



An
Bord
Pleanála

Inspector's Report

ABP-314014-22

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| Development | Construction of a poultry house, concrete apron, clean & soiled water storage tanks, and carry out all associated ancillary site works |
| Location | Knocknabooly East , Foynes , Co. Limerick |
| Planning Authority | Limerick City and County Council |
| Planning Authority Reg. Ref. | 21909 |
| Applicant(s) | Denis McEnery |
| Type of Application | Permission |
| Planning Authority Decision | Grant Permission with Conditions |
| Type of Appeal | Third Party |
| Appellant(s) | Natalie O'Connor and others. |
| Observer(s) | None. |
| Date of Site Inspection | 19 th February 2024 |

Inspector

Rónán O'Connor

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1.0 Site Location and Description

1.1. The site is located in the townland of Knocknabooly East and approximately 3km southeast of Loghill and 4km southwest of Foynes. The site is accessed via a local road and comprises of an agricultural field. The area is generally agricultural in character, with a number of dwellings on either side of the local road, and within the wider area.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a poultry house, concrete apron and clean and soiled water tanks..
- 2.2. The proposal is to construct a poultry house of 3070 sq. m. to accommodate 39,000 free range birds. The application details that there will be 5 no. batches produced per year. The birds are housed for a period of 8 weeks with a 2 week rest period allowed thereafter to allow for cleaning etc.
- 2.3. A storage tank with capacity to store 26 weeks of soiled water is included in the proposal. The wash water is to be spread on the applicant's own land.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Grant permission [date of decision 14th June 2022] with conditions. Conditions of note include:
- Condition No. 8; Max 39,000 free range birds on a minimum of 3.9 ha/ revised drawing should location of lands to which poultry will access resulting from moving location of proposed development southwards and further down gradient.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports
- 3.2.2. The first Planner's report (signed 13th August 2021) is summarised below:
- Notes that access to the property is via a very narrow road

- Notes that the existing road is a local road with restricted sightlines
- Notes location of the proposed Poultry Building is on top of existing high ground
- Notes that details in relation to effluent storage calculations were submitted as unsolicited further information on 1st April 2019/submission was considered acceptable/Planning Authority has not objection to the proposed development
- Refers to Roads report which has requested Further Information.

3.2.3. Further Information was requested on 18th August 2021 in relation to:

1. Revised location for the poultry shed at a lower point
2. Report from a qualified Environmentalist detailing *inter alia* lands allocated for the proposed free range development, details of - litter production/disposal; wash water; soiled water tank; leak detection system, Noise Survey, Pest Control Plan, Odour Management Plan, disposal of dead birds
3. Hydrogeological Survey inc impact on groundwater/wells
4. Noise assessment
5. Details of sightlines, stopping sight distances, autotracking for large HGVs, access roads
6. Revised Surface Water Disposal Design

3.2.4. Further Information was received on 21st February 2022.

3.2.5. The second Planner's report (signed 16th March 2022) is summarised below:

- Refers to contents of Internal Reports.
- Notes revised location of proposed shed/states it would remain at an elevated location along a localised ridge/a revised proposal should be submitted
- Notes contents of Further Information response.

3.2.6. Clarification of Further Information was requested on 15th March 2022 in relation to the following:

- Location of poultry shed.

3.2.7. Significant Further Information was submitted on 28th April 2022

3.2.8. The third Planner's report [dated 10th June 2022] is summarised below.

- Note shed/poultry house has been moved in line with FI requested/red line boundary was amended therefore information received was deemed significant.
- Notes contents of third party objection received/considers issues have been dealt with by relocation of existing development further back
- No outstanding matters of concern.
- Recommended that permission be granted subject to 26 no. conditions.

3.2.9. Other Technical Reports

Roads Report [dated 6th August 2021] - Details of sightlines, stopping sight distances, autotracking for large HGVs, access roads required / Revised Surface Water Disposal Design

Environment [dated 9th August 2021/follow-up email dated 10th August 2021] - Report required from a qualified Environmentalist detailing *inter alia* lands allocated for the proposed free range development, details of - litter production/disposal; wash water; soiled water tank; leak detection system, Noise Survey, Pest Control Plan, Odour Management Plan, disposal of dead birds; Hydrogeological Survey required inc impact on groundwater/wells;

Noise (PEMP) [email dated 10th August 2021] - Noise assessment required

Archaeologist [dated 16th August 2021] – Recommends conditions

3.2.10. The following reports are referred to in the second planner's report:

Noise (PEPM) [email dated 9th March 2022] – unlikely to be an adverse impact to the nearest noise sensitive receptors/no objection based on the acoustic report.

Area Roads Engineer [dated 3rd March 2022] – Recommends conditions

Roads Central Services [dated 3rd March 2022] – Recommends conditions

Council Hydrologist [dated 14th March 2021 following receipt of Further Information] – Condition recommended

Agricultural Scientist: [Email dated 15th March] – outlining conditions

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. 1 no. third party submission (on behalf of Natalie O'Connor, Anthony Hannafin, Jerry & Imelda Noonan, Jules Sweeney, Margaret Burns, Noel Lane, Aine & Liam Rimmer) was made after the initial application with a further submission from the same parties made after the submission of Significant Further Information. The issues raised are those similar to those raised in the appeal submission (which is summarised below).

4.0 Planning History

Site

4.1.1. There is no planning history for this site set out in the Planner's Reports.

Other Relevant Applications

4.1.2. PA Reg Ref 22201 - Site at Knocknabobooly East & Ballynash (Bishop) Foynes, Co. Limerick (approx. 900m to the east of this site) – Permission granted [decision date 27/06/2022] for construction of a poultry house, concrete apron, feed silos, clean and soiled water storage tanks and carry out all associated ancillary site works.

5.0 Policy Context

5.1. Development Plan

5.1.1. I note that the application was considered by Limerick City and County Council under the provisions of the previous Development Plan (Limerick County Development Plan 2010-2016, as extended). The date of the Planning Authority's decision was 14th June 2022.

5.1.2. The current Development Plan is The Limerick Development Plan 2022-2028 which was adopted by the Elected Members of Limerick City and County Council at a Special Meeting on 17th June 2022 and came into effect on 29th July 2022.

Variation No. 1 to the Limerick Development Plan 2022 – 2028 was adopted by the Elected Members on the 22nd of May 2023 comprising an amendment to Policy TR P11 Road Safety and Carrying Capacity of the non-national Road Network and Objective TR O37 Land Uses and Access Standards.

Relevant provisions of the Development Plan are set out below:

Section 5.8.15 Rural Enterprise and Employment Opportunities

Objective ECON O35 Rural Development

5.8.16 Agriculture

Objective ECON O36 'Agricultural Developments' It is an objective of the Council to favourably consider proposals for agricultural development where: a) They are appropriate in nature and scale to the area in which they are located; b) The proposal is necessary for the efficient use of the agricultural holding or enterprise; c) The development is not visually intrusive in the local landscape and, where the proposal is for a new building(s) and there are no suitable redundant buildings, the proposal is sited adjacent to existing buildings; d) The proposal demonstrates that it has taken into account traffic, environmental and amenity considerations and is in accordance with the policies, requirements and guidance contained in this Plan

Objective ECON 037 Farm Diversification It is an objective of the Council to favourably consider proposals for farm diversification in the open countryside where the proposal: a) Would not negatively affect public health or agricultural operation on neighbouring farms; b) Is of a size and scale which is sympathetic to and which does not negatively impact on the character and amenity of the surrounding area; and c) Demonstrates that it has taken into account traffic, environmental and amenity considerations and is in accordance with the policies, requirements and guidance contained in this Plan. All development in the countryside will be required to respect the appearance and character of the rural landscape.

