- *Loading of poultry manure* - will take place in the covered yard in the proposed facility and no loading of poultry manure will take place outdoors.
- *Soiled water tanks* - Capacity is acceptable.
- Proposed development will not have an unacceptable impact on the amenities of the nearest residential properties in the area.
- *NIS* - does not require any update to take account of the FI response to item 1.
- *Updated letter of consent* - from Louth County Council dated 3rd March 2022 confirms applicant has consent for use of 4no. layby areas.
- *Left turning prohibition* - as indicated on drawing no. PL09 received 4th March 2022 acceptable.
- *Site Services associated with Whiteriver landfill close to the public road*– Details submitted acceptable.
- *Water Supply* - Will come from the public mains (and/or a well located close to the applicants' sons dwelling c.500 north of the site). An updated drawing detailing provisional connection to the public water supply submitted and is acceptable.
- *Wastewater Treatment System* – Issue raised have been addressed.
- Site characterisation report from the EPA Code of Practice 2021 submitted is acceptable.
- *Wash water* - Switch manholes are to be used to facilitate the washing of areas should areas become soiled. All soiled water from washing internally in the houses

is piped directly from the houses to the soiled water collection tanks and at no time will have the opportunity to make it to this manhole. Satisfied issues raised have been addressed.

- *Noise* – Notes development will be subject to an EPA Licence which will have conditions relating to noise.
- *Financial Contributions* - Recommends following a discussion with the Environment Section there would be no requirement for a monetary contribution for inspections in this instance.
- *Finishes* – Proposed poultry sheds will be finished with Dark Coloured (Juniper Green) roof cladding with walls consisting of Dark Coloured (Juniper Green) insulated panel on top of an insulated concrete wall (c.1 metre in height). Finishes which are considered typical of the finishes of an agricultural building are considered acceptable.
- *Public Notices* - Revised public notices not required.
- *EIAR* – Satisfied that the EIAR has been prepared by competent experts and that the information contained in the EIAR adequately identifies and describes the direct, indirect, and cumulative effects of the proposed poultry farm on the environment and complies with article 94 of the Planning and Development Regulations 2001 (as amended).
- *AA* – Satisfied having regard to the nature and scale of the development, the proposal for the management of soiled water and poultry manure, whereby no land spreading of poultry manure is to take place, the proposed development either individually or in combination with other plans or projects, will not adversely affect the integrity of any European Sites.
- Recommended a grant of permission subject to conditions.

3.2.3. Other Technical Reports

Infrastructure Section: Report dated 31st January 2022 no objection subject to conditions. Report dated 15th March 2022 raised no objection.

Environmental Compliance: Report dated 7th January 2022 requests further information with regard to the switch manhole leading to the swale drain. Report dated 10th February 2022 recommends no objection subject to conditions.

Heritage Officer: Report dated 31st January n 2022 recommends no objection.

3.3. Prescribed Bodies

Irish Water: No objection.

The application was also circulated to An Taisce. No report was received.

3.4. Third Party Observations

A number of third-party observations were made. The issues raised were generally as per the appeals, as well as the following;

- Odours
- Traffic
- Noise Pollution
- Vermin

4.0 Planning History

PA Re.Ref.19/469 ABP-PL15-307333-20: Planning permission **refused** 06/11/2020 for construction of four number poultry houses together with roofed/enclosed service yard, one number office, one number generator store, and one number bin/general purpose store along with all ancillary structures (to include gas storage tanks, three number soiled water tanks, four number meal storage bins and the provision of an on-site waste water treatment system and percolation area) and associated site works (to include new/upgraded site entrance and internal laneway) associated with the above development, including provision for passing bays on the local public road. This application relates to a development, which is for the purposes of an activity requiring a Licence under Part IV of the Environmental Protection Agency (Licensing) Regulations 1994 to 2013. An Environmental Impact Assessment Report (EIAR) has been submitted with this planning application, all at Rathescar Middle,

Dunleer, County Louth, as amended by the further public notices received by the planning authority on the 11th day of February 2020.

Further public notices, outlining that an addendum to the Environmental Impact Assessment (EIAR) and Natura Impact Statement (NIS) were submitted to the Board with the appeal, were received by An Bord Pleanála on the 5th day of August 2020. Reasons for refusal included the following;

1. On the basis of the information provided with the application and the appeal, particularly in relation to the land spreading areas, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European sites (Dundalk Bay Special Protection Area (Site Code: 004026) and Dundalk Bay Special Area of Conservation (Site Code: 000455), or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.
2. Due to the inadequacy of the information provided to the Board, particularly in relation to the land spreading areas and biosecurity, the Board is unable to carry out a comprehensive environmental impact assessment of the proposed development as required by legislation, therefore, to permit the proposed development would be contrary to the proper planning and sustainable development of the area.
3. Having regard to its scale and nature, and the HGV traffic which would be generated, and the inadequacy in width and alignment of the local road, the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users and would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. National Planning Framework, 2018 (NPF)

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.

5.2. Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES) 2019-2031

This is a strategic plan and investment framework to shape the future development of our region to 2031 and beyond. The strategic vision is to create a sustainable and competitive Region that supports the health and wellbeing of our people and places, from urban to rural, with access to quality housing, travel and employment opportunities for all. In relation to agriculture; it states that agriculture is a key sector in the Region, but one which faces challenges from encroaching urbanisation, Brexit and CAP reform and in meeting climate obligations. There is an opportunity to support more sustainable farming practices in the Region such as local agri-food, biomass, permaculture, agri-forestry and anaerobic digestion to produce renewable energy from farm wastes, and to develop on farm activities as part of a unique tourism and leisure offer.

5.3. Louth County Development Plan 2021 – 2027

- 5.3.1. The appeal site is located within the ‘Muihevna Plain’ in the Louth Landscape Character Assessment. The LCA had a ‘local’ landscape value.

5.3.2. **Chapter 13 - Development Management Guidelines**

Section 13.13.11.7 relates to Agricultural Enterprises and Buildings.

It states 'As farming practices evolve and continue to modernise, the design, scale and layout of farm buildings and farmyards has changed. Depending on the farming enterprise e.g., beef, dairying, pigs, poultry, organic or tillage, the type of housing, livestock numbers and storage facilities will vary.

- Different farming types and enterprises will result in the criteria for assessing applications focusing on different issues such as visual impact, traffic, residential amenity and public health. Each application will be assessed on its individual merit and will take account of the ability of the local landscape to absorb the development, the capacity of the local infrastructure including roads, water and wastewater infrastructure to accommodate any additional loading and traffic movements, and any possible impacts on the amenities of residents living in the vicinity of the development.
- To assist in the assessment of planning applications for agricultural buildings and in particular new farm enterprises on an undeveloped landholding, a business plan setting out the requirement for the development will be required. This shall include full details of the land holding, livestock number and herd number (if applicable).
- New buildings shall be designed to maximise efficiency, address any pollution control requirements (e.g., collect soiled water and farm waste management), provide additional feed and machinery storage areas, and improve livestock welfare.
- It is acknowledged that the scale of agricultural buildings are such that they will be visible from surrounding roads and public viewpoints.
- However, new buildings shall be positioned and designed so they are as unobtrusive as possible.
- When designing a building particular attention shall be given to the sensitivity of the landscape in which it will be located. If the scale and height of the building is particularly large, the reasons for a building of the particular size shall be set out. Where possible, new buildings shall be clustered with existing buildings in the yard.
- Finishes to buildings will normally include rendered/block walls and dark coloured panels to the side and roof of buildings such as dark green, red, or grey.

Landscaping can assist in the integration of new buildings into the landscape. Any planting shall include native species only.

- Details of how any effluent and run-off associated with the development will be collected and stored within the farmyard shall be provided.'

5.3.3. The following Policies and Objectives are noted:

- **ENV 2:** To pursue the precautionary and other polluter pays principles in relation to permitted development in the County.
- **ENV 3:** To seek to achieve European and National standards in relation to air, noise and water quality in the County and apply BAT standards (Best Available Techniques).
- **ENV 6:** To implement the Louth County Council Noise Action Plan 2014-2018 in order to avoid, prevent and reduce harmful effects, including annoyance, due to environmental noise exposure.
- **ENV 15:** To implement the recommendations contained in the River Basin District Management Plans for Ireland 2018-2021 or any subsequent plan. Proposed plans, programmes and projects shall not have an unacceptable impact on the water environment, including surface waters, groundwater quality and quantity, river corridors and associated woodlands. Also, to have cognisance of, where relevant the EU's Common Implementation Strategy Guidance Document No.20 and 36 which provide guidance on exemptions to the environmental objectives of the Water Framework Directive.
- **ENV 21:** To assess agricultural developments and associated agricultural waste matters within the County in accordance with the European Union (Good Agricultural Practice for Protection of Water) Regulations 2017 for the purpose of preventing or eliminating the entry of polluting matters to waters.
- **EE 55:** To support rural entrepreneurship and rural enterprise development of an appropriate scale at suitable locations in the County.
- **EE 59:** To secure vibrant and viable rural communities by supporting the development of rural based enterprises.

- **EE 60:** To continue to support the agricultural sector and to facilitate the development of environmentally sustainable agricultural activities.
- **EE 61:** To facilitate the diversification of the agricultural sector by supporting alternative farm enterprises subject to the nature and use of any enterprise being compatible with the environment in which it is located.

5.4. **County Louth Local Economic & Community Plan 2016-2022**

Under the Local Government Act 2014, each Local Authority is obliged to develop a Local Economic & Community Plan (LECP). Economic Goal No 7 Agriculture, food and fisheries, is to establish Louth as a premier producer in the Agri-Farming, Food and Fisheries sector.

5.5. **European Regulations**

5.5.1. **European Union (National Emission Ceilings) Regulations 2018, SI. No. 232 of 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%. PM_{2.5} 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 fertilisers

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.

5.5.2. European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022

S.I. No. 113 of 2022, European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022, came into force on 11th March 2022, and is the main means by which land spreading is regulated. These Regulations supersedes earlier Regulations referred to as European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017. Nitrates Explanatory Handbook for Good Agricultural Practice for Protection of Waters Regulations 2022¹ (see attached).

There have since been two amendments to S.I. No. 113 of 2022: S.I. No. 393 of 2022 and S.I. No. 716 of 2022.

¹ <https://assets.gov.ie/234709/3a78e71c-411a-49f7-90b5-1fc87d75d08b.pdf>

S.I. No. 393 of 2022, came into force on 2nd August 2022, gives effect to the most recent derogation to allow farmers, in certain circumstances, to have stocking rates in excess of those otherwise applicable.

S.I. No. 716 of 2022, came into force on 30th December 2022, makes minor alterations, introduces new definitions and introduces soil consolidation, as an alternative to shallow cultivation, in certain circumstances. Organic matter test result records must be retained for a period of not less than 12 years (Article 23 (3) (b)).

5.6. An Overview of Ireland's Fifth Nitrates Action Programme (NAP)

5.6.1. 'An Overview of Ireland's Fifth Nitrates Action Programme' was published by the Government of Ireland, to coincide with the introduction of the 2022 regulations. Referring to the Nitrates Action Programme, it states that the regulations include:

- limits on farm stocking rates,
- legal maxima for nitrogen and phosphorus application rates,
- prohibited spreading periods preventing the application of organic and chemical fertilisers during more environmentally vulnerable times of the year,
- minimum storage requirements for livestock manures,
- requirements regarding maintenance of green cover in tillage lands, and
- set-back distances from waters.

Impacts of Agriculture on Water Quality - Just over half of Ireland's monitored surface water bodies have satisfactory water quality. Agriculture is the most widespread and significant pressure impacting on the water environment. The key issues arising from agriculture are:

- excess nitrogen and phosphorus causing eutrophication;
- pesticides which impact on ecological health and on drinking water quality;
- excess fine sediment arising largely from erosion and runoff; and
- land drainage practices and other factors which impact physical habitat condition.

The most widespread issue is elevated nutrient concentrations which are present in a significant proportion of our water bodies, and the current trends are showing a continuous and sustained decline in water quality. The most recent Water Quality Monitoring Report on Nitrogen and Phosphorous Concentrations in Irish Waters 2022 was published in 2023 by the EPA.²

The Fifth Nitrates Action Programme also includes the following measures not included in the Good Agricultural Practice Regulations 2022.

- Register of Chemical Fertiliser Sales to be established by Department of Agriculture, Food and the Marine (DAFM) for 2023.
- Improving Compliance and Enforcement – The EPA will develop and implement a National Agricultural Inspection Programme for local authorities. These inspections will be more targeted and risk-based with a stronger focus on compliance and follow-up enforcement. DAFM will increase derogation inspections from 5 to 10%.
- Review of the Agricultural Sustainability Support and Advisory Programme (ASSAP).

5.6.2. Dead Birds and Poultry Litter

Legal Obligations and Good Practice Guidelines for Poultry Farmers, Department of Agriculture, Food and the Marine, 2014, includes: Water used for cleaning poultry houses should be captured and disposed of in accordance with environmental and nitrates legislation. Water used for cleaning poultry houses should not be spread on land used for grazing livestock or on land adjacent to water courses or to grazing animals.

5.6.3. Commission Implementing Decision (EU) 2017/302, 15th February 2017

Establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the intensive rearing of poultry or pigs.

² [EPA_NitrogenandPhosphorous_Concentrations_2022_Final.pdf](#)

5.7. Integrated Pollution Control (IPC) Licensing, Batneec, Guidance Note for the Poultry Production Sector, EPA 1998

A guidance note for poultry rearing installations, where the capacity exceeds 100,000 units which includes BATNEEC for the siting of poultry units.

5.8. PIP (Pollution Impact Potential) maps

Impact potential for nitrate pollution and phosphorus pollution are shown (separately) on these maps³.

5.9. Natural Heritage Designations

The appeal site is not located within or in close proximity to any site with a natural heritage designation. The closet Natura sites are as follows;

Name	Designation	Site Code
Stabannan-Branganstown	SPA	004091
Dundalk Bay	SAC	000455
Dundalk Bay	SPA	004026

6.0 The Appeal

6.1. Grounds of Appeal No.1

- 6.1.1. A Third-Party appeal was lodged by John McGrane, Hammondstown, Dunleer, Co. Louth as owner of land to the west of the appeal site. The issues raised in the appeal can be summarised as follows;

- *Environment* – Air pollution. Continuous cleaning out of manure in sheds will cause dangerous dust and emissions. Odour/smell for neighbours. Increase in traffic and emissions.

³ [EPA Maps](#)

- *Personal Objection* – Development would decrease the value of owner's land and future potential to sell sites. Animal welfare and safety would be at risk. Concern about effect any bird disease might have on stock of 500 sheep and ability to sell them. Bord Bia have very strict Quality Control criteria. Also grow certified seed cereals which is sold countrywide. Owner moves stock on the road and concern in relation to danger of moving sheep with Artic trucks in and out on a regular basis. Odours and disease spread by feathers and dust could have adverse effect on animal stock and land. Has an Artesian Well in field beside proposed site. Broilers would produce large amounts of soiled and contaminated water which inevitably leak into local rivers and wells.
- *Wildlife Welfare* – Owns a bird sanctuary beside the proposed site. This sanctuary should be protected from all environmental hazards. The area has a very large population of Ravens and Buzzards, which are both protected species. These birds grew in population due to the recently closed Landfill Site.
- *Traffic* – Local Road L6270 that will serve the site is 3m wide. An Artic Truck is 2.6m wide. This is a major risk for local traffic. There will be no overtaking causing inconvenience for local traffic. It is estimated that approx. 432 lorry's will be on this road per annum.

