



An
Bord
Pleanála

Inspector's Report ABP- 315780-23

Development

Construction of a rotary milking parlour, dairy, plant room, collecting yard, drafting facilities, cubicle shed, roofless cubicles, underground slatted tank, silage pit and lined slurry lagoon.

Location

Rathcoffey Demesne, Rathcoffey, Co. Kildare.

Planning Authority

Kildare County Council.

Planning Authority Reg. Ref.

22/5.

Applicant

Vanessa Donovan.

Type of Application

Permission.

Planning Authority Decision

Grant of Permission.

Type of Appeal

Third Party v Grant of Permission.

Appellant

Adrian and Amanda Morgan.

Observer(s)

An Taisce.

Date of Site Inspection

19th April 2024

Inspector

Enda Duignan.

1.0 Site Location and Description

1.1. The address of the appeal site is Rathcoffey Demesne, Rathcoffey, Co. Kildare. The site comprises a portion of an agricultural field site which forms part of Rathcoffey Demesne. The site has a stated area of c. 3.32ha. and is located c. 500m to the south-east of the centre of Rathcoffey and outside the village's settlement boundary. The site is accessed via the main avenue serving Rathcoffey Castle, which is a designated Protected Structure (RPS Ref. B10-02) under the current County Development Plan. There are also a number of archaeological features of interest within close proximity of the appeal site. A hedgerow and a stand of large mature trees forms the south-western boundary and the remainder of the site boundaries being open to the north-west, north-east and south-east.

1.2. The existing entrance to the demesne is located at the junction of the R408 and the L50351/School Road and the avenue rises up from the entrance with the appeal site being located c. 400m from this entrance. To the immediate south of the entrance serving the site is a detached dwelling, within which the Third Party appellant resides. Rathcoffey National School is located further to the south. Agricultural buildings are located on the northern side of the entrance and avenue. In terms of the wider surrounds, there are a large number of dwellings located along the approach roads to the Rathcoffey Village. The remainder of the lands within the surrounds are predominantly in agricultural use.

2.0 Proposed Development

2.1. The proposed development seeks planning consent for works on the appeal site, comprising the construction of a:

- Rotary milking parlour,
- Dairy,
- Plant room,
- Collecting yard,
- Drafting facilities,
- Cubicle shed,
- Roofless cubicles,

- Underground slatted tank, and,
- Silage pit and lined slurry lagoon

2.2. The proposed development also includes the erection of external an milk tank, meal bins, water storage tank and all associated site works necessary to facilitate the proposed development.

2.3. The rotary milking parlour, cubicle shed and roofless cubicles will occupy the north-western portion of site with the slurry lagoon and silage pit occupying its south-eastern end. The various structures range in height from c. 7.2m to 9.65m and the area of buildings have a combined floor area of c. 3,909sq.m.

2.4. The appeal site is located c. 400m to the south-east of the R408. Although not clearly identified in the application documents, it was assumed by the Planning Authority within their assessment that access to the site was via the existing entrance and avenue associated with Rathcoffey Castle and demesne which is located off the R408.

2.5. Following a request for further information, the Applicant proposed an alternative entrance to the site via an existing agricultural entrance. This entrance is located on the L5046, c. 1.2km to the east of the site.

2.6. The proposal also includes the provision of an earthen bank, 1.2m wide and 1.5m high along the site's north-eastern boundary which is to be planted with 50% whitethorn/blackthorn hedge.

3.0 Planning Authority Decision

3.1. Decision

Kildare County Council granted planning permission for the proposed development subject to compliance with 13 no. conditions.

Conditions of note included:

Condition No. 2 relates to archaeological monitoring.

Condition No. 3 requires details of the proposed access road to be submitted prior to the commencement of development on site.

Condition Nos. 11 & 12 relate to landscaping.

3.2. Planning Authority Reports

3.2.1. Planning Report

3.2.1.1. The Kildare County Council Planning Reports forms the basis for the decision. The First Planning Report provides a description of the appeal site and an overview of the local level policy that is relevant to the development proposal. The report outlines the relevant planning history of the surrounds and summaries the 2 no. observations on the planning file.

3.2.1.2. In terms of their assessment of the application, the Planning Authority had concerns regarding the impact the proposed development on the setting and character of the Protected Structure and Recorded Monuments in the site's vicinity and on potential archaeology that may lie within the subject site. It was noted that the submitted documentation did not adequately demonstrate the impact of the proposed development on the character and setting of the demesne and ruins and further information was therefore requested. The various items raised in the Planning Authority's further information request can be summarised as follows:

1. The submission of an Archaeological Assessment.
2. The submission of an Architectural Heritage Impact Assessment and Visual Impact Assessment.
3. A revised Site Layout drawing with entrance details to include relevant sight lines. Concerns raised with regard to road safety with the entrance to the site and the junction of the R408 and the School Road.
4. The Applicant was requested to consider an alternative location within the landholding for the proposed development given the concerns raised regarding access and the proposal's impact on built heritage.

5. Details to be submitted with respect to the spreading lands for slurry generated by the proposed development.

3.2.1.3. In response to the further information request, the Applicant submitted updated documentation including an archaeological report and an architectural heritage assessment. In addition, the scheme was amended, so that access is provided from an existing agricultural entrance from the L5046, c. 1.2km to the east of the appeal site. The Planning Authority was satisfied that the Applicant's response was acceptable, and permission was granted for the proposed development subject to conditions.