Section 5.8.21 Limerick's Food Sector

Objective ECON 042 Limerick Food Strategy

It is an objective of the Council to:

- a) Support the Food Vision 2030 Strategy and the Food Strategy for Limerick 2016–2018 and any subsequent updates.
- b) Develop and enhance Limerick’s reputation for outstanding food and drink, by supporting producers and to ensure the development of Limerick as a leader of innovation for sustainable food and agricultural systems. Support the production of safe, nutritious and high-value food, while protecting and enhancing our natural and cultural resources and contributing to vibrant communities and the economy.

Chapter 6 Environment, Heritage, Landscape and Green Infrastructure

Policy EH P1 Protection of Natural Heritage and Biodiversity; Policy EH P2 Sustainable Management and Conservation; Policy EH P3 Climate Action and the Natural Environment; Policy EH P6 Water and Air Quality; Policy EH P7 Environmental Noise; Objective EH O15 Ground Water, Surface Water Protection and River Basin Management Plans; Objective EH O17 Water Quality; Objective EH O18 Riparian Buffers; Objective EH O21 Noise and Vibration during Construction and at Open Sites; Objective EH O24 Light Pollution; Objective EH O30 Odour

Policy EH P8 Landscape Character Areas – The site lies within the Shannon ICZM LCA 06 Shannon Coastal Zone. This zone comprises a large area of northern Limerick and is bounded on one side by the Shannon Estuary, while its southern boundary is defined by the gradually rising ground, which leads onto the agricultural zone and the western hills to the south west. The presence of the estuary is the defining characteristic of the region. The landscape itself is generally that of an enclosed agricultural type, essentially that of a hedgerow dominant landscape. This differs from the other agricultural landscapes of the County, in that the field patterns, particularly close to the Estuary, tend to be less regular than those elsewhere in Limerick. Specific Objectives include *inter alia*..

- c) To encourage the use of site-specific designs with careful attention to landscaping. Finishes such as plaster finish, which will assist in integrating the development into the landscape, are encouraged; i) Development identified under the SIFP will adhere to the mitigation measures for landscape management as appropriate.

6.5.1 Archaeological Heritage; Objective EH O36 Preservation of the Archaeological Heritage; Objective EH O37 Preservation of unrecorded/newly discovered Archaeological Heritage; Objective EH O39 Protection of the setting of Archaeological Monuments

Chapter 7: Sustainable Mobility and Transport

Objective TR O37 Land Uses and Access Standards - It is an objective of the Council to: a) Ensure that any development involving new access to a non-national public road, or the intensification of use of an existing access onto a non-national public road meets the appropriate design and safety standards. b) Ensure that on roads that are sub-standard, either in terms of their width, (less than 3m), alignment, surface condition or junction with the nearest main road, development for one off rural housing will only be considered in exceptional circumstances. This includes applicants who have a demonstrable social need to live on the particular road, where no alternative site is available, or where the only alternative access available is onto a strategic regional road as designated in the Development Plan.

Objective TR O48 Traffic Management - It is an objective of the Council to require the submission of Mobility Management Plans and Traffic and Transport Assessments in accordance with the requirements of Traffic and Transport Assessment Guidelines (2014), for developments with the potential to create significant additional demands on the traffic network by virtue of the nature of their activity, the number of employees, their location or a combination of these factors and for significant developments affecting the national and non-national road network.

7.10.3 Road Safety

Chapter 8 Infrastructure

8.5.2 Group Water Schemes and Private Water Supplies/Wells; Objective IN O11 Private Waste Water Treatment; Objective IN O12 Surface Water and SuDs; Objective IN O17 Waste Management and the Circular Economy

Objective IN O20; Agricultural Waste It is an objective of the Council to:

a) Encourage the development of new alternatives and technological advances in relation to waste management on the farm and waste infrastructure such as Organic

Waste to Energy/Combined Heat and Power schemes, subject to compliance with normal planning and environmental criteria.; b) Require that the disposal of agricultural waste is carried out in a safe, efficient and sustainable manner, having regard to protection of the environment and public health and in compliance with the Nitrates Directive, Good Agricultural Practice for the Protection of Waters) Regulations 2017 (SI 605 of 2017), the Habitats Directives and any other relevant statutory provisions.

Chapter 11 Development Management Standards

11.6.8 Agricultural Buildings, Re-use of Redundant Farm Buildings, Farm Diversification

Proposals for farm diversification that involves the development of sustainable business initiatives that are subsidiary to and directly linked to the primary use of a property for agriculture will generally be favourably considered. The development of new rural enterprises will be considered on lands where:

- The scale and nature of the proposed development and associated buildings are appropriate to the rural setting and are in areas of low environmental sensitivity;
- It is demonstrated that the proposed enterprise is required to be located in a rural area;
- The proposal will not adversely affect the character and appearance of the landscape;
- The local road network and other essential infrastructure can accommodate any extra demand generated by the proposal;
- Where possible, the proposal involves the re-use of redundant or underused buildings that are of value to the rural area; and
- Where safe access to the public road network can be achieved

11.6.9 Intensive Farm, Poultry and Piggery Development

In assessing an application for intensive farming, pig or poultry units, the Planning Authority with other environmental and health authorities will ensure a high level of protection of the environment and human health prior to permitting the proposed

development to proceed. The Council require information on the following:

- Depending on the scale of the proposed development and its location, an Environmental Impact Assessment Report (EIAR) may be required as part of the application. The EIAR will be prepared on behalf of the developer by a suitably qualified professional and will be assessed in accordance with Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, 2018, DHPLG;
- Scale and intensity of operations, including the cumulative impact of similar types of developments and proximity to other activities such as residences, businesses etc.;
- Waste management including frequency and location of disposal relative to pig and poultry units. In addition, the applicant will be required to demonstrate that there is a stable, secure, sustainable outlet for all slurries and manures from the proposed development. All slurry and effluent shall be stored in concrete tanks constructed in accordance with S123 Minimum Specification: Slatted livestock units; Reinforced Concrete tanks (DAFF 1994) or other types of structures approved by the Planning Authority;
- The developer will be requested to submit as part of the planning application an Odour Impact Assessment, prepared by a suitably qualified professional with sufficient expertise to demonstrate odour abatement solutions, through appropriate modelling and monitoring procedures when operational;
- The developer will be requested to submit as part of the planning application, a Noise Assessment in accordance with BS 4142:2014+A1:2019 Methods for Rating and Assessing Industrial and Commercial Sound, taking account of the proposed increased animal numbers, on-site machinery including electrical substations, any potential adverse effects at noise sensitive receptors and any necessary noise mitigation measures. The assessment should be prepared by a suitably qualified professional with sufficient expertise;
- Proximity of development to aquifers and watercourses;
- Units should be located a minimum of 400 m. from the nearest dwelling other

than the applicant's dwelling. In the case of villages and towns, intensive poultry and particularly pig units will be required to be located a much greater distance away from the settlement because of the impacts on residential amenities;

- Animal housing units in terms of design and associated activities such as cleaning, ventilation and heating;
- A comprehensive Landscaping Plan should be submitted as part of the planning application;
- A Traffic Impact Assessment and a Road Safety Audit may be required. Refer to Section 11.8 Transport and Infrastructure of this chapter;
- An Industrial Emissions License (IEL) may be required from the Environmental Protection Agency.