6.2. Grounds of Appeal No.2

- 6.2.1. A Third-Party appeal was lodged on behalf of the Grogan family of Lismanus, Dunleer, Co. Louth. The issues raised in the appeal can be summarised as follows;

Previous Reasons for Refusal

- Application is the same as that refused by ABP in 2019 and the three appeal refusal reasons still stand with the current proposal.
 - To overcome the first and second reason for refusal applicant is proposing to send all poultry manure from the proposed development for mushroom compost production, which raises serious concerns.
 - Poultry manure disposal is being tied to specific companies and should this agreement end in the future then the PA are unable to control where manure

may end up. It is unacceptable for such a serious issue as poultry manure to be dealt with in such a casual manner. Letter submitted amounts to a letter of intention to bring manure to certain locations rather than a letter of commitment or indeed a contractual obligation.

- Two of the intended locations for poultry litter is Carbury Substrate facility in Kildare and a Custom Compost facility in Wexford. Carbury Substrate is part of the Monaghan Mushrooms company group which has a significant presence in Monaghan including that of mushroom composting facilities and Custom Compost Unlimited Company is owned/connected to Walsh Mushrooms which also have a significant presence in Monaghan. Concern that poultry manure will be brought for processing in Monaghan. Concern that poultry manure could end up anywhere, including in proximity to ammonia saturated Natura 2000 sites in Monaghan, and the decision of the PA cannot control this.
- *Potential Impacts Natura 2000 sites* - Proposed development cannot rule out potential for significant impacts on the Sliabh Beagh and Kilrooskey Lough Natura 2000 sites by way of indirect effects and as such the Board is precluded from granting planning permission for the proposed development. Asserts that the Board cannot determine with sufficient certainty, the significance of potential impacts on those sites, and accordingly the Board cannot be satisfied beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of those European sites in view of the conservation objectives of those sites.
- *Water Framework Directive* - No assessment provided as to the water quality in these water bodies and to grant permission would be in direct conflict with the Water Framework Directive. There is no information available to the Board to allow it assess potential for the development to cause deterioration in the new chemical or ecological status of these waterbodies. In such circumstances it is submitted the Board is precluded from granting planning permission.

- Absence of potential impacts also undermines the basis of the EIAR given the EPA's obvious and grave concerns regarding poultry waste.
- *EIA* - Is insufficient with details regarding ammonia emissions, noise and dust.
 - *Air Quality Impact Assessment* - Uses only very broad data with respect to existing or baseline ammonia levels and has nothing on an area specific basis, nor has it anything specific to ammonia levels at the 8 nearby Natura 2000 sites all of which are within 15km. Take issue with statement on page 19 which states '*Given that the predicted levels of ammonia and nitrogen are expected to be negligible at distances greater than 7.5km from the site, no assessment for ammonia or nitrogen was undertaken at the sites detailed above*'. This is at odds with action by the EPA in 2021 County Monaghan in placing a ban on any new licences for poultry facilities within 10k of the Sliabh Beagh and Kilrooskey Lough Natura 2000 sites. This guidance requires that the impact of ammonia and nitrogen emission on Natura 2000 sites are assessed and that all applications consider the cumulative effect of ammonia and nitrogen emissions up to 10km from the site.
- *AQIA* - Does not conclude that the proposed development will not adversely affect the residential amenities of neighbouring properties.
- *Alternative Sites* – Section 5.1 of the EIAR and information contained in the further information response fails to assess alternative sites in any meaningful way. Asserts that the applicant is unable to justify the suitability of the site for poultry over and above its use as tillage lands. Notes the distances to the three processing locations where it is intended to send poultry manure to are 70km, 167km and 65km respectively, while the poultry processing facility in Shercock is 40km away.
- *Risk of Major Accidents and Disasters* – No specific section in the EIAR.
- *Receipt of Notification from the Department's EIA Portal* – None on file.
- *Water Supply & Foul Sewage* – EIAR refers to a connection to the public water supply with confirmation from Irish Water. Submission on file from Irish Water states there is no connection proposed which calls into question key findings in the EIAR.

- EIAR Non-technical summary (NTS) does not meet the Regulations which require the details and competency of all experts who contributed to the various sections of the of the report and details of their competency.
- *Hedgerows* - Removal of several hundred metres of hedgerows not stated in Notices. (220m of hedgerow to be removed on the site itself and 110m of hedgerow to be removed at the site entrance and hedgerow is to be removed at the passing bays). Removal of hedgerows is not assessed in the submitted NIS.
 - Fundamentally and adversely impact on the rural character of the area.
- *Reason for refusal no. 3* - has not been overcome. Notwithstanding the proposal to provide passing bays the width and alignment of the local road will remain unchanged, and provision of passing bays cannot address this.
 - *Insufficient legal interest* - Applicant has not demonstrated sufficient legal interest and ability to undertake proposed works to the passing bays. Letter of Consent submitted relates to the previous application and refers to 3 laybys and not 4 as proposed.
 - *Precedent* - Refers to precedent in relation to using passing bays to overcome traffic safety concerns under ABP-302439-18 Drumcashel, Co. Louth.
 - *Road Safety* - A Road Safety Assessment Report or a Road Safety Audit are not submitted which should accompany a proposal for road works of the significant nature proposed.
- *Application invalid* – Application site incorporates land under third party ownership and no letter of consent provided from third parties. Letter from Louth County Council refers to previous refused application. No letter from landowner Kenneth Dowling whose name is stated as a land owner on the application form.
 - *Site Notices* - There are 5 separate red line site areas (1 for the poultry site itself, and 4 for the passing areas) yet only 1 site notice was displayed at the poultry site itself.
 - *Site Location Map* – Does not state position of site notices. Drawing PL07 includes a stated scale which does not correspond, discrepancy between drawing key scale stated and that stated on drawing itself. Drawing

incorrectly shows the roadway in yellow denoting a wayleave, which it is not. Site location map shows drawings of the buildings and structures which should not be illustrated.

- *Drawings Submitted* - Do not meet with regularity requirements particularly Articles 22 and 24 of the Planning and Development Regulations 2001 (as amended). Failings are material and have the potential to prejudice third parties in understanding, assessing, and commenting on the proposed development. Application should be declared invalid.
- *Development description* is inaccurate and misleading as it omits reference to the removal of hedgerows.
- *Planning Policy* - Proposed development is contrary to National, Regional and Local Planning Policy – asserts that large scale intensive commercial/agricultural development on remote undeveloped land is not sustainable development.
 - Material change in planning policy since the previous appeal was decided, now more resistant to development of the nature proposed.
 - *Eastern and Midland Regional Spatial and Economic Strategy (2019)* Refers to Regional Policy Objective RPO 7.34 re concept of resource-efficient economy. Site is at a considerable distance from source material (i.e. facilities from where chicks come from), feed suppliers and from where the poultry manure will be sent to. Development has no functional or sustainable relationship with the site other than being in the ownership of the applicant.
 - *Louth County Development Plan 2021-2027* Refers to Policy EE60 and EE61 re environmentally sustainable agricultural activities and enterprises being compatible with the environment in which it is located. Submit that the proposed development cannot be considered an environmentally sustainable agriculture.
 - Contrary to CDP requirement 13.13.11.7 in that there is no requirement for the development at this particular site and it is not a development necessary for agricultural diversification. It is not sustainable as it does not take raw material from the area, is not processed within the area nor can it dispose of

waste at source, all these activities require input from facilities at considerable remove from the site.

- Landscape Character notes the Muihevna Plain as being of regional importance and having robust hedgerows which are important to give a sense of enclosures. No photomontages submitted with the EIAR, and removal of hedgerow does not preserve or enhance the landscape character.
- *Food Wise 2025 – A 10-year vision for the Irish agri-food industry – Department of Agriculture, Food and the Marine (2015)* Submit that it is recognised at Government level the paradox of siting poultry enterprises in remote locations where there are no clusters of such facilities and where significant traffic movements and impacts to roads are required to sustain them.
- *Landscape and visual impact* - Application provides inadequate assessment of landscape and visual impact – the site is in the Muihevna Plain and within the sphere of influence of designated view/prospect VP31. No information such as photomontages has been submitted with the EIAR with respect to visual impact.
- *Residential Amenity* - Potential for impacts on residential amenity have not been adequately assessed – noise, light pollution and impacts from dust on climate and air have not been assessed.
 - Asserts first report of the PA failed to address many objection points not least the validity of the planning application. Planning conditions do not address concerns of appellant in relation to noise or hours of operation considering near 24-hour operation during stocking and destocking.
 - The Noise Impact Assessment predates the application by 18 months.
- *Roads and Traffic* - Proposed development would endanger public safety by reason of traffic hazard.
 - *Operational Traffic* – Proposed development would generate significant operational traffic while the L6270 is incapable of accommodating the traffic associated with the proposed development.

- *Traffic Assessment Report* - Measures proposed to improve traffic safety which include, prohibition of use of the L6270 to the east of site by planning condition or site entrance configuration, lay-bys, and special contribution or cash bond pertaining to maintaining the road in good condition are considered inadequate, unenforceable and unachievable. No road safety audit submitted.
- *Lay bys* - Concern regarding the dimensions and positioning of the lay bys, no auto track assessment carried out for the Lay-bys, also notes the lay bys are all on one side of the road which would require cross over of vehicles to the wrong side of the road.
- *NIS* - NIS and EIAR are both inadequate and fail to comply with regulatory requirements. NIS does not conclude based on best available scientific information that potential for significant effects on Natura 2000 sites can be ruled out. This in particular relates to potential for indirect affects as far as the EIAR is concerned.
 - NIS is scant on detail on cumulative and indirect impacts.
 - Removal of hedgerows - is not addressed in the NIS and receives scant mention in the submitted EIAR. Refers to assessment by previous planning inspector on this matter.
 - NIS proposes additional undefined mitigating measures and as such it is not possible for the NIS to conclude the potential for significant adverse impacts on the integrity of the conservation status of the stated European sites. Refer to additional mitigation measures as recommended by the IFI when no submission was received by the PA.

6.3. Grounds of Appeal No.3

6.3.1. A Third-Party appeal was lodged by Sean Johnston, Puckstown, Dunleer on behalf of the Johnston family. The issues raised in the appeal can be summarised as follows;

- *Previous Reasons for Refusal* – Have not been addressed. There are anomalies and discrepancies within the EIAR and further information submitted. FI should have been readvertised.

- *Appropriate Assessment and Land spreading* – No detail of the quantum of fertiliser required by mushroom composters, or detail of limitations or restrictions by quantity or type of waste intake imposed on these facilities. Proposal is a means of circumventing providing scientific and technical data required as part of the appropriate assessment and the EIAr. Notes location of mushroom composters are a significant distance from the site. Proposal is contrary to sustainable development and fails to address climate change and carbon footprint generated by this development. It is not clear what happens if mushroom composters no longer need the manure produced - future scenario that has not been mitigated.
- *Inadequate EIAr* – Deficiencies in the EIAr have not been addressed. Lack of scientific detail to support generic statements. No analysis of the effects arising from the development e.g., in the context of the Water Framework Directive with no reference to same from the PA. EIAr does not address climate, land, risk of major accidents and disasters or establish the baseline scenario in accordance with the provision of Article 94 of the Planning and Development Regulations in particular Schedule 6. Not possible for the Board to carry out a comprehensive environmental impact assessment of the proposed development as required by legislation.
- *Bio-Security* – No analysis of proposed development and adjoining agricultural lands owned by other local farmers. The issue of biosecurity as cited in the previous reason for refusal has not been addressed.
- *Elevated water table* – Issue of an elevated water table effectively dismissed within the application and the PA's assessment which is concerning given that trial holes carried out in April noted a high-water table.
- *Alternative Sites* - The issue of alternative sites despite the PA seeking FI has not been addressed. Reasonable alternatives would have included sites located adjacent to or in close proximity to the processing units in Shercock given the reliance on transportation to and from there as evidenced in the documentation.
- EIAr provides no details of nutrient management plans.
- *Traffic Hazard* – Previous reason for refusal remains outstanding.

- *Previous Inspectors Concerns* – Raised in planning report not addressed in the EIAr.
- *PA planning reports* – Do not set out the main significant direct and indirect effects of the proposed development on the environment, and how they will be mitigated. Residual impacts are not mentioned. PA has not provided details of how future monitoring will be managed or controlled.

Conclusion

- Previous reasons for refusal have not been addressed.
- PA relying on non-enforceable conditions to regulate the development and are 'ultra vires'.
- Applicant has carried out works on his lands which require permission, and which should have formed part of the EIA process when determining the direct and indirect effects on the environment may be.
- Details regarding alternative sites, does not include 325Ha of the landholding, which the applicant states he farms.
- Locations of the landholdings submitted are just about discernible and the reasons for discounting some sites are spurious.
- The test of the EIA Directive and alternatives has not been met.
- Principle of a poultry farm at this location has not been established contravenes section 13.13.11.7 of the Louth CDP regarding the provision of a business plan.
- Development does not adhere to the principles of the EU 'Farm to Fork Strategy' and targets set for the agricultural sector.

6.4. Grounds of Appeal No.4

6.4.1. A Third-Party appeal was lodged by Patricia Fuentes and others, Dunleer, Co. Louth. The issues raised in the appeal can be summarised as follows;

- *Local Wildlife* - Removal of hedges would have a detrimental and irreversible effect on the local wildlife. Condition 18 does not refer to planting native species of trees and shrubs.

- *Noise* – Diminution in the quality of life to the local residents and devaluing impact on the value of their properties.
- *Traffic* – Contend that the provision now of 4 lay-bys on the access road does not mitigate the problem for residential road users encountering a HGV.
- *Animal Welfare* – Questions whether the applicant will attend specific training, make records available, and ensure strict monitoring.
- *No need for more poultry houses.*
- *Location* – Applicant owns at least 70 acres of agricultural land beside his own residence at Paughanstown and over 23 acres at Roestown to the north which could be used for building poultry houses.

6.5. Applicant Response

- 6.5.1. The First Party response to each of the 4 no. Third-Party appeals was received by the Board 17th May 2022. The response was accompanied by a Roads and Traffic Report and Road Layout Drawing no. F2102-P05 showing HGV Auto Track to Bay's. The response can be summarised and to avoid unnecessary repetition as follows;

Planning Policy

- Development in rural area acceptable in principle at this location.
- Integration of existing and proposed farm enterprises through the potential use of grain and straw produced on the farm to feed and bed the birds and use of organic fertiliser (soiled water only) from the proposed development to fertilize the crops, completes sustainable nature of proposed farming activity.
- *National/Regional Context* – Proposed development is in accordance with the proper planning and sustainable development of the area.
 - Nationally are significant exporters of beef and dairy products and makes sense that we look to agricultural areas that seeks to feed out own country.
 - Regionally – Makes geographic sense for Manor Farm to locate in this area as Manor Farm premises is only 16km from the Louth County boundary and yet there are no such farms in the county.

- Local – Site selected is well removed from sensitive receptors and applicant has put measures in place to alleviate concerns of PA and hopefully ABP.
- *Planning Policy & Eastern and Midland Regional Spatial and Economic Strategy (2019)* – Proposed development is located closer to Manor Farms processing and feed facilities at Shercock and Mushroom compost yards than existing farmers in north Monaghan. Proposal represents a good example of a circular efficient economy integrated within the wider agricultural sector.
- *Food Wise 2025* - Appellant misunderstands objectives for the agriculture and poultry sectors. Disputes reference to poor sustainability credentials given proposed development is to satisfy local Irish demand for healthy nutritious food, poultry meat has the lowest Carbon footprint and lowest water requirement of all farmed animals, and the highest Feed Conversion Efficiency for the conversion of grain into animal protein. Poultry farming is inherently more sustainable than many other systems. Proposed development aligns with the goals of Food Wise 2025.
- *Farm to Fork Strategy* – Disputes assertion of failure to meet strategy. Proposed development is small in an international context.
- *Louth County Development Plan 2021-2027* - Accepts that proposed development is an intensive form of farming requiring inputs to be delivered to the site and produce to be removed off site for processing, but also true of dairy and tillage farming. It is suitable in scale to the local and wider community and complies with animal welfare and other restrictions.
- *Business Plan* – Chapters 2 and 3 of the EIAR essentially sets out the business plan/case for the proposed development. The diversification of existing farming activities to meet the demand for Irish food and to replace imports.
- Contends that appellants concern in relation to changes in local and planning policy are less relevant as a result of the *An Taisce V Glanbia (Kilkenny Cheese Plant)* Case.
- Concerns raised by appellants were addressed by PA in FI request and FI response by the applicant.
- Notes applicable legislation (incl. S.I.605 of 2017 as updated by S.I. of 2022).

Environment

- *Odour* – Closest residents are >400m from the proposed poultry houses. Site specific odour impact assessment confirmed no adverse odour impact on sensitive receptors.
- *Continuous cleaning out* - Cleaning of the houses will only happen at the end of each batch (or c. 7 times per annum) and no spreading of litter / manure will occur.
- *Traffic Emissions* – Inconsequential relative to existing level of vehicular traffic in the surrounding area.

Biosecurity

- *Risk to Livestock* – Proposed development subject to Bord Bia Quality Assurance Controls, both enterprises can operate successfully on adjacent lands. Applicant will be supported by veterinary staff and specialised field people retained/employed by Manor Farm to ensure the highest standards are maintained at all times.
- Biosecurity risk is from other livestock to the chickens to be housed in the proposed development and not the other way round. The proposed development is to operate to the highest hygiene standards, with the houses washed and disinfected after every batch.
- *Accidents/Disasters* – Site is outside of any flood risk area and appropriate stormwater attenuation measures have been provided for. Proposed development does not involve the storage production and/or use of any hazardous materials and or any other activities that pose a significant risk.
- *Well* – Located at the opposite end of appellants No 1s property c.500m from the site boundary and close to the entrance to the Whiteriver Landfill. Contend that the risk to the well from the proposed development is close to zero, and potential risk is significantly greater from the landfill site.
- *Manure Management* – Proposal to allocate poultry manure to mushroom compost production is not a change of approach. All farmers exporting animal manure from their farm must report same on an annual basis. This will be enforced through DAFM requirements and any EPA licence that may be granted to the farm.

- Reference to manure being stored close to a watercourse transpired upon investigation by DAFM to be a pile of stone.

Traffic

- Passing bays are to provide for traffic accessing/egressing from the site the 432 lorries per annum is an average of less than 1.2/day. Proposed traffic will not have a significant impact on appellant's ability to use the local road network for stock movement.
- Proposed development has been revised to address concerns previously raised, including detailed assessment of proposed lay-bys, and a left-hand turn prohibition when exiting the site to prevent traffic using the eastern approach, plus an additional layby.
- Notes there are no residential dwellings located on the stretch of road from the entrance to the site to the junction at the landfill entrance.
- *Residential Amenity* - Applicant has prepared noise survey, odour impact assessment and traffic surveys, which conclude that the proposed development will not significantly adversely impact on any third-party locations.
- *Landscape* – Proposed development is not in an exposed site and will not have an adverse visual impact.
- *Hedgerow removal* – To be replaced with similar/greater amount of new hedgerow.

EIAR Inadequacies

- *Ammonia* – Scail modelling screening exercise (1st stage) assessed all sites within 15km and screened out impact beyond 7.5km distance prior to the (2nd stage). Irwin Carr report assesses in detail potential ammonia impacts within 7.5km of the site. Ammonia impact assessment complies with relevant requirements and guidance.
- *Noise Survey* – Does not have a use by date as inferred in the submission.

Alternatives – Submitted as part of FI not considered by appellant. Alternative sites, scales, layout/design and processes are all discussed in the EIAR.

- *Site Selection Process* - Reference to applicant farming c.325ha of land - makes distinction between farming and owning land and clarifies that the applicant farms a significant amount of rented land. As such this rented land is not available for the proposed development as the applicant does not own this land. All lands that the applicant and his wife have a controlling interest in, were assessed as part of the application.
- *Alternative sites* – Subject site provides balance between applicant's requirements and a sustainable farming system and key planning requirements including proximity to neighbouring residences and potential impacts.
- Contend that applicant has carried out a robust site selection procedure and is adequately addressed in Chapter 5 of the EIAR and supported by FI submitted. While site selection and consideration of alternatives is an important part of the EIA process, it should not be construed as requiring a mini EIA for all potential sites.
- Slieve Beagh/Kilroosky Lough link tenuous - Poultry sector accounts for c.4% of the country's total ammonia emissions, cites EPA reference to compliance with the 2030 emissions reduction commitment for ammonia reduction.
- *Natura Impact Assessment* - Is robust and has been completed by a qualified ecologist.

Other Matters

- *Future potential to sell sites* – Proposed development in an agricultural area.
- *Engagement* – Applicant offered to take a number of local residents to visit similar poultry farms but were declined.

Valid Application

- *Land ownership* – Required letters of consent from PA were submitted with the application and FI response.
- *Development Description* – Sufficient and appropriate.
- *Site Notices* – All areas of the site boundary identified (main development site and lay-by areas) in red and site notices erected at each location.
- *Readvertising* – At the discretion of the PA.

Concludes proposed development.

- Would provide for an appropriately located designed landscaped and sustainable farm diversification suitable to the sites scale of adjoining landholding and completed to the highest welfare and environmental standards, in an existing agricultural area where such use is predominant traditional and appropriate.
- Would not cause significant injury to the character of the area or the amenities of property in the vicinity and would not give rise to an undue risk of water pollution nor would it threaten road safety.
- Is appropriate to the site and the area in general will have a positive impact economically and is in accordance with the requirements of Department of Agriculture, Food and Marine, Bord Bia and Louth County Council County Development Plan.
- Having regard to (the construction of farm buildings with a sustainable integration of the proposed development within the applicants /applicants' families activities) the specialist reports completed detailing no significant adverse impact as a result of the proposed development and
 - Its location within an established agricultural area
 - The existence of pollution controls under other legislation (ie EPA Licence, Nitrates Directive as implemented by European Communities Good Agricultural Practice for Protection of Waters) Regulations, 2022 (SI 113 of 2022 as amended) etc.
 - The landscape of this rural area
 - The efficiency (low carbon footprint water requirement and high food conversion efficiently per unit of production) and nature (food production to meet Irish consumer demand and replace imports) of the proposed development.
- Considers that subject to compliance with Louth County Council (as may be amended by ABP and EPA requirements) the proposed development would not be prejudicial to the rural environment would not be prejudicial to public health or be visually obstructive would not seriously injure the amenities of the area. Proposed

development would be in accordance with the proper planning and sustainable development for the area and will result in a sustainable and viable tillage and poultry farming activity.

- Proposed development would not seriously injure the amenities of the area or of properties in the vicinity would be acceptable in terms of traffic safety and convenience of road users and would not be prejudicial to public health or pose a threat of environmental pollution either on the site and/or remote from same.
- Contend that the PA were correct in its decision and urge the Board to confirm the decision.

Louth County Council Development Contribution Scheme 2016-2021 - Request ABP confirm whether Section 6.1 (para 9) of the DCS is applicable to the proposed development.

6.6. Planning Authority Response

6.6.1. The PA response to the 4 no. Third Party appeals dated 9th May 2022 can be summarised as follows;

- *Condition 5 and 6* – Reference to ‘European Union (Good Agricultural Practice for Protection of Waters) Regulations’ was included in Condition 5 as the applicant indicated that soiled water from the proposed poultry farm is to be spread on the application landholding and the PA have no objection to same. Reference to Regulations is to ensure that the soiled water is spread in accordance with same. Notes that ‘soiled water’ is included in the definition of ‘organic fertiliser’ in these regulations.

Acknowledge that there is no requirement for a reference to these Regulations in Condition 6. PA provide revised wording for Condition no. 5 and 6.

- *Traffic* – Concerns raised in relation to the enforcement of condition no.10 relating to the access route to the proposed poultry farm are noted. Anticipates that persons delivering/collecting goods or materials to the site will be informed of the haulage route to be taken to access the facility.

Submit that measures included are considered adequate to ensure the proposed development will not result in the development having adverse impacts on traffic movements along the LS-6270-0 or result in the creation of a traffic hazard.

- *Business Plan* – Notes requirement of section 13.13.11.7 of the CDP 2021-2027. Submit that the details included in the application provides full details in relation to the nature and scale of the proposed poultry farm.
- *Bio-Security* – Notes concerns raised. Proposed poultry farm will operate under an EPA licence which will include conditions regarding the day-to-day operations of the facility. This includes preventative measures to minimise the spread of disease. As part of the licence the applicant will be required to carry out monitoring and record information in logs to demonstrate compliance with the licence.
- *Water Table* – Dispute that the issue of a high-water table was ‘effectively dismissed’ in the application. The Site Characterisation Report indicated that mottling was recorded below 1.5m. The fact that no mottling was recorded above the 1.5m indicates that the highest point of the water table is 1.5m below ground.

Leachate of soiled water from the proposed poultry farm to groundwater was considered as part of the assessment of the application. The PA notes that soiled water tanks will be constructed as part of the development which will store any water arising from the washing and clearing down of houses at the end of the rearing process of each batch of broilers. These structures will be constructed in accordance with Department of Agriculture, Food, and Rural Development Standards. Notes that the management of soiled water will be one of the requirements of the EPA licence.

- *EIAR* – Satisfied that the EIAR has adequately addressed the direct, indirect, and cumulative impacts of the development and there is sufficient information to fully assess the environmental impact of the proposal on the receiving environment.

- *NIS* – Satisfied the information included in the NIS allows for a complete assessment of any adverse effects of the development on the Natura 2000 sites identified in the NIS carried out.
- *Letter of consent* - Received on 3rd March 2022 confirms that Louth County council consents to the provision of 4no. lay-bys.
- Request that ABP upholds the decision of the PA.

6.7. Observations

An observation to the appeal was lodged by Neil and Aoife Foy, dated 25th April 2022 issues raised can be summarised as follows;

- If decision of the PA is upheld by the Board request an explanation as to why standard procedures have not been followed/why preferential treatment seems to be afforded to developer.
- Closest family home to the appeal site.
- Traffic safety.

6.8. Further Responses Appellants

6.8.1. The applicant's response was re circulated to the Third Parties, and again four further responses were lodged by the four no. appellants. Many of the points previously raised are reiterated, while other issues raised can be summarised as follows;

- *Area of Natural Beauty* - Rathescar is an area of natural beauty. Submit that it would be better to err on the side of caution and not allow the proposed development.
- *Land Ownership* – No letter of consent provided from landowner Kenneth Dowling stated as a landowner on the application form.
- *Compliance with Eastern and Midland Spatial and Economic Strategy (2019)* – Disputes that proposal aligns with concept of circular resource-efficient economy. Site is a considerable distance from source material, feed suppliers and from where

it is proposed to send waste product. Site has no functional or sustainable relationship with the site other than being in the ownership of the applicant.

- *Manure Management* – Applicants assertion that site will reduce kilometres travelled when compared to other farms used by Manor Farm is not a valid argument.
- Response from the First Party is a generic non-scientific response that provides no scientific evidence to support the comments that the proposal is acceptable and would not have an undue environmental impact.
- *Commercial Scale* -Proposed activity while agricultural in nature is commercial in scale and will have significant ramifications for adjoining landowners including appellants family lands.
- Reference to Supreme Court case *An Taisce V Glanbia* is not of relevance to this application.

6.8.2. Further Response Planning Authority

A response was lodged by the PA dated 16th June 2022 in relation to the application of the Development Contribution Scheme.

Disputes assertion by applicant that the proposed development is exempt from development contributions as item 9 of section 6.1 of the 2016-2021 Development Contribution Scheme is applicable.

Proposed development for a new poultry farm, will be a new farm business on a greenfield site. Item 9 of section 6.1 of the Development Contribution Scheme does not therefore apply to this application.

6.9. Prescribed Bodies

6.9.1. EPA: Report dated 26th July 2022 notes the following;

- Development may require a licence under Class 6.1 of the EPA Act.
- Agency has not received a licence application.
- Should the Agency receive an application, an EIAR will be required, and the Agency will undertake consultation and any licence will be subject to EIA.

- Should a licence application be received, all matters to do with emissions to the environment will be considered and assessed by the Agency.
- Where the Agency is of the opinion that the activities cannot be carried out on or regulated, then the Agency cannot grant a licence. Should a licence be granted, it will incorporate conditions that ensure that National and EU standards are applied, and that BAT will be used in carrying on activities.
- Site boundary for the licence application only relates to the site of poultry rearing and directly associated activities. Activities such as the processing of feed, use of organic fertiliser beyond the boundary etc. cannot be controlled by a condition of a IE licence.
- The IE licence cannot specify conditions governing and making the licensee liable for the use of organic fertilisers when it leaves the installation. The recipient of the fertiliser is responsible for its management and use in accordance with the application regulations.

7.0 Planning Assessment

7.1. Introduction

- 7.1.1. The appellants have submitted that the current proposal is very similar to the previous application on site and does not address the three reasons for refusal under P.A. Reg.Ref.19/469 ABP-307333-20, and that similar refusal reasons still apply to the proposed development.
- 7.1.2. The main differences between the previous application and this current application relate to the detail provided regarding the removal of poultry litter off site for use as Mushroom composting, identification of the land areas to be used for the spreading of wash water and use/provision of 4 no. laybys, and introduction of a no left turn. The current application provides for no land spreading of poultry manure. The current application seeks to address issues raised in the previous application and reasons for refusal. However, my assessment will focus on the current proposal on its own merits.

- 7.1.3. The main policy difference relates to the adoption of the new Louth County Development Plan 2021-2027.
- 7.1.4. The assessment below is carried out as follows: Section 7 of my report is a Planning Assessment of the case, Section 8 is the Environmental Impact Assessment and Section 9 is the Appropriate Assessment. There is an inevitable overlap between the assessments, for example, with matters falling within both the planning assessment and the environmental impact assessment. In the interest of brevity, matters are not repeated but such overlaps are indicated in subsequent sections of the report.
- 7.1.5. There are four no. Third Party appeals, and I consider it appropriate to consider them jointly. The main issues in this appeal are those raised in the grounds of appeal. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:
- 7.1.6. I consider that the key planning issues arising are as follows:
- Principle of proposed development
 - Impact on residential amenities
 - Land spreading/biosecurity
 - Traffic Safety
 - Examination of alternatives
 - Other Matters
 - Development Contribution Scheme
- 7.1.7. I refer the Board to the previous history on this site under P.A. Reg.Ref.19/469 ABP-307333-20 whereby permission was refused in 2020 for a similar type development on these lands. The reasons for refusal have been cited above and relate to inadequacy of information provided in relation to the land spreading / biosecurity and traffic safety.

7.2. Principle of Proposed Development

- 7.2.1. The proposed development is located on unzoned lands in a rural area of County Louth where the primary land use is agricultural. The appeal site is currently in use

for tillage farming, and forms part of a larger agricultural landholding. There does not appear to be an established large-scale poultry industry in County Louth of the scale seen in Counties such as Cavan or Monaghan with only one EPA licenced poultry farm in Ardee, County Louth.