11.8 Transport and Infrastructure

11.8.1 Access to Roads, Traffic and Transport Assessments (TTAs) and Road Safety Audits (RSAs) including *inter alia*

All applications seeking access on the road network will be assessed in accordance with national standards and guidance. Considerations will include:

- Classification of the road,
- Speed limit,
- Width, carrying capacity, condition of the road, drainage, vertical and horizontal alignment of the road, junctions in the vicinity,
- Nature, scale, type of activity seeking access to the road network,
- Traffic likely to be generated, type of vehicles;
- Technical design of access and sightline visibility and stopping distances and general safety. Sight distances and stopping sight distances should be in compliance with current NTA road geometry standards and guidance documents listed above and any subsequent documents

Developers will be required to submit a Traffic Impact Assessment/Traffic and Transport Assessment and/or Road Safety Audit where a new development will have

a significant effect on the travel demand and capacity of the existing road network in the area.

Road Safety Audits are required for developments seeking a new access onto a national road, or a significant change to a new access, or the intensification of the use of an existing access due to the activities undertaken on the site. They may be requested for other categories of road.

In addition to the above, developers may be required to submit a Road Safety Impact Assessment (RSIA).

5.2. Natural Heritage Designations.

- 5.2.1. The 'River Shannon and River Fergus Estuaries SPA (site code 004077)' and the 'Lower River Shannon SAC (site code 002165)' are both located 2.3km to the north, at their closest point. The 'Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161)' is located approximately 2.7km to the south of the site, at its closest point.

5.3. EIA Screening

- 5.3.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is significant and realistic doubt regarding the likelihood of significant effects on the environment. Should the Board be minded to, I would recommend that the Board request the applicant to submit the Information specified in Schedule 7A for the purposes of a screening determination.

5.4. Grounds of Appeal

- 5.4.1. 1 No. third party appeal has been submitted on behalf of Natalie O'Connor, Anthony Hannafin, Jerry & Imelda Noonan, Jules Sweeney, Margaret Burns, Noel Lane, Aine & Liam Rimmer. The main grounds of appeal are summarised below:

Traffic/Transport

- Access to the property is along a very narrow road measuring an average width of 3.3m.

- The existing public road is a local road with severely restricted sightlines to the proposed development.
- All of the dwelling houses within the immediate vicinity of the proposed Poultry building are served by wells. The existing public road is in a poor condition.
- There is no mention of the existing road, its condition, its existing users, impact on immediate properties in any of the conditions attached to the decision notice.
- Have ignored the health and safety and welfare of the immediate neighbours and road users
- Have not implemented Policy IN P7 Road Safety and Capacity
- Control measures as set out in Conditions 7 to 26 are solely dependant on the Applicant whose invested interest could impair such control measures
- The proposed application has not provided information in regard to achieving sightlines
- Given the existing narrow road and the short distance to the brow of the hill to the west, it is hard to see how this can be achieved at this proposed entrance
- The trucks that are to be used to removed 'litter' are 2.62 m width, leaving only 340mm width on either side of the road/Truck with a trailer is in excess of 16.5m in length/hard to see how this can turn/navigate without having to travel on private property and damaging same.
- Have estimated a total of 122 trucks per year for waste and feed/does not include trucks for the removal of dead animals, removal and installation of live animals
- Trucks will further compromise the existing poor condition of the road
- Vehicles cannot pass each other without having to back up into existing entrances of other residents
- Extra traffic generated by staff/trucks serving the facility
- Road is unsuitable for any additional traffic/type and volume of traffic generated from such a poultry facility

- In order to facilitate such a development the road would need to be upgraded and widened/Would involve LCC implementing CPO's on all land owners along this road

Amenity/Visual Impact

- Poultry house will be sited on top of the highest ground on the farm at a height of in excess 11m above the existing road
- Will be visually obtrusive/impacts on the amenity of the surrounding area
- Height, scale and bulk of the Poultry House
- Construction of the Poultry House would result in noise pollution during construction stage
- The housing of 39,000 chickens will generate significant noise/prevailing south-westerly winds will amplify this noise
- Application does not show what lighting it is proposed to use externally
- There is no screening on the existing hill/visual impact from the external lighting
- Does not show how it intends to protect existing wells of adjoining properties/prevent groundwater pollution/reference is made to Objective EH 020 Ground water and surface water protection
- High risk of ground water contamination given the chickens will be free range
- No archaeological evaluation was carried out/would be expected for a site of 5.6ha
- Applicant has not demonstrated the full extent of the use of the Poultry House/Is it to be used solely for egg production and/or poultry meats/not known if the proposed unit is to be a slaughterhouse
- Application is misleading/necessary information is not provided/resultant impact on the environment, the site and adjoining neighbours
- Applicant does not demonstrate how he is proposed to implement EU Directives (Broiler Directive DIR 2007/43/EC)
- Has not demonstrated how he intends to deal with the animal welfare impact

- Has failed to provide adequate screening around the Poultry house/would break the skyline/negative impact on the existing landscape/reference is made to Section 7.3 Landscape and Visual Amenity/Policy EH P2

Water Contamination/Flooding

- In relation to the proposed well, applicant has not demonstrated how they propose to protect such a well/existing wells from pollution/reference is made to Objective INO28
- High risk of contamination of the existing river (Abha Bhan)/fed from existing dykes, ground water
- Extensive flooding of surrounding properties resulting from the poor condition of the existing road/Limerick County Council has acknowledged major works are required
- Cite ABP precedent 307127-20/road was substandard/flooding issues
- Has failed to demonstrate how spillages fuel/oil etc will be dealt with/has not provided any interceptors to facilitate same

Other Issues

- Negative impact on property value

Encl: Appendix A – Photos; Appendix B – Property Valuation ; Appendix C – Proof of submission; Appendix D – Section Drawing; 13 Notification of Decision to Grant

5.5. Applicant Response

5.5.1. None received.

5.6. Planning Authority Response

5.6.1. None received.

5.7. Observations

5.7.1. None received.

6.0 Assessment

6.1.1. I would firstly draw the Board's attention to the fact that the application was considered by Limerick City and County Council under the provisions of the previous Development Plan (Limerick County Development Plan 2010-2016, as extended). The date of the Planning Authority's decision was 14th June 2022. The current Development Plan is The Limerick Development Plan 2022-2028 which was adopted by the Elected Members of Limerick City and County Council at a Special Meeting on 17th June 2022 and came into effect on 29th July 2022, and I have this considered this appeal under the provisions of the current Development Plan.

6.1.2. I propose to consider the matters arising in this case under the following headings:

- Principle of Development
- Impacts on Water/Groundwater
- Impacts on Residential Amenity (including noise and odour impacts)
- Traffic and Transport
- Visual Impact/Visual Amenity/Landscape Impacts
- Other Issues

6.2. Principle of Development

6.2.1. The development of a poultry operation on an existing farmholding falls within the category of 'farm diversification' which is supported in principle the Development Plan, namely Objective ECON 037 subject to compliance with criteria including impact on public health, amenity of the surrounding area and environmental, traffic and landscape considerations. Similar considerations are set out in Objective ECON 036 'Agricultural Developments' which supports such development in principle, subject to certain criteria.