- 7.2.2. The applicant has outlined how the proposed poultry facility will complement the existing agricultural activities carried out on the family landholding operated by the applicant's family in the area. The applicant contends that the proposed development will represent sustainable and integrated development, and that the symbiosis with existing farming activities will minimise vehicle movements.
- 7.2.3. Notwithstanding the scale and intensive nature of the proposed development, the keeping of poultry falls within the definition of 'agriculture' set out in Section 2 of the Planning and Development Act 2000, as amended, I consider that the proposed development would be generally compatible with the agricultural area in which it would be located, that it would facilitate farm diversification and that it would contribute to the development of the intensive agriculture sector, the importance of which is identified in the Development Plan. It would also be consistent with various rural development and agriculture-related Objectives of the Development Plan, including EE 55, EE60 and EE 61.
- 7.2.4. The appellants note that the proposed development has not been accompanied by a Business Plan as required under section 13.13.11.7 of the Development Management Guidelines in the Louth County Development. I note that the full details in relation to the nature and scale of the proposed poultry farm have been provided with the application, and were considered acceptable by the PA.
- 7.2.5. The appellants contend that there has been a material change in planning policy since the previous appeal was decided and that the proposed development is contrary to National, Regional and Local planning policy, on the basis that it does not represent a sustainable form of development.
- 7.2.6. It is submitted in the appeal that the proposed site is not located in proximity to associated Poultry facilities in Shercock, Co. Cavan, or the Mushroom Compost facilities identified in the application as destinations for the poultry manure in Kildare, Wexford and Down. It is submitted therefore that the development is contrary

Regional Policy Objective RPO 7.34 in relation to the concept of a resource efficient economy.

- 7.2.7. The Department of Agriculture, Food and the Marine have a 10-year plan titled 'Food Wise 2025'. This document acknowledges that there are opportunities in the poultry sector to increase efficiencies through increased scale and modern production facilities. As such the applicants desire to increase the diversification and scale of his agricultural activities is in general supported subject to standard safeguards.
- 7.2.8. I therefore consider the proposed development to be acceptable in principle, subject to consideration of the planning and environmental issues arising.

7.3. Impact on Residential Amenities

- 7.3.1. The issues raised by the appellants in respect of residential amenity relate to odour, proximity to dwellings, devaluation of property, and lack of engagement.

Odour and Proximity to Dwellings

- 7.3.2. The EPA's 'BATNEEC Guidance Note for the Poultry Production Sector' (1998), Section 4.3 states that:

"Poultry units should be sited a distance of preferably not less than 400 metres from the nearest neighbouring dwelling and all operations on site shall be carried out in a manner such that air emissions and/or odours do not result in significant impairment of or significant interference with amenities or the environment beyond the site boundary."

- 7.3.3. This 1998 BATNEEC Guidance Note has been superseded by Commission Implementing Decision (EU) 2017/302 'establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the intensive rearing of poultry or pigs', and the associated 'Best Available Techniques (BAT) Reference Document for the Intensive Rearing of Poultry or Pigs' (2017). The BAT Reference Document does not set out any specific recommendations with regard to separation distances from neighbouring dwellings. but notes in Section 4.10.1.1 that in many Member States minimum distance regulations for the assessment of odour and the spatial separation of farms and dwellings or residential areas have been established. It notes that in Germany, for example, odour impacts are assessed as significant and legally not allowed if a

frequency of odour perception of 10 % (general residential areas) or 15 % (village areas) of the time is exceeded for an odour concentration of 1 O_{uE}/m³.

- 7.3.4. The issue of odour is addressed in Section 7.4 of the EIAR, and Appendix 21 of the EIAR Addendum contains an Air Quality Impact Assessment.
- 7.3.5. The Air Quality (Ammonia) Impact Assessment (AQIA), undertaken by Irwin Monitoring Ireland, utilised Aermid dispersion modelling software, and five years of meteorological data from Ballyhaise Co. Cavan (closer to the site rather than Dublin Airport). Eight dwellings were assessed in the vicinity of the site.
- 7.3.6. Table 13 of the AQIA sets out the predicted 98th percentile ground level concentrations of odour at each identified receptor in the vicinity of the proposed development for each of the five screened meteorological years (i.e. the concentration that won't be exceeded in 98% of all hours in each year). The maximum predicted value is 2.1 O_{uE}/m³, which occurs at receptor R4. This is less than the limit value of 3.0 O_{uE}/m³ set out in the EPA guidance document 'Odour Impacts and Odour Emission Control Measures for Intensive Agriculture' (2001).
- 7.3.7. I note in particular that no ancillary manure storage is proposed, beyond that generated during each stocking cycle. The manure will be removed from the site at the end of each stocking cycle (i.e., every c. 6 weeks).
- 7.3.8. Having reviewed the Air Quality Impact Assessment, I consider that it assesses the odour arising from the proposed development during what might be termed 'steady state' operation, i.e., it is simply based on the number of poultry being housed in the sheds. It does not address the potential additional odour emissions that may arise from the process of destocking, manure removal and cleaning of the four poultry houses which will occur every c. 6 weeks. Given that the calculated 98th percentile odour from this 'steady state' operation at the closest residential receptors is well below the acceptable limit of 3.0 O_{uE}/m³, I do not consider the appellants concerns with regard to odour to be reasonable.
- 7.3.9. Furthermore, the closest residential receptors are c. 410m to the northwest of the proposed poultry houses and while the 400m recommended separation distance set out in the 1998 BATNEEC Guidance Note appears to be no longer applicable, I consider that it is indicative of the significant potential for odour and air emissions

arising from intensive poultry production to impact on residential amenities within a relatively wide area.

- 7.3.10. Notwithstanding the above, the appeal site is located within a strongly rural area, where odour emissions associated with agricultural activities are to be expected and are likely to be commonplace.
- 7.3.11. Noting that more recent guidance does not specify recommended separation distances, I consider that the use of computer modelling allows for a more detailed understanding of odour impacts than would have been the case in the past. Allied with improvements to housing design and operation (including the dry manure system and the use of feed additives), this may facilitate more suitable siting of a facility than the blanket application of an arbitrary separation distance.
- 7.3.12. On the basis of the information submitted, I am satisfied that the applicant has demonstrated that the proposed development would not seriously injure the residential amenities of property in the surrounding rural area by reason of odour emissions. The applicant is proposing to export poultry litter off site for the production of mushroom compost and not land spread. Soiled waters are the only material that will be land-spread from the proposed development.
- 7.3.13. Adherence to the requirements of the Department of Agriculture Food and Marine Code of Good Agricultural Practice for reducing Ammonia Emissions from Agriculture as required by the National Emissions Ceiling Directive, and monitoring of emissions via the Industrial Emissions licence from the Agency will dramatically negate the potential for ammonia emissions from the development as proposed.
- 7.3.14. The proposed development will require a Licence from the EPA, and as a result odour emissions will be subject to licence conditions and associated monitoring and reporting requirements.

Devaluation of property

- 7.3.15. The appellants contend that the proposed development would result in the devaluation of their property.
- 7.3.16. The EIAR references non-agricultural properties in Section 6.12 and 7.12 which relates to material assets. It states that there are no residential dwellings within 150m, and that there will be no adverse visual impact on the local area.

Lack of Engagement

- 7.3.17. The appellants contend that the applicant has failed to engage or consult with the community prior to or during the planning application process, while the applicant disputes this, and contends that he has engaged with local residents. While pre-application consultation with local residents and other stakeholders would clearly be of benefit in designing and preparing such an application for development and in addressing any concerns which may arise, there is no obligation on the applicant to engage on such consultation with the public outside of the planning process.
- 7.3.18. In my opinion, in this rural area, where agriculture is the main land use, a development, such as that proposed, should not impact on property values, provided its impact on visual and residential amenities (particularly with regard to noise and odour emissions) are not excessive. As outlined above I do not consider the proposed development would result in excessive odour impacts at the nearest residential receptors in this rural area, or that it would have an unacceptable impact on the amenities of the area. I therefore do not consider that the proposed development would devalue property in the vicinity.

7.4. Land spreading and Biosecurity

- 7.4.1. The appellants assert that reasons for refusal no. 1 and 2 have not been addressed in the current application. The risk of contamination of water in nearby wells and local rivers along with the risk to animal welfare and safety on adjoining agricultural lands from land spreading areas is not addressed.
- 7.4.2. The dearth of information provided in relation to land spreading areas and biosecurity in the previous application ABP-307333-20 was the crux of the appeal and decision to refuse permission. Under the current application it is proposed to export the poultry litter off site for use as compost/fertiliser at mushroom growing facilities and to use family-owned lands in the vicinity of the site for the spreading of soiled wash water.
- 7.4.3. Poultry litter may only be transported by hauliers registered with the Department of Agriculture Food and the Marine. The Department have introduced Statutory Instrument (S.I. No. 593 of 2021) in relation to biosecurity measures which must be in place on all poultry farms. These regulations outline biosecurity measures that

shall be in place. The biosecurity measures as outlined in Schedule 1 and schedule 2 of the regulations are applicable in this instance.

- 7.4.4. Poultry manure generated will be used as organic fertilisers at a mushroom composting facility. It is not proposed to spread any poultry manure generated on land. The PA were satisfied that the removal of poultry manure from the site would negate any potential impacts of the land spreading of the poultry manure on any watercourses or groundwater.
- 7.4.5. The issue in the current application, therefore, is the land spreading of soiled wash water which is still classed as an organic fertiliser.
- 7.4.6. This application relates to a development which is for the purposes of an activity requiring a Licence under Part IV of the Environmental Protection Agency (Licensing) Regulations 1994 to 2013. As such the Board have no remit in respect to attaching conditions relating to same.
- 7.4.7. The European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, SI No 605 of 2017, is frequently referred to in the application, the EIAR, other submission documents and planning conditions of the notification of grant of permission. Also of relevance is European Union (National Emission Ceilings) Regulations 2018 SI. No. 232/2018.
- 7.4.8. Regulations introduced under S.I. No. 113 of 2022 European Union (Good Agricultural Practice for Protection of Waters) Regulations is the main means by which land spreading is regulated and supersedes the earlier 2017 Regulations. Irelands Fifth Nitrates Action Programme (NAP) is given effect by the Good Agricultural Practice Regulations.
- 7.4.9. It is not normally useful or appropriate for a planning decision to regulate matters for which a separate specific regulatory regime has been established by statute.
- 7.4.10. I refer the Board to a previous Board decision under PL11.245605 (pig houses). The Inspectors report in this case notes that planning permission is not required for land spreading, and this view was upheld in the Hoey V. An Bord Pleanála High Court judgement by Ms. Justice O'Regan.
- 7.4.11. In respect to the current application the applicant has identified the locations of the land spreading areas. The Site Location Map submitted with the application clearly

identifies the site as outlined in red and the extent of the family landholding to the north outlined in blue.

- 7.4.12. Appendix 1 of the EIAR refers to Customer Farmland details for soiled water and includes a fertiliser plan. This plan includes a herd no. for the farm owned by the applicant which the area, the estimated production and capacity of the lands.
- 7.4.13. Appendix 6 of the EIAR refers to the location of farmland areas for the receipt of soiled water. A DAFM map indicating the location of the farmland where soiled water from the proposed development will be spread in indicated adjacent to the appeal site.
- 7.4.14. Wash water from the cleaning of the poultry house will be stored on site and spread on family lands (all currently improved grassland/tillage lands) in the towns of Ratheskar Middle (immediately adjoining the site) and on a land parcel in the townland of Castlolummy which is 1.3km east of the site. The NIS includes corresponding aerial photographs identifying family-owned lands for land spreading in Figures 3A & 3B to the north of the appeal site, and Figure 4 to the west of the appeal site.
- 7.4.15. While I accept that very little additional information has been provided in relation to meeting the requirements of the European Union (Good Agricultural Practice for Protection of Waters) 2022, I consider that the applicant has clearly identified the location of the lands within his ownership associated with the spreading of soiled wash water.
- 7.4.16. I note the report of the EPA dated 26th July 2022 in response to the referral by the Board and am satisfied that all matters to do with emissions to the environment in accordance with the regulation will be considered and assessed by the Agency.

Biosecurity

- 7.4.17. The grounds of appeal raise concerns in relation to Biosecurity.
- 7.4.18. The proposed poultry farm will operate under an EPA licence. The EPA have noted that this will 'incorporate conditions that ensure that National and EU standard are applied, and that BAT will be used in carrying on activities. The applicant will be required to carry out monitoring and record information in logs to demonstrate compliance with the licence'.

- 7.4.19. The EPA also note that the licence only relates to the site of the poultry rearing and the use of organic fertiliser beyond the boundary etc. cannot be controlled by a condition of an IE licence. It noted that the recipient of the fertiliser is responsible for its management and use in accordance with the application regulations.
- 7.4.20. The environmental impact of land spreading of wash water is detailed in Section 8 EIAR and Section 9 AA of this report.
- 7.4.21. I am satisfied that the issue of land spreading of wash water and biosecurity issues can be appropriately addressed under the European Union (Good Agricultural Practice for Protection of Waters) 2022 Regulations, and EPA licence.
- 7.4.22. I am satisfied therefore that reasons for refusal 1 and 2 can be addressed subject to further assessment of the implications for waters, protected sites and climate change.

7.5. Examination of Alternatives

- 7.5.1. The appellants contend that the applicant has failed to adequately scrutinise alternative sites in the EIS. The PA sought further information in respect to alternative sites and considered the more detailed analysis of seven different sites submitted.
- 7.5.2. Schedule 6 of the Planning and Development Regulations 2001, as amended, requires an outline of the main alternatives studied and an indication of the main reasons for his or her choice, taking into account the effects on the environment.
- 7.5.3. Article 5(1)(d) of the 2014 EIA Directive requires: (d) a description of the reasonable alternatives studied by the developer, which are relevant to the project and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the effects of the project on the environment.
- 7.5.4. Annex (IV) (Information for the EIAR) provides more detail on 'reasonable alternatives': 2. A description of the reasonable alternatives (for example in terms of project design, technology, location, size and scale) studied by the developer, which are relevant to the proposed project and its specific characteristics, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

- 7.5.5. The issue of alternatives is addressed in Section 5.0 of the EIAR. It states that the alternative sites considered included other lands owned by the applicant and his family, and/or available to the applicant, purchase and redevelopment of an existing poultry site and purchase of a green field site.
- 7.5.6. The reasons for choosing the appeal site are stated to include its access onto the local road, integration with the applicants existing land parcel and applicant's son's dwelling, proximity to lands proposed for the receipt of soiled water, low density of housing in the area and proximity to existing farmers currently supplying Manor Farm.
- 7.5.7. Schedule 6 of the Planning and Development Regulations 2001, as amended, requires an outline of the main alternatives studied and an indication of the main reasons for his or her choice, taking into account the effects on the environment.
- 7.5.8. The EIAR also considers alternative sizes of development, and processes including alternative management of by-products in particular the use of poultry manure in mushroom compost production.
- 7.5.9. The EIAR also states that the proposed development will have to obtain and operate under the EPA licence and any alternative destination for poultry manure that may arise/be considered will be agreed with the EPA in advance.
- 7.5.10. The appellants note that details regarding alternative sites, does not include 325Ha of the landholding, which the applicant states he farms. Given the extent of the applicant's family landholding, outlined in the EIAR and further information response and applicants response to the third party appeals (which makes a distinction between land rented for farming but not owned by the applicant), I would accept that there are no alternative sites that would be suitable for the proposed development.
- 7.5.11. In my opinion the exploration of alternatives has included setting the proposal in a regional/national context particularly with regard to the poultry industry within the wider area.
- 7.5.12. Having regard to the rural nature of the area, the appeal site's location, topography, screening and the proximity to recipient tillage lands for land spreading or wash water and the road network, I consider that the applicant has provided sufficient

justification to demonstrate that the appeal site is a suitable location for such a development.

7.6. Development Contributions

7.6.1. The First Party in their response to the third-party appeals requests the Board determine whether the proposed development is exempt from Development Contributions and assert that item 9 of section 6.1 of the 2016-2021 Development Contribution Scheme (DCS) applies. The PA disputes this assertion and have set out details in relation to the development contribution calculations as set out in section 6.2 in the case.

7.6.2. This Development Contribution Scheme was extended up to 31/12/2023 by the elected members on 20/12/2021. See copy of 2016-2021 DCS attached.

I consider that to assess whether the development contribution scheme has been applied correctly, the following questions need to be addressed:

- *Does item 9 of section 6.1 apply to the proposed development?*
- *What is the relevant reduction in development contribution?*

7.6.3. Does Article item 9 of section 6.1 apply to the proposed development?

I note that the 2023 Development Contribution Scheme was adopted by the Elected Members on 18th September 2023, but that for the purposes of this First Party appeal the Board shall base its assessment on the development contribution scheme in place at the date of the PA decision.

The Louth County Council Development Contribution Scheme 2016-2021 sets out a contribution for development described as 'Agricultural Buildings' at Appendix 3.

7.6.4. What is the relevant reduction in development contribution?

Reductions to Development Contributions as set out in section 6.2 of the 2016-2021 Development Contribution Scheme were applied to this development. This provides a reduction in development Contributions for Agricultural Buildings of 90% resulting in a contribution of €6 per m².

The calculation for Development Contributions for this development as provided by the PA are as follows;

	Floorspace
Poultry Houses (4no.)	2,400m ² (x4) (9,600m ²)
Covered Yard	770m ²
Office Building	62m ²
Bin Store	17.m ²
Total	10,449m ²

$$10,449\text{m}^2 \times \text{€}6 = \text{€}62,694$$

Class 1 - Infrastructure (including roads and surface water) - €50,155.20

Class 2 – Amenity (including parks, recreation, amenity and community facilities) - €12,538.80

Total Contribution due - €62,694'

Condition No. 23 of includes a contribution under Class 1 Infrastructure of €50,155.20 and Class 2 Amenity of €12,538.80 totalling €62,694.

- 7.6.5. The applicant has referred to exemptions and reductions under Section 6.1. Item 9 which provides no charge see below.

<p>9. 'All farm buildings required to be constructed to comply with EU Nitrates Directive/Regulations.</p> <p>All farm buildings required to be constructed to comply with Environmental Protection Regulations, Animal Welfare and Quality Assurance measures.</p> <p>All farm buildings approved for grant support under any grant scheme facilitated by the Department of Agriculture, Food and Marine.'</p>	No Charge
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7.6.6. I am satisfied that the appropriate reduction in development Contributions for Agricultural Buildings of 90% applies and that the exemptions referred to under item 9 of Section 6.1 do not apply.

7.6.7. I conclude that the development contribution scheme has been applied correctly by the planning authority.

7.7. Other Matters

Validity of Application

7.7.1. The appellants refer to the number and location of site notices erected on the site and note that none were located on the laybys. It is also asserted that the public notices do not describe adequately the extent of hedgerows to be removed.

7.7.2. The matters raised relate to the planning authority's procedures in dealing with the application. These are not matters on which the Board can adjudicate. The appeal before the Board is valid and the third party's right to participate is given full effect.

7.7.3. The appeal makes the related points that the planning authority failed to properly consider the application and that there should have been a new public notice following the submission of further information.

7.7.4. In this regard it may be noted that the Board will consider and decide upon the application 'de novo' and has no supervisory function in relation to how the planning authority carries out its planning functions.

Sufficient legal interest

7.7.5. The appellants raise concern in relation to letters of consent provided both from the PA and landowner Kenneth Dowling whose name is stated on the application form. The applicant has on appeal submitted an amended letter from the PA indicating consent to in respect of the fourth passing bay.

7.7.6. From a planning perspective the matter of consent in such cases is effectively dealt with by reference to section 34(13) of the Act and which provides that development cannot be carried out solely on foot of a planning permission. Other consents may be required such consents include, in particular, the legal interest in the property concerned to carry out the works.

Enforcement of Planning Conditions

- 7.7.7. The appellants contend that conditions cited by the PA in the grant of permission are un-enforceable. Reference is made to Condition 5, 6, 7 which relate to land spreading and compliance with 2017 Regulations, management of organic fertiliser to be taken off site and the recording of poultry manure movements and/or disposal and all soiled water disposal.
- 7.7.8. The PA have noted in their response to the appeal that the reference to these regulations in condition 5 and 6 was in respect of spreading of soiled water and that 'soiled water' is included in the definition of 'organic fertiliser' in these regulations. The PA acknowledge that there is no requirement for a reference to these Regulations in Condition 6 and provide revised wording for Condition no. 5 and 6.
- 7.7.9. I am satisfied that as these conditions which relate to the management and operation of the development, subject to compliance with the 2022 Regulations and EPA Licence are appropriate and will be enforced by the DAFM.
- 7.7.10. If the Board are minded granting permission a revised wording of these conditions can attached referring to compliance with the 2022 Regulations.

8.0 EIA

8.1. Introduction

- 8.1.1. The planning application was submitted post 16th May 2017, the date for transposition of Directive 2014/52/EU amending the 2011 EIA Directive. Under the transitional provisions of the 2014 Directive, the 2011 Directive (Directive 2011/92/EU) as transposed into Irish legislation apply.
- 8.1.2. The EIAR is laid out in one volume and includes a Non-Technical Summary. Section 2 sets out the policy context and consultation process. Section 3 provides a description of the development. Section 4 outlines the data required to assess the effects of the development. Section 5 provides a description of the alternatives considered. Section 6 provides a description of the existing environment, under various sub-headings. Section 7 provides a description of impacts and mitigation

measures, under the same headings. Section 8 relates to the interaction of effects. Section 9 sets out information relating to an Environmental Management Programme and Monitoring. A number of technical appendices are included in the EIS, and also submitted in response to a request for further information.

- 8.1.3. Having reviewed the EIAR and technical appendices, I am satisfied that the information contained therein complies with article 94 of the Planning and Development Regulations 2000, as amended. I have carried out an examination of the information presented by the applicant, including the EIAR, and the submissions made during the course of the application and the appeal. A summary of the results of the submissions made by the planning authority, prescribed bodies and appellants has been set out at Section 6.0 of this report. This EIA has had regard to the application documentation, including the EIAR, technical appendices, other application documentation, the observations and appeals received, and the planning assessment completed in Section 7.0 above.

8.2. Soils and Geology

- 8.2.1. Section 6.1 of the EIAR provides information on the existing soil and geological conditions on the appeal site and the lands to be utilised for soiled water spreading, while Section 7.1 assesses the impact of the proposed development on these aspects of the environment.
- 8.2.2. Geological Survey of Ireland (GSI) Mapping indicates that the geological composition beneath the site comprises till derived from lower Palaeozoic sandstones and shales.
- 8.2.3. The EIAR states that the site is in the Muirhevna Plain, an extensive plain drained by the Rivers Fane, Glyde, White and Dee. This area contains the most fertile agricultural lands in the county, conducive to a wide variety of productive agricultural practices in both animal and crop production.
- 8.2.4. The EIAR states that the proposed customer farmland areas, proposed for receipt of soiled water, will cover a significantly larger area (39ha) (of which 20ha is in tillage production) than the site of interest, i.e., the site of the proposed development. As a result, the topographic features and soil geology will be more varied.

- 8.2.5. Appendix 6 of the EIAR contains a DAFM map indicating the location of the farmland where soiled water from the proposed development will be spread. This land is adjacent to the appeal site.
- 8.2.6. The EIAR considers that there will be a significant effect on soil within the development area as a result of the nature of the site and proposed works, but that there will be no significant adverse environmental effects on the environment at large or outside of the site boundary. It states that a significant proportion of excavated soils will be utilised for site amelioration works. I note in this regard that a 4m x 2.5m soil bank is proposed along the southern side of the poultry houses to provide landscaped screening for the development. No specific mitigation measures with regard to soils and geology are proposed in the EIAR.
- 8.2.7. With regard to the potential impact of land spreading of organic fertiliser (soiled wash water), the EIAR states that this will be allocated for use in accordance with SI 605 of 2017 to avoid over enrichment with nutrients, and that sensitive or unsuitable areas will be removed or have a buffer applied to them in accordance with the Regulations. The Regulations also include requirements with regard to times of year when fertiliser application should not occur and record keeping requirements.
- 8.2.8. The EIAR states that the customer farmlands are in tillage use, and therefore the use of the organic fertiliser will represent nutrient substitution rather than addition. I note that no nutrient management plan has been submitted as highlighted by the appellants.
- 8.2.9. The EIAR states that all organic fertiliser/poultry manure from the proposed poultry farm will be allocated for use in the production of mushroom compost.
- 8.2.10. I note European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017 (SI No.605 of 2017), amended by SI No.65 of 2018, has been superseded by SI No. 113 of 2022, and I have had regard to these subsequent Regulations in my assessment.
- 8.2.11. It is proposed that poultry litter will be moved off-site to mushroom compost yards by an approved contractor. A letter from Chicken Litter Re-cycling Co-op Society Limited (CLR Co-op) is included in Appendix 7 of the EIAR and provides details of contractors and compost yard confirmation - stating that poultry litter will be delivered to named composting facilities in Kildare, Wexford and Down.

- 8.2.12. The applicant provides further details from the poultry manure suppliers CLR Co-op in their response to further information detailing the quantity of manure used annually in two facilities at Carbury Mushrooms, Co. Kildare and Custom Compost, Gorey, Co. Wexford. Correspondence states that CLR Co-op are a registered contractor with the Department of Agriculture Food and The Marine for the transport of animal by-products (poultry manure) DAFM Ref. No. HAC2342.
- 8.2.13. Having regard to these arrangements, I do not consider that a risk of water pollution arises from this source subject to an appropriate arrangement for the storage of manure within the poultry house. This requirement can be addressed by way of condition.
- 8.2.14. Should the Board be minded granting permission, I recommend that a condition be included, in the interests of clarity, requiring that a management schedule for the organic manure be submitted to and agreed in writing with the planning authority, prior to commencement of development.
- 8.2.15. I have addressed the potential impact of the proposed development on surface water and groundwater in Section 10.3 below. Subject to the allocation and utilisation of organic fertiliser in accordance with the obligations of the developer and the recipients under European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 SI No. 113 of 2022, as amended, I consider that no significant adverse effects in respect of soils and geology are likely to arise as a result of the proposed development itself, or as a result of the land spreading of organic fertiliser arising.

8.3. **Water**

- 8.3.1. Sections 6.2 and 6.3 of the EIAR provides information on the existing groundwater and surface water conditions in the vicinity, while Sections 7.2 and 7.3 assess the impact of the proposed development on these aspects of the environment.

Water Supply

- 8.3.2. With regard to the water supply for the proposed development, it is proposed connect to the public mains (and/or a well located close to the applicant son's dwelling c.500m north of the site). An updated drawing was submitted by way of

further information detailing provisional connection to the public water supply was submitted and was acceptable to the PA.

- 8.3.3. The site is located over an Aquifer. The EIAR refers to G.S.I. records which notes the aquifer classification of the site as a Poor Aquifer Bedrock which is generally unproductive except for local zones (PI). The aquifer vulnerability for the area of the proposed development is classed as Low.
- 8.3.4. TAMS Farm building and structure specifications documents are applicable with regard to this development. These state that a storage facility for silage effluent/slurry/soiled water in this instance the wash water tanks, should be located not less than 50m from any waterbody in the case of new farmyards. The minimum distance between a storage facility and a public/private water supply source either surface or ground, shall be 60m for new farmyards and this may be reduced to not less than 30m for existing farmyard subject to a hydrogeological survey. In vulnerable situations this distance shall be increased up to 300m. In this instance the separation distances applicable are ≥ 50 metres from any waterbodies given that the subject is a new development. In addition, the storage facility (the wastewater tanks) shall be a minimum of sixty metres from any public water supply.
- 8.3.5. Having regard to the separation distances from residences or other premises which may be using wells, the nature of the aquifer and the design of the drinking water system which minimises leakages in the interests of maintaining dry manure, I consider the water supply proposals to be acceptable.

Surface Water and Soiled Water

- 8.3.6. The proposed development includes measures to separate clean and soiled waters. Information submitted by way of further information indicates the location and capacity of soiled water storage tanks for use during the cleaning out of the poultry houses at the end of each cycle, and a swale and soakaway to receive roof water and uncontaminated storm water from hardstanding areas.
- 8.3.7. Switch manholes are to be used to facilitate the washing of areas should areas become soiled. All soiled water from washing internally in the houses is to be piped directly from the houses to the soiled water collection tanks.
- 8.3.8. The applicant is proposing 2 no. 85m³ and 2 no. 36m³ soiled water tanks based on the sizing of the proposed poultry houses. It is anticipated that the facility will

generate 330m³ of soiled water per annum, to extrapolate out, this means that the facility will have over 6 months of soiled water storage capacity at any one time. It is proposed to empty these tanks 2-3 times per annum.

- 8.3.9. I note that under SI No.113 of 2022 as amended Section 9 (d) Capacity of storage facilities for effluents and soiled water states 'from 1st December 2023, a minimum of 3 weeks' storage capacity shall be in place on the holding and from 1st December 2024, a minimum of 4 weeks' storage capacity shall be in place on the holding.' I am satisfied that the proposal provides adequate storage capacity and will subject to compliance with SI No.113 of 2022 as amended adequately cater for soiled water.
- 8.3.10. The poultry will be housed indoors in sheds with a solid concrete floor, with straw/shavings and a controlled water supply being used to ensure that a dry manure system is maintained.
- 8.3.11. The appeal site is located within the Newry Fane Glyde and Dee Hydrometric and catchment area, the Dee Sub-Catchment and White (Louth) Sub-Basin. There are open drains within the application site and clean surface water from the farm will be directed to these drains. Water in these drains is likely to flow south towards the White River, which is 728m to the south of the application site, via the Athclare Stream located c.200m north of the site.
- 8.3.12. The water body (Reference Louth (White)_020) is of moderate status (based on monitoring data) and deemed to be at risk, with the primary pressure being both agriculture and hydro morphology. The development is located within the Louth groundwater body (IEGBNI_NB_G_019) which has an overall good status both quantitatively and chemically and is not considered to be at risk. It is recognised that a considerable proportion of this catchment are underlain by poorly drained soils and subsoils, hence there are significant areas of high pollution impact potential for phosphate to surface waters in this catchment.
- 8.3.13. It is proposed to discharge uncontaminated surface water to storm water discharge points. A small proportion of the surface water arising from part of the access land will discharge to a soak pit at/adjacent to the site entrance.
- 8.3.14. Having regard to the nature of the development, with poultry housed indoors on impermeable concrete floors, and the 'dry' system which eliminates any potential concerns that may arise with the storage of liquid manure, I consider that the only

potential risk to groundwater within the appeal site itself arises from leakage of the underground soiled water storage tanks or from the wastewater treatment system serving the office. The issue of land spreading of wash water outside of the appeal site is addressed below.

- 8.3.15. With regard to the proposed wastewater treatment system to serve the proposed office, a Site Characterisation Report was included in Appendix 15 of the EIS Addendum and updated in the response to further information. The site has a groundwater protection response of R1, indicating that such a system is acceptable, subject to normal good practice. The trial hole showed a 0.7m layer of gravelly/clay overlaying silt/clay. Percolation testing found a modified T value of 63.11 min/25mm indicating good percolation characteristics for the subsoil, and a P value of 14.01 min/25mm, indicating good percolation characteristics for the topsoil. Groundwater was not encountered, and bedrock was encountered at 1.5m.
- 8.3.16. Based on the proposed staffing at the facility of three, the loading on the system would be c. equivalent of 1 PE or 150 litres per day. The polishing filter as proposed accounts for this staffing level and is correctly sized, according to the subsoil conditions. It should be noted that the polishing filter design does not allow for any additional staffing at the location.
- 8.3.17. With regard to the soiled water tanks, it is stated that these will be inspected and certified on a regular basis in accordance with EPA requirements. Noting that the proposed development will require a licence from the EPA, and that it will therefore be subject to conditions and controls in relation to emissions, including emissions to water, I consider this approach to be reasonable.
- 8.3.18. The EPA has advised that activities such as the use of organic fertiliser beyond the boundary of the licensed site cannot be controlled by a condition of an IE licence. They have also advised that the licence cannot specify conditions governing and making the licensee liable for the use of organic fertilisers when it leaves the installation and that the recipient of the fertiliser is responsible for its management and use in accordance with the application regulations.
- 8.3.19. The applicant has submitted details in Appendix 6 of the 'location of farmland areas for the receipt of soiled water'. This comprises a single aerial photography with a code number. Further details in relation the spreading of wash water from the

cleaning of poultry houses on family lands are included in the NIS discussed below in Section 9 of this report.