6.2.2. Specifically in relation to poultry developments, Section 11.6.8 Intensive Farm, Poultry and Piggery Development sets out that the council will require information on the following;

- EIAR (where applicable); Scale and intensity of operations, including the cumulative impacts of similar types of development, and proximity to other activities such as residences, businesses etc.;
- Waste management including frequency and location of disposal relative to pig and poultry units. In addition, the applicant will be required to demonstrate that there is a stable, secure, sustainable outlet for all slurries and manures from the proposed development. All slurry and effluent shall be stored in concrete tanks constructed in accordance with S123 Minimum Specification: Slatted livestock units; Reinforced Concrete tanks (DAFF 1994) or other types of structures approved by the Planning Authority;
- The developer will be requested to submit as part of the planning application an Odour Impact Assessment, prepared by a suitably qualified professional with sufficient expertise to demonstrate odour abatement solutions, through appropriate modelling and monitoring procedures when operational;
- The developer will be requested to submit as part of the planning application, a Noise Assessment in accordance with BS 4142:2014+A1:2019 Methods for Rating and Assessing Industrial and Commercial Sound, taking account of the proposed increased animal numbers, on-site machinery including electrical substations, any potential adverse effects at noise sensitive receptors and any necessary noise mitigation measures. The assessment should be prepared by a suitably qualified professional with sufficient expertise;
- Proximity of development to aquifers and watercourses;
- Units should be located a minimum of 400 m. from the nearest dwelling other than the applicant's dwelling. In the case of villages and towns, intensive poultry and particularly pig units will be required to be located a much greater distance away from the settlement because of the impacts on residential amenities;
- Animal housing units in terms of design and associated activities such as cleaning, ventilation and heating;
- A comprehensive Landscaping Plan should be submitted as part of the planning application;

- A Traffic Impact Assessment and a Road Safety Audit may be required. Reference is made to Section 11.8 Transport and Infrastructure/
- An Industrial Emissions License (IEL) may be required from the Environmental Protection Agency.

6.2.3. The development of this sector is also supported by Food Vision 2030, which in turn is supported by Objective ECON 042 'Limerick Food Strategy'.

6.2.4. The site is an existing farmholding, where the land use in the wider area is in agricultural use, within which there appears to be other poultry production operations (from my observations of the surrounding area). As such, the proposal for a poultry house and associated development is acceptable in principle, subject to those safeguards as set out above, which include impacts on public health and the environment, the amenity of the surrounding area, visual impacts and impacts on the landscape, traffic and transport considerations. I have considered each of these issues in the assessment below.

6.3. **Impacts on Water/Groundwater**

6.3.1. The third party appellants stated that applicant has not demonstrated how they propose to protect existing wells, and the proposed well on site, from pollution and reference is made to Objective INO28 of the previous Development Plan. It is stated that all of the dwelling houses within the immediate vicinity of the proposed Poultry building are served by wells. It is stated that there is a high risk of contamination of the existing river (Abha Bhan) given that this is fed from existing dykes and from groundwater, and that there will be a high risk of ground water contamination given the chickens will be free range. It is also contended that the applicant has failed to demonstrate how fuel spillages will be dealt with.

6.3.2. The Planning Authority appeared to be satisfied that there would be no significant impacts on water or groundwater, subject to conditions.

6.3.3. I would firstly note that that landspreading is controlled by other regulations, namely, S.I. No. 605/2017 - European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017 (as amended) and such practices, as well as other relevant farming practices, are required to comply with same.

6.3.4. The application is accompanied by a Hydrogeological Report (dated January 2022), submitted in response to a request for further information by the Planning Authority. This document sets out that the principle risks are considered to be groundwater and surface water contamination related to the disposal/land-spreading of organic waste (i.e. chicken manure/litter and/or soiled water from the wash down of the poultry house). It is set out that there will be no land-spreading of the poultry manure, with manure and litter from by a waste hauler and disposed of off-site. It is set out that 360 tonnes of solid waste and poultry litter will be removed annually. Dead poultry will be removed off site for disposal at a rendering plant. It is set out that the only land-spreading activities that will occur on site will be soiled water resulting from the operations of the poultry house or contaminated from yard runoff, which will be spread throughout the year in accordance with the Good Agricultural Practice Regulations.

6.3.5. In relation to the existing environment, the report sets out that there are approximately 19 dwellings within 1km of the proposed development, with 11 no. private wells within 300m of the site. The nearest surface water feature is a small stream known locally as the Glashanagark which is located approximately 650 m to the north of the existing farmyard, and which flows westwards towards the Shannon Estuary. A second river flows approximately 1km from the south-eastern boundary of the proposed development and also discharges into the Shannon Estuary. The report notes that there are a number of shallow ditches and dykes surrounding the boundary of the site, with a shallow drainage ditch along the north-western and northern boundary, flowing off-site, and eventually discharge to the rivers described above. The site is underlain by shallow poorly drained mineral soils. The groundwater vulnerability rating for the site varies between 'extreme' for a small portion of land to the north and to the south of the site, to 'x-rock at or near surface', with trial holes confirming that depth to bedrock was within 1m below ground level across the majority of the site. The bedrock is classified as a locally important aquifer, LI, which is moderately productive only in local zones. The site is located within the Ballylongford Groundwater Body (GWB), which has a WFD status of 'Good' and is not at risk. Site investigation works included the excavation of 17 no. trial holes over the site. Groundwater was encountered between 0.05m BGL to 0.75 BGL. Percolation tests confirmed the poorly drained nature of the soils on site.

Laboratory analysis determined that the surface water quality in both surface water drainage ditches to be excellent. In terms of groundwater quality, this was found to be acceptable (GW1 sample) and poor (GW2 sample), with the report noting that the groundwater source is vulnerable to faecal/microbial contamination within the catchment area from human and animal activity.

6.3.6. In terms of impacts from the proposed development, the Hydrogeological Report sets out that the proposed development is expected to have no adverse effect on groundwater, with no proposed discharge to groundwater, and minimal risk of accidental leakage of soiled water from the site. Storm and soiled water will be collected in a proper manner and will not result in a pollution threat to sources of potable water, water courses, aquifers or groundwater. Soiled water from the washing down of the poultry houses (which will occur 5 times per year) will be stored in a watertight concrete underground tank. It is set out that there should be no adverse effects on surface water from the proposed development as land-spreading of soiled water will take place in accordance with GAP regulations (S.I. 605 of 2017). The only discharge from the site to surface waters will be the discharge of rainwater from roofs and clean yards to the southern field drain, which ultimately discharges to a stream approximately 530m south of the proposed poultry house. This unnamed stream flows westwards into the Glasanaskee stream which flows into the River Shannon. In relation to existing wells, it was found that the nearest well was located 100m north of the proposed landspreading area. It is stated that there is little potential for impact on groundwater as a result of land-spreading and poultry house activities. The low permeability of the topsoil and clay limits percolation to groundwater. The shallow groundwater that was encountered was considered likely to discharge to the surface drainage network rather than domestic wells located up slope to the north and on the opposite side of the drainage network.

6.3.7. The report concludes that application of soiled water on the land in accordance with GAP regulations should have no environmental impacts due to the low volume of soiled water being produced, the nature of the local soils and subsoils, and organic N levels which are well below the accepted threshold. The potential impact of the free range activity was considered in the report, taking into account number of birds, time spent indoors/outdoors etc. The stocking rate of animals/birds/ha of agriculture is calculated as Kg Organic Nitrogen (N) (i.e. N from animal/poultry manure) can be

applied per hectare of net area, in this case range area that is available to the birds. The Organic N allocation is averaged over the area available to the birds. It was concluded that the resulting value of 76.7 kg/N/ha is less than half the permitted grassland stocking rate in the GAP regulations (170 k Organic N/Ha). It is concluded then that the free range activity will not have a detrimental effect on the farmland proposed for free range activity, and will comply with the GAP regulations.