- 8.3.20. As noted above, the land spreading of organic fertilisers must be undertaken in accordance with the SI No.113 of 2022 European Communities (Good Agricultural Practice for the Protection of Waters) Regulations 2022, as amended. These regulations deal with such matters as storage facilities for effluent and soiled water (minimum capacity); periods when their application to land is prohibited; minimum distances from wells, rivers etc, to be adhered to in spreading; the manner of application (e.g. not by upward-facing splash plate); keeping records of export to other named farmers; keeping records of use of chemical fertilisers; the duty of an occupier of land to prevent the application of fertilisers in excess of crop requirement (related to soil tests and stocking rates), etc.
- 8.3.21. The SI includes a number of Schedules relating to 1 soil test, 2 criteria as to storage capacity and nutrient management, 3 storage periods for livestock manure and 4 periods when application of fertilisers to land is prohibited (known as closed periods).
- 8.3.22. While it is accepted that the applicant has demonstrated that lands are available in the vicinity for the land spreading of the organic fertiliser, and that this will reduce the use of chemical fertilisers that are currently used on these lands, there is very little detail to assess fully the compliance with these Regulations.
- 8.3.23. The area around the proposed poultry houses will accept the soiled waters from the operation of the development, this area is assigned a land spreading groundwater protection response by virtue of the GSI's vulnerability rating and the aquifer classification, of R1 is acceptable subject to normal practice.
- 8.3.24. The land spreading of soiled waters shall not be carried out within 5 metres of any watercourse or drainage ditch. In addition to this the application of soiled water should not exceed 50m³ per hectare in any 42-day period or by irrigation rate exceeding 5mm per hour.
- 8.3.25. It is not normally useful or appropriate for a planning decision to attempt to regulate matters for which a separate, specific regulatory regime has been established by statute. The board is also under a general obligation to assume that a person will comply with their lawful obligations. The current application should therefore be assessed on the basis that the organic fertiliser generated in the development would

be utilised in accordance with the relevant Regulations outlined above. In these circumstances I consider that no significant adverse effects in respect of surface or groundwater are likely to arise as a result of the proposed development itself, or as a result of the land spreading of organic fertiliser arising.

8.4. Air Quality and Odour

- 8.4.1. The issues of air and odour are addressed in Section 7.4 of the EIAR, and Appendix 21 of the EIAR contains an Air Quality Impact Assessment. My assessment of this aspect of the EIAR is set out in Section 7.3 above.

8.5. Climate

- 8.5.1. The issue of climate is addressed in Section 7.5 of the EIAR. I do not consider that the proposed development would be likely to have a significant effect on climate. It is noted that the organic fertiliser arising from the proposed development will replace chemical fertilisers.

8.6. Landscape and Visual Impact

- 8.6.1. The issue of landscape and visual impacts is addressed in Section 7.6 of the EIAR.
- 8.6.2. The EIAR states that the site is located in the Muirhevna Plain, in the landscape classification, an extensive plain of predominantly agricultural activity. The topography of the site and the landholding is gently undulating drained by meandering Rivers Fane, Glyde and Dee. It states that there will be no significant adverse visual impact from the proposed development.
- 8.6.3. The proposed poultry houses would be set back from the public road by c. 275m. Existing mature hedgerows are present in proximity to the proposed poultry houses and there is a dense hedgerow/tree line along the roadside boundary of the field. It is proposed to construct a 4m x 2.5m soil bank with landscaping along the northern side of the access road, and along the western and northern sides of the poultry houses.
- 8.6.4. Having inspected the site and reviewed the drawings submitted, I consider that the orientation of the four proposed poultry houses parallel to the public road will serve

to reduce the apparent scale of the development, since the front poultry houses will partially block views of the two houses behind, except in oblique views. The relatively close grouping of the houses will also be of benefit in reducing the apparent scale of the development from outside of the site. The poultry houses, while very large in footprint, are relatively low in profile, with a maximum ridge height of c. 6-6.5m. The most visually prominent elements of the development on the skyline are the c.10m high feed silos. Notwithstanding this, the agricultural purpose of the structures will be readily apparent through the use of materials and green colour palette.

- 8.6.5. The EIAR states that excess soil will be utilised to construct the 2.5m x 4m landscaped soil banks which will provide a degree of screening to the proposed development.
- 8.6.6. Having regard to the agricultural nature and design of the proposed development, and noting the site topography, the existing mature tree and hedgerow planting and the proposed landscaping and screening banks, I do not consider that the proposed development would be unduly prominent within this rural setting, or that it would have a significant effect on the character of the landscape. In this regard I am satisfied, that where the proposed development is visible from the wider area, it will have at most a slight to moderate impact, and that it will not give rise to any significant adverse effects on the landscape.

8.7. Noise

- 8.7.1. The existing noise environment is described in Section 6.7 of the EIAR, and a description of noise impacts is contained in Section 7.7. This is supplemented by a site-specific Noise Impact Assessment Report, which is contained in Appendix 22 of the EIAR.
- 8.7.2. The appellants assert that that the planning conditions in the grant of permission do not address concerns in relation to noise and hours of operation, and that insufficient details are provided in the EIAR regarding noise.
- 8.7.3. The existing daytime background noise levels at the chosen noise sensitive locations (the houses to the northwest) was found to be 29 – 32 dBL_{A90}. Night-time background noise levels of 23 – 29 dBL_{A90} were found.

- 8.7.4. Regarding construction stage noise impacts, predicted noise levels are generally less than the maximum criteria of 65 dBL_{Aeq} for daytime noise contained in BS 5228-1. A series of construction phase noise mitigation measures are proposed, such as the limiting of construction hours, establishing channels of communication with residents and the Local Authority, selection of low-noise plant and machinery, maintenance of site roads etc. I consider these to be relatively standard good practice construction measures, and I consider that they should form part of a construction management plan to be submitted to the Planning Authority for agreement in writing prior to the commencement of development.
- 8.7.5. With regard to operational noise, I note at the outset that noise emissions will be subject to conditions and controls under the EPA licence that will be required for the facility. The main potential sources of noise are the poultry, trucks, ventilation fans and the generator. Noise surveys undertaken at an existing poultry farm found that the poultry are relatively inaudible at a distance of 3m from the poultry house. With regard to the ventilation fans, the assessment assumed a worst-case scenario that all fans would be operating continuously at full capacity. Allowing for a distance correction, this results in maximum noise levels of 25-30 dBL_{Aeq, T} at the Noise Sensitive Locations (NSLs), which is below the BS 5228-1 night-time threshold value. I note that the Noise Impact Assessment only addresses the noise impacts of the feed delivery trucks per week and does not address the relatively intense de-stocking/cleaning/re-stocking period at the end of each cycle. The attenuated noise level during a feed delivery is stated to be 29-34 dBL_{Aeq, 30min} at the NSLs, resulting in an imperceptible impact relative to background noise levels. I do not consider that the noise of poultry or organic fertiliser truck movements would be likely to significantly differ from feed delivery, and I do not consider that any significant effects would arise at the NSLs.
- 8.7.6. In conclusion, I am satisfied that the potential noise impacts of the proposed development have been appropriately addressed in terms of the application and the information submitted by the applicant and that no significant adverse effect is likely to arise.

8.8. Traffic

- 8.8.1. Section 7.8 of the EIAR relates to the traffic impact of the proposed development and is supplemented with a Traffic Impact Assessment in Appendix No.23. It estimates 1 load of fertiliser (i.e., manure) per week on average, 5 bird deliveries/ collections/ week, 4 feed deliveries per week and c.4 staff movements per day, waste, farm maintenance and veterinary traffic movements.
- 8.8.2. The EIAR spreads the traffic generation over a 7-week cycle to provide average weekly figures. It is stated that the proposed development would generate 262 vehicles over a typical 7-week cycle equating to 5.25 vehicles per day, with volumes of generated traffic rising to 14 vehicles during the bird removal process. I consider that the nature of the proposed development is such that this does accurately represent the likely pattern of traffic generation that would arise.
- 8.8.3. While feed deliveries are likely to be relatively constant across the year, the proposed operation of the poultry houses on an all-in/all-out basis will likely result in periods of very low traffic activity, with more intense 'bursts' of traffic activity every 5-6 weeks when c. 200,000 reared chickens and their manure are transported out of the facility, the facility is cleaned down, and c. 200,000 day-old chicks are transported into the facility over a relatively short (1-2 week) period.
- 8.8.4. In conclusion, while the overall traffic generation from the proposed development will likely be concentrated into the destocking/cleaning/restocking periods, I do not consider that the average or peak level of traffic generation would be so great as to result in any unacceptable direct or indirect impacts in terms of traffic.
- 8.8.5. The proposed access is via a local road which is narrow, less than 3m wide and between the site and the regional road there are two right angled bends. The local road is bounded by clay banks and hedges and narrow verges.
- 8.8.6. It is proposed in this application to make use of 4 existing layby's (all of which are located along the northern boundary of the landfill site) to facilitate pull in of one vehicle to allow oncoming vehicles to pass. The planning authority issued a further information request which requested more details in relation to these laybys, including an additional updated letter of consent to reflect the correct no. of laybys.

The further information request also sought clarification on the prohibition of a left turning lane.

- 8.8.7. Traffic safety is referred to in the grounds of appeal, where it is submitted that the previous reason for refusal no. 3 in relation to public safety by reason of a traffic hazard has not been addressed. Specifically, it is noted that the inadequacy of the width and alignment of the local road will remain unchanged, and provision of passing bays cannot address traffic safety issues arising from the HGV traffic which would be generated.
- 8.8.8. In response to the grounds of appeal the applicant has submitted further details which include a Roads and Traffic Report and Road Layout Drawing no. F2102-P05 showing HGV Auto Track to Bay's.
- 8.8.9. The proposed development will provide for a new bell mouthed agricultural access, and the local roads in the vicinity are relatively lightly trafficked, with good access to the Regional and National Road network.
- 8.8.10. As already noted, the former landfill site extends along the local road L6270, west of the site to almost as far as the site boundary. I am satisfied that the use of the layby's, and a prohibition of a left turning lane to the east of the site would adequately provide for the traffic associated with the proposed development. In my opinion the proposal with enhanced laybys' will improve the road for all users would not seriously compromise the safety and convenience of road users.
- 8.8.11. I am satisfied that adequate proposals to provide for the safe and convenient use of this minor local road from the west of the site have been presented. I am satisfied that the current proposals adequately address the previous reason for refusal.

8.9. Flora and Fauna

- 8.9.1. This section of my report should be read in conjunction with the Appropriate Assessment section below. Section 7.9 of the EIAR relates to the impacts of the proposed development on flora and fauna. It states that the site is currently intensively managed agricultural lands, and /or a small area of scrub/immature conifers, and that as a result the flora and fauna associated with the site has developed accordingly. It is noted that the area surrounding the appeal site is also generally in arable or grassland agricultural use. I would accept the applicant's

contention that the site is agricultural land and that it is not within or in close proximity to any sites designated for the protection of natural heritage. I also note the nature and design of the proposed development, with livestock housed within buildings on an impermeable floor, provision for the storage and removal of dead animals and soiled water, the use of a dry litter system which will minimise the potential for effluent generation and the use of a soakaway for clean storm water, rather than a discharge to any watercourse.

- 8.9.2. The appellants have raised concerns in relation to the removal of significant tracts of hedgerow which it is asserted would have a detrimental and irreversible effect on the local wildlife. While I accept that hedgerows will be removed as part of the proposed development, I would also note the extent of replanting, which in my opinion with time will support local wildlife.
- 8.9.3. If the Board are minded granting permission the planting of native trees and shrubs can be addressed by way of condition.
- 8.9.4. Having regard to these factors, I am satisfied that the proposed development would not have any unacceptable direct effects on flora and fauna on or near the site during its construction or operation.
- 8.9.5. With regard to the potential for indirect effects on flora and fauna arising from the use of organic fertiliser (soiled water spreading) on customer farmlands, the EIAR notes that this will be allocated and utilised in accordance with SI 605 of 2017, as amended, and concludes that there should be no negative impact on the flora and fauna of the area.
- 8.9.6. I note that S.I. No. 113 of 2022, as amended, i.e., the European Union (Good Agricultural Practice for Protection of Waters) Regulations, are prescriptive with prohibited areas, record-keeping etc. I also note that the lands in question are generally in tillage use, and that the land spreading of organic fertiliser (soiled water) will replace a portion of the chemical fertilisers which are already being used on these lands.
- 8.9.7. Noting that the use of the organic fertiliser on the landholding is subject to separate stringent and specific regulatory controls under S.I. No. 113 of 2022, as amended, and that the applicant has undertaken to, and indeed is obliged to, comply with these

requirements, I am satisfied that there will be no significant indirect effects on flora and fauna.

8.10. Special Policy Areas and Cultural Heritage

- 8.10.1. Section 7.10 of the EIAR relates to 'special policy areas', including Natura 2000 sites, which are addressed separately in this report. The EIAR states that there are no buildings/structures of architectural significance in the vicinity or likely to be impacted.
- 8.10.2. The site does not contain any identified features that are recorded or protected due to their significance with regard to archaeology or architecture.
- 8.10.3. I am satisfied that the proposed development is not likely to have a significant residual adverse effect on cultural heritage.

8.11. Population/Employment, Material Assets and Tourism

- 8.11.1. Section 7.11 of the EIAR relates to population and employment and generally relates to issues covered in Section 7.2 of this report.
- 8.11.2. Section 7.12 of the EIAR relates to material assets. I note that this section of the EIAR addresses properties and natural resources, with traffic being addressed separately. I have considered the potential likely effects on non-agricultural properties under the headings of noise and odour above, and I do not consider that the proposed development is likely to have a significant effect upon material assets.
- 8.11.3. Section 7.13 relates to tourism, I do not consider that the proposed development would be likely to have a significant effect, due to its siting, design and separation distances from receptors and public roads. Any potential effects on tourism arising from the spreading of organic fertilisers in the wider area, particularly with regard to odour, would be adequately addressed through the required compliance with S.I. No. 113 of 2022, as amended.

8.11.4. Cumulative Effects

Section 7.14 of the EIAR relates to cumulative effects. The EIAR, reasonably in my view, concludes that the proposed development will not have a significant cumulative effect on the environment and it is again reiterated that organic fertiliser (soiled

water) generated by the proposed development will be used as fertiliser in accordance with the strict requirements set out in S.I. 605 of 2017 (now superseded by S.I. No. 113 of 2022, as amended) and that it will reduce the use of imported chemical fertilisers. The EIAR also states that bio-security risks are minimised by utilising all manure in compost production.

The operation and management of the proposed development will also be undertaken under a licence from the EPA, which will help minimise any potential impacts on the environment.

8.12. Interactions of Effects

- 8.12.1. Section 8 of the EIAR relates to the interaction of effects. I have considered the interaction between the factors mentioned above and am satisfied that based on the information submitted by the applicant, including the measures put forward specifically in relation to odour, noise, discharge to ground and surface waters, and use of organic fertilisers in compliance with all relevant statutes, that the proposal is not likely to have a likely significant effect on the environment.

8.13. Environmental Management Programme

- 8.13.1. Section 9 of the EIAR states that the applicant will implement and maintain a comprehensive monitoring programme, governed by the requirements of the EPA Licence and other environmental legislation. It also states that an Organic Fertiliser Management Programme will be implemented, including the recording of all organic fertiliser transfers off the farm, and the allocations to the applicant's family landholding, as well as monitoring and maintenance programme for the development. I consider this approach to be reasonable, and while the applicant will be required to comply with the reporting and monitoring requirements of the required EPA Licence, I recommend that a suitable Condition should be included, should the Board be minded granting planning permission.

9.0 Appropriate Assessment

9.1. Background on the Application

The applicant has submitted a screening exercise for Appropriate Assessment as part of the Natura Impact Statement (NIS) provided with the planning application and prepared by Whitehill Environmental Consultants. It is included as Appendix 13 of the EIAR.

This Stage 1 AA screening exercise provides a description of the proposed development and identifies those European Sites within a possible zone of influence of the development. It has concluded that the proposed development will not cause any significant negative impacts upon the integrity of any Natura 2000 sites; These include;

- Stabannan-Braganstown SPA
- River Boyne and Blackwater SAC
- River Boyne and Blackwater SPA
- Dundalk Bay SAC
- Dundalk Bay SPA
- The Boyne Estuary SPA
- The Boyne Estuary SAC
- Clogher Head SAC

Having reviewed the documents and submissions provided, I am satisfied that there is adequate information to allow for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

9.2. Screening for Appropriate Assessment Test of likely significant effects

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the proposed development is likely to have significant effects on a European site(s).

The proposal is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

9.3. Brief Description of the development:

The applicant provides a description of the project in section 3 of the NIS. I refer the Board to section 2 of this report.

9.4. Designated sites within Zone of Influence

In determining the zone of influence, I have had regard to the nature and scale of the project, the distance from the site to the European Sites, and any potential pathways which may exist from the site to a European Site. The site is not within or directly adjacent to any European Site.

The proposed development is in Rathescar Middle/Gunstown/Whiteriver, Dunleer, Co. Louth.

The site is situated within the Newry Fane Glyde and Dee hydrometric catchment area, the Dee sub-catchment and White (Louth) sub-basin.

There are open drains within the application site and clean surface water from the farm will be directed to these drains. Water in these drains is likely to flow south towards the White River which is 728m south of the application site.

The White River flows east and then north until its confluence with the River Dee at a point approx. 6.7km northeast of the application site. The River Dee flows into the sea at Annagassan.

Dundalk Bay is located c.18km downstream of the site and forms part of the Dundalk Bay SAC, and Dundalk Bay SPA.

According to (the EPA database of rivers and streams) the White River is classified as varying from 'good' to 'poor' ecological status but their risk of not achieving a high-water quality status is currently under 'review' (EPA, 2021).

The site is not located within or directly adjacent to any Natura 2000 sites. The following sites are located within 15km of the site.

Site Name	Designation	Site Code	Distance	Direction
Stabannan-Braganstown	SPA	004091	7.1km	N
River Boyne and Blackwater	SAC	002299	8.5km	S
River Boyne and Blackwater	SPA	004232	9.6km	S
Dundalk Bay	SPA	004026	10.6km	NE
Dundalk Bay	SAC	000455	10.6km	NE
The Boyne Estuary	SPA	004080	13.2km	SE
The Boyne Estuary	SAC	001957	13.8 km	SE
Clogher Head	SAC	001459	14.5km	E

Given the potential impacts arising on these sites from deterioration in water quality during the construction and operation of the site itself, impacts due to land spreading and impacts due to atmospheric emission all 8 of these Natura sites have been screened in for further consideration out of an abundance of caution.

The site is hydrologically connected to the Dundalk Bay SPA and SAC via open drains within the application site where clean surface water from the farm will be directed to and water in these drains is likely to flow south to the White River and eventually drains into Dundalk Bay. Dundalk Bay SPA and SAC form part of Dundalk Bay and are located 10.6km E of the site.

Therefore, both these Natura 2000 sites have been screened in for further consideration.

- 9.4.1. The NIS concludes that whilst the development is 18km upstream of the Dundalk Bay SAC/SPA impacts on these Natura 2000 sites are considered unlikely given the hydrological distance and dilution effect that would be achieved, the inert nature of the development, which is indoor rearing of poultry, along with the fact that there will be no significant storage of effluent on site.

9.5. **Submissions and Observations;**

All submissions and observations received from interested parties are set out in Section 3.0 of this report while section 6.0 details the grounds of appeal and the responses to same received from the applicant and the Planning Authority.

9.6. European Sites:

9.6.1. A summary of the European Sites that occur within the possible zone of influence of the development is presented in the table below.

European Site	Qualifying Interest/Special Conservation Interest	Distance from the proposed development	Connections(source-pathway-receptor)	Considered Further in Screening
Stabannan-Braganstown SPA Site Code 004091	Greylag Goose	7.1km N	No-source-pathway-receptor to this site. Impacts are unlikely.	No
River Boyne and Blackwater SAC Site Code 002299	River Lamprey Salmon Otter Alkaline Ferns Alluvial forests with alder	8.5km S	No source-pathway-receptor to this site. No groundwater hydrological link.	No
River Boyne and Blackwater SPA Site Code 004232	Kingfisher	9.6km S	No source-pathway-receptor to this site. No groundwater hydrological link.	No
Dundalk Bay SAC Site Code 004026	Estuaries Mudflats and sandflats not covered by seawater at low tide Perennial vegetation of stony banks Salicornia and other annuals colonising mud and sand Atlantic salt meadows Mediterranean salt meadows	10.6km NE (18km downstream)	There is a potential source-pathway-receptor from the appeal site which is at risk of contaminated surface water runoff from construction and operational stages of the development.	Yes
Dundalk Bay SPA Site Code	Great Crested Grebe Greylag Goose	10.6km NE (18km downstream)	There is a potential source-pathway-receptor from the appeal site which is at	Yes

000455	Light-bellied Brent Goose Shelduck Teal Mallard Pintail Common Scoter Red-breasted Merganser Oystercatcher Ringed Plover Golden Plover Grey Plover Knot Dunlin Black-tailed Godwit Bar-tailed Godwit Curlew Redshank Black-headed Gull Common Gull Herring Gull Wetland and Waterbirds		risk of contaminated surface water runoff from construction and operational stages of the development.	
The Boyne Estuary SPA Site Code 004080	Shelduck Oystercatcher Golden Plover Grey Plover Lapwing Knot Sanderling Black-tailed Godwit Redshank Turnstone Little Tern Wetland and Waterbirds	13.2km SE	No source-pathway-receptor to this site. No groundwater hydrological link.	No
The Boyne Estuary SAC Site Code 001957	Estuaries Mudflats and sandflats not covered by seawater at low tide	13.8 km SE	No source-pathway-receptor to this site. No groundwater hydrological link.	No

	Annual vegetation of drift lines Salicornia and other annuals colonising mud and sand Atlantic salt meadows Embryonic shifting dunes Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) Fixed coastal dunes with herbaceous vegetation (grey dunes)			
Clogher Head SAC Site Code 001459	Vegetated sea cliffs of the Atlantic and Baltic coasts European dry heaths	14.5km east	No source-pathway-receptor to this site. No groundwater hydrological link.	No

Specific conservation objectives have been included for the SPA and SAC which is to maintain or restore the favourable conservation status of habitats and species.

9.7. Identification of Likely Effects:

The proposed development is on a site with hydrological connections to Dundalk Bay SPA and SAC via land drains and streams. The conservation objective for this Natura 2000 site is to maintain or restore the favourable conservation condition of species and as listed as Qualifying Interest (QI) or Special Conservation Interests (SCI) above.

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, there is potential for significant effects upon this Natura 2000 site arising from construction activities associated with the proposed development, as well as during operation. The following issues are considered for examination in terms of implications for likely significant effects on European sites:

Construction related pollution: Possibility that the release of sediment and pollutants from the proposed development into the White River and further

downstream in the Dundalk Bay SPA and Dundalk Bay SAC could have detrimental impacts on fish and other wildlife.

Habitat loss/fragmentation: With regard to habitat loss and fragmentation, given the site is not located within or adjoining any European sites, there is no risk of direct habitat loss impacts and there is no potential for habitat fragmentation.

Habitat disturbance / species disturbance: The site does not support suitable habitats for protected species associated with the SPA or SAC's, therefore no ex-situ impacts arise.

Operational use: There is no direct pathway via groundwater, air or land to Natura 2000 sites and the nearest European site is 7.1km from the proposed development. There is a potential direct pathway to the Dundalk Bay SPA and Dundalk Bay SAC via land drains and streams in the proximity of the site. In the absence of mitigation, an accidental pollution event could occur during the construction phase of the proposed development arising from polluting materials, such as accidental spillage of oil, sediments and concrete, entering the streams via land drains and being transported downstream could have detrimental impacts on habitats or species for the Dundalk Bay SPA and SAC.

I do not consider that any other European sites fall within the zone of influence of the project based on a combination of factors including the nature and scale of the project, the distance from the site to European sites, and any potential pathways which may exist from the development site to a European site. See also Table 5.1 of the applicant's NIS in relation to Screening, the conservation objectives of Natura 2000 sites, the lack of suitable habitat for qualifying interests, as well as by the information on file, and I have also visited the site.

9.8. **Screening Determination**

The proposed development was considered in light of the requirements of Section 177U of the Planning and Act 2000 as amended. Having carried out screening for appropriate assessment of the project, it has been concluded that the potential for significant effects on European Site Dundalk Bay SPA (Site Code 000455) and Dundalk Bay SAC (Site Code 004026) as a result of the project individually or in combination with other plans or projects cannot be excluded in view of the

Conservation Objectives of that site, and Appropriate Assessment is therefore required.

9.9. Stage 2 Appropriate Assessment

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and development Act 2000 (as amended) are considered fully in this section. The areas address in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statements and associated documents
- Appropriate assessment of implications of the proposed development on the integrity of the European site.

9.10. Compliance with Article 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 before consent can be given.

The proposed development at Rathescar Middle/Gunstown/Whiteriver, Dunleer, Co. Louth, located in a rural area is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

9.11. Screening Determination

Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development individually or in-combination with other

plans or projects will have a significant effect on the following European site (i.e., there is the possibility of significant effect):

- The Dundalk Bay SPA (Site Code 000455)
- The Dundalk Bay SAC (Site Code 004026)

9.12. The Natura Impact Statement

The application has been accompanied by a 'Natura Impact Statement' at Rathescar Middle, Dunleer, Co. Louth and prepared by Whitehill Environmental Consultants which examines and assesses the potential adverse effects of the proposed development on the Dundalk Bay SPA (Site Code 000455) and Dundalk Bay SAC (Site Code 004026). It has been informed by a desk-top analysis of various source material as well as an Ammonia Impact Assessment carried out by Irwin-Carr Consulting.

The NIS includes a description of the project and the receiving environment and is stated to be based on standard methods and current best practice guidance including.

- Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities (DoEHLG,2009),
- Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Article 6(3) and (4), E.E.2002

It outlines the characteristics of the relevant designated site while Section 4 sets out the potential impacts arising from the construction and operational phases of the development on each of the European Sites. Based on the nature of the proposed development in the absence of mitigation the proposed development may act in combination to increase the scale on the downstream Dundalk Bay SPA and Dundalk SAC and mitigation is therefore required.

The NIS thus concludes as follows:

'It is considered that following mitigation, that the proposed project does not have the potential to significantly affect the conservation objectives of these aforementioned Natura 2000 sites and the integrity of these sites as a whole will not be adversely impacted for the following reasons :.....'

'It is considered that the proposed works do not have the potential to significantly affect the conservation objectives or qualifying interest of the Natura 2000 sites. The integrity of the sites will not be adversely affected.'

Having reviewed the documentation available to me, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the European sites listed above, alone or in combination with other plans and projects.

9.13. Appropriate Assessment of implications of the proposed development

The following is a summary of the detailed scientific assessment of the implications of the project on the qualifying interest features of the Dundalk Bay SPA (Site Code 000455) and Dundalk Bay SAC (Site Code 004026). All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed. I have relied on the following guidance:

- DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service.
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC.
- EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC.

9.14. European Sites:

The relevant European sites subject to Stage 2 Appropriate Assessment are as follows:

- Dundalk Bay SPA (Site Code 000455)
- Dundalk Bay SAC (Site Code 004026)

A description of the sites and the Conservation and Qualifying Interests /Special Conservation Interests is set out in Section 4.2 of the NIS as well as the screening assessment set out above. I have also examined the Natura 2000 data forms where

relevant and the Conservation Objectives supporting documents for this site available through the NPWS website (www.npws.ie)

The main aspects of the proposed development that could adversely affect the conservation objectives of European sites include:

- Impacts to water quality arising from pollution from surface water run-off during site preparation and construction.
- Impacts to water quality arising from pollution from surface water run-off during operation.
- Impacts arising on designated sites arising from atmospheric emissions from the site.
- Potential impacts on water quality in local watercourses associated with the use of wash water from the proposed development on family lands surrounding the site.

9.15. Evaluation of Likely Effects

Potential for Direct Impacts:

Given the site location outside any SAC or SPA, the proposed development will not directly impact on any natura 2000 site through the loss or fragmentation of habitats listed as qualifying interests.

Potential for Indirect & Secondary Impacts:

Impacts to water quality arising from surface water discharge that contains suspended solids and/or pollutants at the construction stage:

Dundalk Bay SPA (Site Code 000455) and Dundalk Bay SAC (Site Code 004026)

The Dundalk Bay SPA and Dundalk SAC are located c.10.6km from the proposed site.

The proposed development is connected to the Dundalk Bay SPA and Dundalk Bay SAC via the White River (which is 728km south of the application site) which flows east and then north until its confluence with the River Dee at a point approx. 6.7km northeast of the application site. The River Dee flows into the sea at Annagassan. Therefore, potential pathways via surface water cannot be screened out of the

assessment given the potential of polluting materials from the proposed development being transported downstream causing a deterioration in water quality which could detrimentally affect the Special Conservation Interest (SCI) for the Dundalk Bay SPA and Dundalk Bay SAC.

Potential pathways via air and land are screened out due to the distance.

Potential impacts via groundwater are not likely to be significant based on the nature of the QI of the SPA and SAC and their supporting habitats to groundwater water pollution. The habitat suitability of the application site for SPA bird species is also ruled out.

To address potential indirect effects due to surface water pollution (construction phase) pollution-prevention measures will be employed during construction works, in order to avoid or minimise the risk of impacts on the SPA and SAC.

9.16. Proposed Mitigation

Mitigation measures are proposed. Measures to protect certain designated sites and species, to protect local biodiversity of the surrounding area, and to ensure the protection of local wildlife.

Section 5 of the submitted NIS describes protective measures to be implemented during the construction / operation of the proposed development to avoid potential impairment of water quality and adverse effects on the SPA and SAC. This sets out that measures/actions have either avoided or reduced the potential for the proposed development to affect the conservation objectives of the identified European site:

- All works to be carried out in accordance with the submitted NIS.

Construction / operation:

- The construction and operation of the proposed farm will comply with the European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2017 (SI 605 of 2017).
- Guidelines within the Department of Agriculture's Explanatory Handbook for Good Agricultural Practice Regulations will also be followed.
- The proposed farm structures will adhere to the Department of Agriculture's Farm Buildings and Structures Specifications. Before use, they will undergo an integrity

test that is performed by a suitably qualified person. They will be inspected regularly for deficiencies.

- Manure, slurry and soiled water storage facilities will be constructed to Department of Agriculture, Food and The Marine specifications. They will be inspected regularly.