- 6.3.8. In relation to the conclusions of the report, and in relation to the potential impacts on the surface water environment, I note that the landspreading of the soiled water is controlled by other statutory provisions, namely the GAP regulations, as described above, and the application has stated that landspreading of the soiled water will be compliant with same, and has demonstrated the stocking rate of the free range birds, and the subsequent impact of same, will also be in line with the GAP regulations. In relation to the other aspects of the proposal that could have an impact on surface and ground water quality, I note that the soiled water that is to be spread, will be stored in a watertight concrete underground tank and that the only discharge from the site to surface waters will be the discharge of rainwater from roofs and clean yards to the southern field drain, which ultimately discharges to a stream approximately 530m south of the proposed poultry house. I note that the appellants have raised the issue of lack of detail in relation to same, including the lack of reference to a hydrocarbon interceptor. I am satisfied that, should the Board be minded to grant permission, a condition could be imposed on any permission requiring additional details of the proposed surface and storm water drainage to be submitted to the Planning Authority, including details of methods to deal with any potential hydrocarbon spillages.

6.4. Impacts on Residential Amenity (including noise and odour considerations)

- 6.4.1. The third party appellants have stated that the construction of the poultry house would result in noise pollution during construction stage, and that the housing of 39,000 chickens will generate significant noise with the prevailing south-westerly winds amplifying this noise. Furthermore it is stated that the application does not show what lighting it is proposed to use externally and that there is no screening on the existing hill to minimise the impact from the external lighting .

- 6.4.2. I would firstly draw the Board's attention to the provisions of Section 11.6.9 'Intensive Farm, Poultry and Piggery Development' of the current Development Plan (Limerick Development Plan 2022-2028) which state that developments such as the one proposed here should be located a minimum of 400m from the nearest dwelling, other than the applicant's dwelling. In relation to same, I note that the nearest dwelling is located approximately 210m to the west of the proposed poultry house (and some 150m from the site boundary). There are 3 no. dwellings to the north of the existing local road which are also within 400m of the proposed poultry house (between approximately 340m and 380m). There is a further dwelling within 330m of the proposed poultry house to the south-east of the site.
- 6.4.3. There is also a dwelling adjacent to the site, to the east which is 270m from the poultry house. This would appear to be associated with the existing farm and is included within the wider landholding. However, given that there are a number of other existing dwellings within 400m of the poultry house, I am of the view that the proposed development does not comply with the provisions of the current Development Plan. I would not also that there were similar provisions in the previous Development Plan¹, which required the same minimum distance from the nearest dwellings. However, the Planning Authority did not raise this as an issue at application stage. While the third party appellant raises amenity concerns (in relation to noise, air quality, lighting, visual amenity), the appeal submission does not raise the explicit issue of the required 400m distance. As such the Board may be of the view that this is a **New Issue** in the context of the current appeal.

Noise

- 6.4.4. Specifically in relation to noise impacts, I note the requirements of Section 11.6.9 the current Development Plan also requires that *inter alia*, a 'Noise Assessment in accordance with BS 4142:2014+A1:2019 Methods for Rating and Assessing Industrial and Commercial Sound, shall be submitted with an application, taking account of the proposed increased animal numbers, on-site machinery including electrical substations, any potential adverse effects at noise sensitive receptors and any necessary noise mitigation measures. The assessment should be prepared by a suitably qualified professional with sufficient expertise'.

¹ Section 10.8.1 of the Limerick County Development Plan 2010 – 2016 (as extended)

- 6.4.5. As part of the response to the initial Further Information request, the applicant has submitted a 'Noise Survey Report' [dated September 2021]. This sets out that a baseline noise survey was carried out at point source within the existing poultry farm in order to assess the impact on the nearest noise sensitive receptors, with a survey carried out on Thursday 16th September 2021. Existing noise levels at this point source (which is located within the site as illustrated in Figure 1.0 in the report) are set out for 13 no. time periods during the day (from 12:15pm to 15:15 pm), and are also set out for 13 no. time periods during the evening/night (from 19:45 to 22:45).
- 6.4.6. In order to estimate noise levels from this proposed development, a similar scale/type development was chosen, which was a site 11km south-east of this site which has a combined bird population of 24,000 free range birds. The site is not identified in more detail but it is stated that the site has a similar surrounding environment, and noise readings from same were taken at a points 100m, 200m and 300m from the point of origin, and the results of same are set out in Table 3.0 of the report. While not entirely clear from the report, it would appear another location was then chosen for a survey, a boiler poultry farm some 14km south of the site. The noise monitoring in this case would appear (from a reading of Table 4.0) to have been taken from points 20m, 40m, 60m and 80m from the noise source, and were taken for various different scenarios (i.e. loading, growing, extraction, cleaning and power washing). Result of same are set out in Table 4.0 of the report. Reference is made to a further survey carried out in 2017, and to a Table 5, but there is no Table 5 in the report and little other detail in relation to this survey. The report concludes that the projected levels of noise pollution during the operational phase of the proposed poultry house, based on the above surveys, show that noise levels are within the acceptable noise levels 90% of the time, and coupled with mitigation measures, the proposed development will not adversely impact noise sensitive receptors. Such mitigation measures are referred to in the 'Observations and Recommendations' section of the report, and refer to the undulating nature of the land, which will in part act as a natural buffer for any noise emanating from the site, as well as the existing tree cover along the roadside of the proposed site, which will further mitigate any noise emissions from the site.
- 6.4.7. I note that the Planning Authority were generally satisfied with the contents of the Noise Survey Report and did not consider that adverse impacts were likely.

- 6.4.8. The third party appellants have raised the issue of noise, and it is stated that the construction of the poultry house would generate noise pollution and the housing of the poultry will generate significant noise at operational stage. I also note that alleged deficiencies in the noise report were highlighted in the third party submission at application stage, including that no noise survey was carried out from the properties of adjoining neighbours resulting in the noise survey being misleading and inaccurate. Further issues raised in relation to the noise report including concerns in relation to the methodology used to estimate noise levels and a lack of consideration of the prevailing weather conditions at the time of the noise survey.
- 6.4.9. In relation to the contents and conclusions of the above 'Noise Survey Report', there does not appear to be any reference to the report being undertaken in accordance with BS 4142:2014+A1:2019 Methods for Rating and Assessing Industrial and Commercial Sound, as required by the current Development Plan. However, I accept that the application itself was lodged when the previous Development Plan was in place, and assessed by the Planning Authority with reference to same, and that there was no specific requirement to undertake a BS 4142 Noise Assessment under the previous Development Plan. Notwithstanding, the report does have some limitations, in my view. I would note that the background noise surveys were not carried out at or near the noise sensitive receptors in this instance (i.e. the closest residential dwellings) but rather were carried out at a point source on the site. There is a lack of detail in relation to the example installations chosen, for example the exact location of same. In relation to the first site referenced (the site 11km from the application site), this houses a total of 24,000 birds, which is significantly less than the 39,000 birds proposed in this instance, and it is not clear from the application documentation how this would subsequently impact on projected noise levels. For the second site chosen (the site 14km from the application site), the scale of this facility is not set out and, as such, it is not possible to determine if this site is representative of the scale proposed under this application. There are no results set out for the third site mentioned in the report (or any details in relation to same).
- 6.4.10. In relation to noise, I accept that a certain level of noise associated with agricultural developments is to be expected in rural areas such as this one. However, I also note the scale of the operation proposed here (39,000 birds per annum), the proximity of the proposed poultry house to the closest residential properties as set out above,

and note the provisions of the current Development, which require that such premises be set back at least 400m from the nearest residential property (which the application does not comply with), and which require the submission of a Noise Impact Assessment undertaken in accordance with BS 4142, which has not been submitted in this instance.

Odour

6.4.11. Specifically in relation to odour, I note the requirements of 11.6.9 of the Development also require that *inter alia* an Odour Impact Assessment is submitted applications, prepared by a suitably qualified professional with sufficient expertise to demonstrate odour abatement solutions, through appropriate modelling and monitoring procedures when operational. This was not a specific requirement under the previous Development Plan although it was required to consider odour/air pollution impacts generally.²

6.4.12. The response to Further Information (received by the Planning Authority on 21st February 2022 contains information in relation to odour (although it is not an Odour Impact Assessment *per se*). This document sets out that odour levels are not expected to cause a significant nuisance in the surrounding area, as the operation will be managed to the best possible standards. Odour management measures include good practice measures in relation to poultry house temperature control, carcass storage and removal from site, thorough cleaning out of the poultry house between batches, regular yard cleaning and appropriate removal of litter. However, I am not of the view that this fulfils the requirements of the Development Plan, and noting also the scale of the proposed development at 39,000 birds p/a, and noting the proximity of the site to the nearest residential properties I would be of the view that a more formal, detailed technical assessment of potential odour impacts is required in this instance, in the form of an Odour Impact Assessment.

External Lighting

6.4.13. In relation to external lighting impacts, I am satisfied that the impacts of any external lighting could be controlled by way of condition, such as ensuring appropriate lighting

² Section 10.8.1 of the Limerick County Development Plan 2010 – 2016 (as extended)

is chosen and ensuring that any lighting is directed away from the surrounding residential properties.

Conclusion on amenity impacts

- 6.4.14. Having regard to the proximity of the proposed poultry house to the nearest residential properties, and having regard to the insufficient detail provided in relation to noise and odour impacts, I am of the view that the proposed development is contrary to Section 11.6.9 of the Limerick City and Council Development Plan 2022-2028, which requires facilities such as the one proposed under this application to be located at least 400m from the closest residential properties, and also require that a Noise Impact Assessment (prepared in accordance with BS 4142) and an Odour Impact Assessment be submitted with such applications. While I note that some information in relation to noise and odour has been submitted, I am of the view that this is deficient having regard to the considerations above.
- 6.4.15. The Board may consider that one, or more, aspects of the above considerations, may constitute a **New Issue** or **New Issues**. While the third party appeal does raise the issues of noise and odour impacts (with reference to air quality), there is no reference in this appeal to lack of compliance with the 400m setback distance (which was a requirement of both the previous Development Plan and is a requirement of the current Development Plan). The Planning Authority has not raised this non-compliance as an issue. Furthermore, I would note also that neither a Noise Impact Assessment (prepared in accordance with BS 4142) nor an Odour Impact Assessment were requirements of the previous Development Plan, but are requirements of the current Development Plan.

6.5. **Traffic and Transport**

- 6.5.1. The third party appellants have stated that access to the property is along a very narrow road, in poor condition, measuring an average width of 3.3m, with restricted sightlines to the proposed development. It is stated that there is no mention of the existing road, its condition, its existing users, impact on immediate properties in any of the conditions attached to the decision notice. It is stated that Policy IN P7 Road Safety and Capacity (of the previous Development Plan) has not been implemented. It is further stated that the are both relatively wide and long and it is hard to see how these navigate the turn on a narrow road without having to travel on private property

and damaging same. The appellants have estimated that there will be a total of 122 trucks per year for waste and feed and this does not include trucks for the removal of dead animals, removal and installation of live animals. It is also stated that trucks will further compromise the existing poor condition of the road. It is stated that the road is unsuitable for any additional traffic including the type and volume of traffic generated from such a poultry facility, and that in order to facilitate such a development the road would need to be upgraded and widened which would involve LCC implementing CPO's on all land owners along this road.

- 6.5.2. The Planning Authority were satisfied in relation to traffic and transport impacts, subject to conditions.
- 6.5.3. In relation to the existing road, and with reference to the plans submitted at application stage, I would note that the road is relatively narrow, but is at least 3m wide, discounting the verge areas. While I note that the road does rise slightly in either direction, as referred in the third party appeal, the plans demonstrate that adequate sight lines have been achieved for the site. Furthermore the application also demonstrates by way of a tracking diagram that a HGV truck can navigate the entrance point, notwithstanding the narrow width of the road.
- 6.5.4. In relation to the quantum of traffic generated from the site, there is little detail in the application in relation to same. I would note that the scale of the development is very slightly below the threshold for requirement for EIA and as such the development can reasonably be described as large-scale. As such, one would expect that sufficient information be submitted with the application that would allow a determination of the impacts of traffic generated from the site and the associated impacts on the carrying capacity of the surrounding road network. I note also that permission was granted for a poultry facility some 900m east of this site (PA Ref 22201), and there is no consideration within the application documentation in relation to the cumulative impact of same, and of this development, in the carry capacity of the road network. I would note the requirements of Section 11.6.9 of the Development Plan which requires information in relation to the scale and intensity of operations, including the cumulative impact of similar types of developments and proximity to other activities such as residences, businesses etc and noting that a Traffic Impact Assessment and a Road Safety Audit may be required. In relation to the latter requirements, I am of the view that in the absence of the required

information, it is not possible to determine the impact of the proposed development, on the carrying capacity of the local road, nor it is possible to determine the level of intensification of the existing access, and therefore it is not possible to determine if a Traffic Impact Assessment or a Road Safety Audit is required in this instance.

6.6. Visual Impact/Visual Amenity/Landscape Impacts

- 6.6.1. The third party appellants have stated that the poultry house will be sited on top of the highest ground on the farm at a height of in excess 11m above the existing road and will be visually obtrusive with impacts on the amenity of the surrounding area. It is further stated that the applicant has failed to provide adequate screening around the Poultry house and that the poultry house would break the skyline with a negative impact on the existing landscape. Reference is made to Section 7.3 Landscape and Visual Amenity and Policy EH P2 of the previous Development Plan.
- 6.6.2. The Planning Authority sought amended plans at both Further Information Stage and at Clarification of Further Information Stage, in relation to the siting and positioning of the proposed poultry house. In relation to same, when considering visual impacts of the proposed development, I am considering those drawings received by the Planning Authority on the 28th April 2022, in response to a request for Clarification of Further Information. Drawing No. 001 P4 Site Layout Plan indicates that the proposed poultry house will be positioned to the south of the site, generally between the 134.5 and the 137 contour lines. The highest part of the site is generally in the middle of the site, and to the east, with the contour lines indicating ridges of 139.5 in height (there are no spot heights on the Site Layout Plan). The poultry house then is sited below the highest part of the site, and is also sited away from those properties to the north of the site. The FFL of the proposed poultry house is indicated as 134.5m. The original drawings submitted at application stage indicate a poultry house that is 140m in length, 6.6m to ridge height, and 3.1m to eaves, and with a external width of 25.6m. In addition 2 no. feed silos are proposed, both 8m in height, located to the north of the shed. There is no indication that the design of the shed changed with the submission of amended plans at Further Information Stage and at Clarification of Further Information Stage, rather it was the location of the shed on the site that was amended. An internal access road is also proposed that generally runs along the eastern boundary of the site, and turns westwards to provide access to the poultry house.