Sediment Control Measures

- Site preparation and construction will be confined to the development site only and will adhere to all standard best practice measures. Work areas will be kept to the minimum area required to carry out the proposed works and the area will be clearly marked out in advance of the proposed works.
- There will be no discharges of contaminated waters to ground or surface waters from these developments. Post construction surface water run-off from hardcore / concreted / tarmac areas will be directed into a soak-pit. If soak-pit disposal is not viable or practical, then surface water run-off from these areas will be treated via serviced sediment and oil interceptor traps, prior to discharge into any watercourse. All silt drains and farmyard discharge will be in accordance with the specifications within the Department of Agriculture's Minimum Specifications for Farmyard Drainage, Concrete Yards and Roads.
- Any excavated material arising from the construction process will not be disposed of within any designated site. It will be used responsibly within the boundary of the application site or disposed of in a licensed facility using a registered contractor.

Hydrocarbons and chemicals

- Fuels, oils, greases and hydraulic fluids will be stored in a bunded compounds well away from watercourses. Refuelling of machinery etc, will be carried out in bunded areas. Any bulk fuel storage tank will be properly bunded with a bund capacity of at least 110% of that of the fuel tank. Stockpile areas for sands and gravels will be kept to a minimum size, well away from the drains and watercourses.
- Any additional mitigation measures as recommended by IFI in their submission will also be adhered to. It is noted in the appeal that the IFI have not commented on the application, and this would indeed appear to be the case.

- The storage and handling of all wastes and fertilisers on site will be in accordance with SI 605 of 2017.
- It is illegal to remove hedgerows / treelines during the bird nesting season (September – March). Riparian verges along local streams and watercourses will not be damaged during the construction or operation. Any landscaping will involve the planting of native Irish species that are indigenous to the site. Suitable species will include birch, oak, willow and alder.

Atmospheric Emissions

Section 5.2 of the submitted NIS describes the assessment and mitigation measures proposed to limit atmospheric emissions including ammonia and nitrogen. The NIS concluded that with mitigation the proposed development will have no impact upon the Stabannon-Braganstown SPA which is 7.1km from the application site.

Significant atmospheric emissions arising from agricultural developments can have negative impacts on designated sites and their sensitive vegetation communities. Some vegetation communities are more sensitive to ammonia and nitrogen than others. The proposed development will lead to atmospheric emissions, mainly in the form of ammonia and nitrogen. A SCAIL model (Simple Calculation of Atmospheric Impact Limits) was run to determine the potential impacts on the Natura sites. This is included in the Air Quality Impact Assessment Report carried out by Irwin Carr and included as Appendix 21.

Ammonia - Table 8 of the NIS sets out for each designated site: the background concentration of NH₃, the process contribution, the total concentration, the critical load, and the % of the CL (critical level) range (represented by the process contribution). It states that the SCAIL model was very conservative and the actual ammonia emissions are likely to be much lower. In addition, the prevailing winds will carry most of the emissions from the site away from these designated areas.

Nitrogen – Table 9 sets out, for each designated site: the background concentration of N, the process contribution, the total concentration, the critical load, and the % of the CL range represented by the process contribution. It states that in some SAC's the habitat qualifying interest are listed as not being sensitive to nitrogen deposition.

Land spreading and Farm Operation

Section 5.3 of the submitted NIS describes the impact of land spreading and farm operation. In order to avoid any reductions in water quality within the catchment as a whole, all organic fertiliser (including wash water) will be used in accordance with S.I. 605 of the 2017 European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2017.

Considering the low level of nutrients in this wash water, combined with the hydrological separation between the lands and the Dundalk Bay SAC/SPA the use of this soiled water will not give rise to significant effects upon these sites.

The NIS notes that the primary parties responsible for the implementation of these measures include the applicant, project manager and construction contractors. It will be the responsibility of the Local Authority to enforce these measures along with input from the Department of Agriculture.

An appropriate condition in this regard should be attached to any grant of permission if it is forthcoming.

NIS Conclusion

The NIS concludes that whilst the development is 18km upstream of the Dundalk Bay SAC/SPA impacts on these Natura 2000 sites are considered unlikely given the hydrological distance and dilution effect that would be achieved, the inert nature of the development, which is indoor rearing of poultry, along with the fact that there will be no significant storage of effluent on site.

These measures will reduce the likelihood and magnitude of pollution events to negligible levels, thus preventing a significant negative impact on the conservation status of the qualifying interests (aquatic and habitats) of the Dundalk Bay SPA (Site Code 000455) and Dundalk Bay SAC (Site Code 004026) or any other Natura 2000 sites. It is considered that the implementation of these measures ensures that any direct or indirect impacts to the conservation objectives supporting the QI/SCI species of the Dundalk Bay SPA (Site Code 000455) and Dundalk Bay SAC (Site Code 004026) will not arise and will ensure that adverse effects on site integrity are avoided.

Having regard to the measures outlined as well as the application of best practice construction methods and operational practices I am satisfied that direct or indirect effects on the SPA and SAC can be ruled out with confidence.

I consider that the proposed mitigation measures set out in the NIS, are clearly described, are reasonable, practical and enforceable. I am also satisfied that the measures outlined fully address any potential impacts arising from the proposed development and that it is reasonable to conclude on the basis of objective scientific information, that the proposed development would not have an adverse effect on the Dundalk Bay SPA (Site Code 000455) and Dundalk Bay SAC (Site Code 004026).

9.17. In-Combination Effects

The site at Rathescar Middle/Gunstown/Whiteriver, Dunleer, Co. Louth, is located in a rural area. Construction on this site will create localised light, dust and noise disturbance. I conclude:

- The principal sources of in-combination effect arise from land spreading outside the site and run off of contaminated surface water to the local drains during the operational phase. With mitigation measures to prevent and minimise this there is no potential for a significant adverse effect due to in combination effects.
- The surface water drainage has been designed to cater for the entire development and there is no potential for a significant adverse effect due to in-combination effects.

9.18. Integrity Test

Following the Appropriate Assessment and the consideration of mitigation measures, I can ascertain with confidence that the project would not adversely affect the integrity of the Dundalk Bay SPA (Site Code 000455) and Dundalk Bay SAC (Site Code 004026) in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

9.19. Appropriate Assessment Conclusion

The proposed data centre development at lands at Rathescar Middle, Dunleer, Co. Louth has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Having

carried out a Stage 1 Appropriate Assessment Screening of the project, it was concluded that it may have a significant effect on the Dundalk Bay SPA (Site Code 000455) and Dundalk Bay SAC (Site Code 004026). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of that site in light of its conservation objectives.

Following a Stage 2 Appropriate Assessment, it has been determined that subject to mitigation (which is known to be effective) the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site Dundalk Bay SPA (Site Code 000455) and Dundalk Bay SAC (Site Code 004026) or any other European site, in view of the sites Conservation Objectives.

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Dundalk Bay SPA (Site Code 000455) and Dundalk Bay SAC (Site Code 004026)

10.0 Recommendation

10.1. I recommend that planning permission should be **granted**, subject to conditions, for the reasons and consideration as set out below.

11.0 Reasons and Considerations

Having regard to:

- a) the policies and objectives set out in the Louth County Development Plan 2021-2027 which support agriculture;
- b) the agricultural nature of the proposed development in a rural location, where such a use is appropriate;
- c) the pattern of development in the area;

- d) the fact that the proposed development will be subject to a licence from the Environmental Protection Agency,
 - e) the requirements of the European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2022 (SI No. 113 of 2022), as amended;
- and

it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, would generally be acceptable in terms of traffic safety and would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 17th December 2021 as amended by the further plans and particulars submitted on the 4th March 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The best practice methods, mitigation measures and monitoring commitments identified in the Environmental Impact Statement, Noise Impact Assessment, Air Quality Impact Assessment, Traffic Impact Assessment, Appropriate Assessment Screening Report and other plans and particulars submitted with the planning application, as amended by the further plans and particulars submitted on the 4th March 2022, shall be implemented in full by the developer, except as may otherwise be required in order to comply with the following conditions.</p> <p>Reason: In the interest of clarity and protection of the environment.</p>

3.	<p>Details of the finishes of the poultry houses and feed silos shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In order to allow the planning authority to assess the impact of these matters on the visual amenity of the area before development commences and in the interest of orderly development.</p>
4.	<p>The poultry houses shall be used only in strict accordance with a management schedule which shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The management schedule shall be in accordance with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2022, as amended, and shall provide at least for the following:</p> <p>(a) Details of the number of birds to be housed.</p> <p>(b) The arrangements for the collection, storage and disposal of manure, effluent, dead animals and waste products.</p> <p>(c) Arrangements for the cleansing of the buildings and structures (including the public road, where relevant).</p> <p>Reason: In order to avoid pollution and to protect residential amenity.</p>
5.	<p>All liquid effluent and any other contaminated run-off generated by the proposed development shall be conveyed through properly constructed channels to the proposed storage facilities and no effluent or other contaminated run-off shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road.</p> <p>Reason: In the interest of public health.</p>
6.	<p>All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to the proposed swale and soakaway system and shall not discharge or be allowed to discharge to the foul effluent drains, foul effluent tanks or to the public road.</p> <p>Reason: In order to ensure that the capacity of effluent storage tanks is reserved for their specific purposes.</p>

7.	<p>Poultry manure generated by the proposed development shall be disposed of by means acceptable in writing to the planning authority. Disposal of poultry manure shall be in accordance with the requirements of the European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2022, as amended. No land spreading of organic fertiliser generated from the operation of the proposed poultry houses shall take place.</p> <p>Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of watercourses.</p>
8.	<p>Organic fertiliser shall be taken offsite by the contractor/haulier as stated in the application. This contractor must be registered with the Department of Agriculture Food and Marine and the organic fertiliser shall be utilised in accordance with the requirements of the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022, as amended.</p> <p>Reason: In the interest of environmental protection and public health.</p>
9.	<p>Details of all appropriate structural upgrades of the road for a minimum distance of 25m either side of the entrance shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: Due to the nature of the development and the significant increase of HGV traffic volumes on the Local Secondary Road, (LS-6270), particularly during the construction period and specifically the increase in HGV turning manoeuvres at the proposed vehicular entrance.</p>
10.	<p>Access to the proposed poultry houses shall be only by the route detailed in Figure 6.1 in Appendix No.23 of the EIAR received on 17th December 2021. This access route shall be utilised for both the construction and operation of the proposed poultry houses.</p> <p>Reason: In the interests of traffic safety.</p>
11.	<p>Adequate visibility for a minimum distance of 75 metres on either side of the site entrance from a point 4.5metres back in from the edge of the road</p>

	<p>carriageway over a height of 1.05 metres – 0.6 above road level at the site entrance shall be made available as indicated on drawing no. PL09 received on 4th March 2022.</p> <p>Reason: In the interest of traffic safety.</p>
12.	<p>No impediment to visibility shall be placed, planted and/or to remain within the visibility triangle. Where it is necessary to remove hedges/banks/walls/service poles to provide adequate sightline visibility, this work must be completed prior to the commencement of any development works on site. Any proposed new boundary hedge/wall shall be located behind the visibility splay. Any pole, column, vegetation, tree or sign materially affecting visibility must also be removed/relocated with consent obtained from the relevant authority to do so.</p> <p>Reason: In the interests of traffic safety.</p>
13.	<p>a) No work shall commence on site until the visibility splays and the lay-bys as detailed in Appendix No.23 of the EIAR and as indicated on submitted Drawing Nos F2102-P02, PL08, PL08a, PL08b and PL08c received on 4th March 2022 have been constructed to the written satisfaction of the Planning Authority.</p> <p>b) The area within the visibility splay shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and shall be retained and kept clear thereafter.</p> <p>c) The lay-bys shall be suitably surfaced and shall not impact on the existing boundary fence to the Whiteriver Landfill Site and shall not encroach on the Landfill site in any way. The materials to be used to construct the lay-bys in addition to the construction methodology shall be submitted for the written agreement of the Planning Authority prior to commencement of development.</p> <p>Reason: In the interest of traffic safety and proper planning and development.</p>
14.	<p>The applicant shall be responsible for the full costs of repair in respect of any damage caused to the adjoining public road arising from the</p>

	<p>construction work and shall either make good any such damage forthwith to the satisfaction of Louth County Council or pay to the Council the cost of making good any such damage on a demand thereof being issued by the Council.</p> <p>Reason: In the interests of traffic safety and proper planning and development.</p>
15.	<p>Surface water from the site shall be disposed of within the boundaries of the site and shall not discharge onto the public road or adjoining property. Road drainage across the entrance and along the public road shall not be impeded or interrupted in any way. The applicant must construct the surface water drainage as detailed in Appendix No. 20 of the EIAR and manage and operate the whole of this system as long as the proposed facility remains in operation.</p> <p>Reason: In the interest of traffic safety and proposed planning and development.</p>
16.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <p>(a) A plan to scale of not less than 1:500 showing –</p> <p>(i) The species, variety, number, size and locations of all proposed trees and shrubs.</p> <p>(ii) Details of screen planting.</p> <p>(iii) Hard landscaping works.</p> <p>(b) A timescale for implementation.</p> <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others</p>

	<p>of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interests of residential and visual amenity.</p>
17.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, traffic management measures, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
18.	<p>The developer shall prepare, update accordingly and communicate to all site personnel a Construction Environmental Monitoring Plan (CEMP). The CEMP shall include, but not be limited to, operational controls for dust, noise and vibration, waste management, protection of soils and groundwaters, protection of flora and fauna, site housekeeping, emergency response planning, site environmental policy, environmental regulatory requirements and project roles and responsibilities. The CEMP shall be treated as a live document.</p> <p>a) Dust emissions shall not exceed 350 milligrams per square metre per day.</p> <p>(b) All refuelling shall take place in a designated refuelling area at least 30 metres from watercourses, details of same to be included in the CEMP.</p> <p>(c) All hydrocarbons, chemicals, oils, et cetera, shall be stored in a dedicated bunded area at least 30 metres from watercourses and capable of storing 110 per cent of the container/tank capacity.</p> <p>(d) All permanent tanks shall be bunded and capable of storing 110 per cent of the tank's capacity.</p>

	<p>(e) The applicant shall ensure adequate supply of spill kits and hydrocarbon absorbent pads are stocked and maintained onsite for both construction and operational stage.</p> <p>(f) All waste generated during construction, operation or decommissioning, including surplus excavation material to be taken off-site, shall be only recovered or disposed of at an authorised site which has a current Waste Licence or Waste Permit in accordance with the Waste Management Acts, 1996, as amended. This shall not apply to the reuse of excavated material within the applicant's site boundary. The applicant shall retain and make available for inspection, all records relating to the movement, recovery or disposal of waste from the development site.</p> <p>Reason: In the interests of public health, sustainable waste management, orderly development and to provide for the protection of the environment.</p>
19.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
20.	<p>a) The proposed effluent treatment and disposal system serving the proposed office building shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses – Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>(b) Within three months of the first occupation of the office building, the developer shall submit a report from a suitably qualified person with</p>

	<p>professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>
21.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Susan McHugh
Senior Planning Inspector

5TH March 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-313378-22			
Proposed Development Summary	Construction of 4 poultry houses. EIAR and NIS submitted planning application. This application relates to a development which is for the purposes of an activity requiring a Licence under Part IV of the Environmental Protection Agency (Licensing) Regulations 1994 to 2013			
Development Address	Rathescar Middle/Gunstown/Whiteriver, Dunleer, Co Louth.			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes	✓		EIA Mandatory EIAR required	
No			Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required

Yes	✓			Proceed to Q.4
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4. Has Schedule 7A information been submitted?				
No				Preliminary Examination required
Yes	✓			Screening Determination required

Inspector: _____ Date: _____