- 6.6.3. The amended plans also indicate that an earth embankment will be constructed at the crest of height in the field with a broadleaf hedgerow to be planted on top of same with a minimum height of 1.5m to screen the proposed development from the public road, although there are no details submitted in relation to same.
- 6.6.4. In relation to the visual impact of the proposal, I am satisfied that the applicant has minimised the visual impact of the poultry shed and silo by virtue of the proposed positioning on the site. While it is likely, that even with the proposed embankment and hedgerow in place, there will still be elements of the shed visible, and the silo stores will still be clearly visible, these would not be unduly prominent and would, in my view, read as elements that would not be unusual in an agriculture area. The shed and silos would be more visible from that dwelling to the west of the site, but the view would be a 'side-on' view of the shed, and I am not of the opinion that the impact on the visual amenity of this property would be so adverse so as to warrant a refusal on this basis.
- 6.6.5. In terms of the impact on the landscape, I note that the site lies within LCA 06 Shannon Coastal Zone Landscape Type with reference to Table 6.1 of the Development Plan, with the landscape described therein as *inter alia* 'generally that of an enclosed agricultural type'. There are no protected views or specific policy restrictions that pertain to this site and as such, with reference to the discussion above, the construction of a carefully sited poultry shed and associated silos, would not have a significant adverse effect on the character of the landscape.

6.7. Other Issues

- 6.7.1. Flooding - The third party appellants state that there is extensive flooding of surrounding properties resulting from the poor condition of the existing road and that Limerick County Council have acknowledged major works are required to repair same. While it may be the case that flooding occurs as a result of the condition of the road, I am not of the view that the development as proposed here would likely contribute in a significant manner to any flooding issues.
- 6.7.2. Archaeology – The third party appellants state that archaeological evaluation was carried out and that this would be expected for a site of 5.6ha. In relation to same, I am satisfied that the conditions as suggested by the Planning Authority's

Archaeological Officer will be sufficient to ensure that there will be no significant adverse impacts on archaeology.

- 6.7.3. Property Valuation - The third party appellants state that the proposed development will have a negative impact on property value and have provided a letter from an estate agent to support same. In relation to same, I am of the view that a well-managed agricultural development such as a poultry house, in an agricultural area such as this one, would be considered an acceptable and expected form of development, and supported in principle by Development Plan policies, and while I note the content of the appeal submitted, I do not think it is a reasonable assertion that property values would be diminished by a development such as the one proposed in this instance.

7.0 **Appropriate Assessment**

Introduction

- 7.1.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

The Project and Its Characteristics

- 7.1.2. The detailed description of the proposed development can be found in section 2.0 above.

Compliance with Article 6(3) of the Habitats Directive

- 7.1.3. 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 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).

Submissions and Observations

- 7.1.4. The third party appellant has not specifically referred to impacts on any European sites but has raised the issue of water quality, including groundwater quality, more generally.

Screening for AA

- 7.1.5. No AA Screening Report was submitted with the application. I note that the submission of an AA Screening Report is not a mandatory requirement. In order to screen for Appropriate Assessment I have utilised the information on the appeal file, including the applicant's Hydrogeological Report (dated January 2022), and publicly accessible information on the NPWS³ website and EPA Water Mapping⁴.
- 7.1.6. The development site is not within or directly adjacent to any Natura 2000 site. There are no mapped surface water hydrological features on or adjacent to the site. As described in the Hydrogeological Report, the nearest surface water feature is a small stream known locally as the Glashanagark which is located approximately 650 m to the north of the existing farmyard, and which flows westwards towards the Shannon Estuary. A second river flows approximately 1km from the south-eastern boundary of the proposed development and also discharges into the Shannon Estuary. The report notes that there are a number of shallow ditches and dykes surrounding the boundary of the site, with a shallow drainage ditch along the north-western and northern boundary, flowing off-site, and eventually discharge to the rivers described above.
- 7.1.7. The site is located in an agricultural area, with a number of single houses in the locality. There will be discharge to the southern field drain resulting from rainwater from roofs and yard cleaning and this drain ultimately discharges to a stream approximately 530m south of the proposed poultry house. Soiled water from the washing down of the poultry houses (which will occur 5 times per year) will be stored in a watertight concrete underground tank and this soiled water from the washing down process will be spread over a total of three areas, on the free range platform

³ <https://www.npws.ie/protected-sites>

⁴ <https://gis.epa.ie/EPAMaps/Water>

(4.7 Ha) and the field to the east of the free range platform (Field A – 1.56 Ha) and the field to the south of the free range platform (Field B – 3.72 Ha) with a buffer of 2m from the exposed outcrop area on this field. I would note that landspreading of soiled water is controlled by other regulations, namely, S.I. No. 605/2017 - European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017 (as amended) It is stated within the application documentation that landspreading will be carried out in accordance with such regulation.

- 7.1.8. I am of the view that the only Natura 2000 sites where there is potential for likely significant effects are the given that this site is located approximately 2.7km to the south of the site, at its closest point.
- 7.1.9. Significant impacts River Shannon and River Fergus Estuaries SPA (site code 004077) and the Lower River Shannon SAC (site code 002165) which are both located 2.3km to the north, at their closest point via the hydrological connectivity posed by surface water drainage pathways and the ‘Stack’s to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA’ (Site Code 004161) on any remaining SAC and SPA sites are considered unlikely, due to the distance, dilution factor and the lack of hydrological connectivity or any other connectivity with the application site in all cases having consideration of those site’s conservation objectives.
- 7.1.10. I have set out further details of the sites that I consider to be within the zone of influence of the project in Table 1 and I have considered the likelihood of significant impacts on these same sites below. :

Table 1: Table of European Sites/Location and Qualifying Interests

| Site | Distance | Qualifying Interests | Conservation Objectives |
|---|--------------------|---|--|
| River Shannon and River Fergus Estuaries SPA (site code 004077) | 2.3km to the north | Cormorant (Phalacrocorax carbo) [A017] Whooper Swan (Cygnus cygnus) [A038] | To maintain the favourable conservation condition of the bird species and habitats listed as |

| | | | |
|--|--|--|--|
| | | <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Teal (Anas crecca) [A052]</p> <p>Pintail (Anas acuta) [A054]</p> <p>Shoveler (Anas clypeata) [A056]</p> <p>Scaup (Aythya marila) [A062]</p> <p>Ringed Plover (Charadrius hiaticula) [A137]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Lapwing (Vanellus vanellus) [A142]</p> <p>Knot (Calidris canutus) [A143]</p> | <p>Special Conservation Interests.</p> |
|--|--|--|--|

| | | | |
|---|---------------------------|--|---|
| | | <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Greenshank (<i>Tringa nebularia</i>) [A164]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p> | |
| <p>Lower River Shannon SAC (site code 002165)</p> | <p>2.3km to the north</p> | <p>Sandbanks which are slightly covered by sea water all the time [1110]</p> <p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by</p> | <p>To maintain/restore the favourable conservation condition of the habitats and species listed as qualifying interests for this SAC.</p> |

| | | | |
|--|--|--|--|
| | | <p>seawater at low tide [1140]</p> <p>Coastal lagoons [1150]</p> <p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane</p> | |
|--|--|--|--|

| | | | |
|--|--|--|--|
| | | <p>levels with the Ranunculion fluitantis and Callitricho- Batrachion vegetation [3260]</p> <p>Molinia meadows on calcareous, peaty or clayey- silt-laden soils (Molinion caeruleae) [6410]</p> <p>Alluvial forests with <i>Alnus</i> <i>glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p><i>Margaritifera</i> <i>margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Petromyzon</i> <i>marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> | |
|--|--|--|--|

| | | | |
|--|--------------------|--|--|
| | | <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Tursiops truncatus (Common Bottlenose Dolphin) [1349]</p> <p>Lutra lutra (Otter) [1355]</p> | |
| Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161) | 2.7km to the south | Hen Harrier (Circus cyaneus) [A082] | To restore the favourable conservation condition of hen harrier in Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA |

Potential Effects on Designated Sites

River Shannon and River Fergus Estuaries SPA (site code 004077) and the Lower River Shannon SAC (site code 002165)

7.1.55. I note the indirect surface water connections from the site to the River Shannon and River Fergus Estuaries SPA (site code 004077) and the Lower River Shannon SAC (site code 002165) which are both located 2.3km to the north, at their closest point. In relation to the likelihood of potential impacts on same I note that the facility will be required to operate within the legislation defined under S.I. 605 of 2017 (as amended) [‘The GAP Regulations’] regarding manure storage, minimisation of soiled water and general good agricultural practice. The operation of those codes would

render any significant indirect impact on any Natura 2000 site unlikely. I note that it is not proposed to spread effluent from the proposed development rather it is proposed that this is taken off site. It is proposed to spread the soiled water from the wash down process. I note the conclusions of the Hydrogeological Report where concluded that the application of soiled water on the land in accordance with GAP regulations should have no environmental impacts due to the low volume of soiled water being produced, the nature of the local soils and subsoils, and organic N levels which are well below the accepted threshold. In relation to groundwater, the Hydrogeological Report concludes that there little potential for impact on groundwater as a result of land-spreading and poultry house activities. The low permeability of the topsoil and clay limits percolation to groundwater. The shallow groundwater that was encountered was considered likely to discharge to the surface drainage network rather than to groundwater aquifers.

- 7.1.56. In relation to other discharges from the site, from rainwater from the roofs and from the washing down of the yards, I am of the view that standard surface water management measures are sufficient to ensure that the quality of same is sufficient to ensure that there would be no significant deterioration in surface water quality resulting from same. Such measures to be incorporated are not included to avoid or reduce an effect to a Natura 2000 Site, and therefore they should not be considered mitigation measures in an AA context.
- 7.1.57. In relation to other potential impacts on the Natura 2000 sites referred to above, I am not of the view that other significant impacts are likely. While no bird survey or ecological report has been submitted, the site consists of farmed agricultural land, which is ubiquitous in the area, and there is no evidence to suggest that the habitats on the site are of any particular significance for any of the bird species listed as listed as Special Conservation Interests for the River Shannon and River Fergus Estuaries SPA nor is there any evidence to suggest that the site is of particular importance for any mammals listed as species listed as qualifying interests for the Lower River Shannon SAC.
- 7.1.58. As such, and notwithstanding that no AA Screening Report has been submitted, I am satisfied that the submitted details are sufficient to demonstrate that significant impacts on the River Shannon and River Fergus Estuaries SPA (site code 004077)

and the Lower River Shannon SAC are unlikely, having regard to the sites' conservation objectives.

Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161)

7.1.59. In relation to the likelihood of significant impacts on the 'Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA' (Site Code 004161), I note that this is located approximately 2.7km to the south of the site, at its closest point. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for Hen Harrier, as detailed in Table 1 above. Information on the NPWS website indicates that *'the species will forage up to 5km from the nest Hen Harriers will forage up to c. 5 km from the nest site, utilising open bog and moorland, young conifer plantations and hill farmland that is not too rank'*.⁵ The site does lie within this 5km radius, and could be defined as hill farmland. However, even with the poultry shed in place, there is still a relatively large area of open farmland remaining on the site, and in the surrounding locality. Furthermore, there is no evidence on file that this particular site is of importance to the Hen Harrier, and no parties have raised potential impacts on the Hen Harrier as an issue either at application stage nor at appeal stage. Given the above, I am satisfied that significant impacts on the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA, are unlikely, having regard to the site's conservation objectives.

7.1.60. In terms of in combination impacts other projects within the wider area which can influence conditions in the Shannon Estuary via rivers and other surface water features are also subject to AA. In this way in-combination impacts of plans or projects are avoided.

7.1.61. It is therefore evident from the information before the Board that the proposed development would not be likely to have a significant effect on the River Shannon and River Fergus Estuaries SPA (site code 004077), the Lower River Shannon SAC (site code 002165) nor on the 'Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA' (Site Code 004161) and a Stage II AA (and submission of an NIS) is not required.

⁵ <https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004161.pdf>

AA Screening Conclusion:

7.1.62. It is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the not be likely to have a significant effect on the River Shannon and River Fergus Estuaries SPA (site code 004077), the Lower River Shannon SAC (site code 002165) nor on the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161), nor any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required. In reaching this conclusion I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

8.0 Recommendation

8.1. I recommend that permission be **Refused** for the following reasons and considerations.

9.0 Reasons and Considerations

1. The proposed poultry house lies within 400m of the nearest residential dwellings and is therefore contrary to the standards as set out in Section 11.6.9 'Intensive Farm, Poultry and Piggery Development' of the Limerick Development Plan 2022-2028. Furthermore, the information submitted with the applicant is not sufficient to demonstrate that there will not be significant impact on the amenity of surrounding residential development, having regard to noise and odour impacts. The application is therefore contrary to the provisions of the Limerick Development Plan 2022-2028 and is contrary to the proper planning and sustainable development of the area.
2. There is insufficient information submitted with the application to demonstrate that this proposed development, both in and of itself, and in combination with other similar permitted developments in the area, would not have a detrimental impact on the carrying capacity of the local road network. As such, the Board is not satisfied that the proposed development would not endanger public safety by

reason of traffic hazard and obstruction of road users.

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.

Rónán O'Connor
Senior Planning Inspector

29th February 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

| | | | |
|---|---|----------------------------------|-------------------|
| An Bord Pleanála Case Reference | 314014-22 | | |
| Proposed Development Summary | Construction of a poultry house, concrete apron, clean & soiled water storage tanks, and carry out all associated ancillary site works | | |
| Development Address | Knocknabooly East , Foynes , Co. Limerick | | |
| 1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small> | | Yes | Yes |
| | | | |
| 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? | | | |
| 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 |
| Yes | EIA requirement Schedule 5 Part 1, 17(a) 85,000 places for broilers – the Board will note that the proposal is less than 50% of the threshold. A separate threshold is provided in Schedule 5, Part 2, 1e) Installations for intensive rearing of poultry not | | Proceed to Q.4 |

| | | | | |
|--|--|--|--|--|
| | | <p>included in Part 1 of this schedule, which would have more than 40,000 places for poultry'. This lower threshold does not apply to broilers and it is clearly related to installations for intensive rearing of poultry 'Installations for intensive rearing of poultry not included in Part 1'. Broilers are included in Part 1. However, the application is not clear as to what type of operation is proposed in this instance. While the term 'broiler' is used in some of the documentation submitted at application stage (for instance the Cover Letter/Document dated 8th February 2022, submitted to the Planning Authority in response to the Request for Further Information), the level of detail submitted with the application, in relation to the operation of the facility, is not sufficiently robust to rule out the possibility that the facility could be defined as an 'Installation for intensive rear of poultry not included in Part 1'. Taking a precautionary approach and assessing the proposed development as a poultry rearing facility, the scale of the proposal remains below the 40,000 threshold.</p> | | |
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| 4. Has Schedule 7A information been submitted? | | |
|--|--|---|
| No | | Preliminary Examination required |
| | | |

Inspector: _____

Date: _____