3.2.2. Other Technical Reports

Municipal District Engineer: Report received raising concerns regarding site access and recommending further information with respect to the provision of adequate sightlines. Second report on file stating no objection subject to compliance with conditions.

Roads & Transportation Department: Report received stating no objection subject to compliance with conditions.

Environment Department: Report received stating no objection subject to compliance with conditions.

Water Services: Report received stating no objection subject to compliance with conditions.

Heritage Officer: Report received recommending further information with respect to the land spreading and the submission of an archaeological assessment of the development.

Conservation Officer: Report received recommending further information which recommended the submission of an Architectural Heritage Impact Assessment and

Visual Impact Assessment. Second report on file stating no objection subject to compliance with conditions.

EHO: Report received stating no objection subject to compliance with conditions.

3.2.3. Prescribed Bodies

Department of Housing, Local Government and Heritage, Development Applications

Unit: Report received recommending further information with respect to archaeological testing and the requirement for a relevant assessment to be submitted. Second report on file stating no objection subject to compliance with conditions.

3.2.4. Third Party Observations

Two (2) no. observations were received by the Planning Authority from Brian O'Kane and Adrian and Amanda Morgan. An additional observation was received from Adrian and Amanda Morgan following the submission of further information. Adrian and Amanda Morgan are the Third Party appellants and the matters raised in the observations on file are broadly similar to those raised within the appellant's grounds of appeal. I will discuss these issues in further detail in Section 6 of this report.

4.0 Relevant Planning History

4.1. Appeal Site

None.

4.2. Surrounding Lands

13/310: Retention permission granted by the Planning Authority for (Ref. No. 07/2619) an existing 18m high telecommunications support structure with antennas, equipment container and associated equipment within a fenced compound and access track. The development forms part of Vodafone Ireland Limited's existing GSM and 3G Broadband telecommunications network.

12/552: Permission granted by the Planning Authority for continuance of use of an existing 25m high monopole support structure carrying radio antennas (total height

including antennas 27m) palisade perimeter fencing and equipment containers as previously granted under local authority reference 07/2649. This forms part of their cellular digital and broadband communications network.

07/2649: Permission granted by the Planning Authority for to retain a 25m high monopole support structure carrying radio antennas for mobile telephone (full height with antennas 26.4m), palisade perimeter fencing and equipment containers etc.

10/425: Permission refused by the Planning Authority for the erection of an agricultural shed for grain storage and all associated site development. The proposed shed was located within the 'Walled Garden' to the east of the application site and the development was refused for 3 no. interrelated reasons regarding the adverse impact of the proposal on the amenity, setting and views of historic monuments.

5.0 Policy and Context

5.1. Local Policy

5.1.1. Kildare County Development Plan (CDP), 2023-2029.

5.1.1.1. The site is located outside a designated settlement boundary and within the rural area of the county Kildare. In terms of Agriculture, Section 4.19 of the current Plan includes the following relevant policies and objectives:

- **RE P13** Support and facilitate sustainable agriculture, horticulture, forestry and other rural enterprises at suitable locations in the County where there will be no potential for likely significant effects on a European Site or on a site that shares a hydrological connection to a European Site.
- **RE O89** Protect agriculture and traditional rural enterprises from haphazard and/or incompatible development.
- **RE O90** Promote the 'Smart Farming' initiative, the 'Kildare Climate Change Adaptation Strategy (2019)' and the 'National Climate Action Plan 2021' to farmers across Kildare to inform them of environmental sustainability and resource management, so as to reduce CO2 production on farms in accordance with the National Climate Action Plan 2021.

5.1.1.2. In terms of 'Rural Economy & Rural Enterprise', it is an objective (RD O5) under Section 9.3 of the Plan to require new buildings and structures:

- To be sited as unobtrusively as possible.
- To be clustered to form a distinct and unified feature in the landscape.
- To utilise suitable materials and colours.
- To utilise native species in screen planting to integrate development into the landscape.

5.1.2. The appeal site is located within Rathcoffey Demesne which includes a designated Protected Structure and there are a number of Recorded Monuments within the demesne lands. It is an aim under Chapter 11 (Built and Cultural Heritage) of the Plan 'To protect, conserve and sensitively manage the built and cultural heritage of County Kildare and to encourage sensitive sustainable development so as to ensure its survival and maintenance for future generations. Policies and objectives of note include:

- **AH P1:** Recognise the value and opportunity of Kildare's unique heritage resource and to manage, conserve, promote and protect it, for present and future generations.
- **AH O2:** Manage development in a manner that protects and conserves the archaeological heritage of County Kildare, avoids adverse impacts on sites, monuments, features or objects of significant historical or archaeological interest and secures the preservation in-situ or by record of all sites and features of historical and archaeological interest, including underwater cultural heritage. The Council will favour preservation in – situ in accordance with the recommendation of the Framework and Principles for the Protection of Archaeological Heritage (1999) and the Council will seek and have regard to the advice and recommendations of the Department of Housing, Local Government and Heritage.
- **AH O5:** Require the preservation of the context, amenity, visual integrity and connection of the setting of archaeological monuments. As a general principle, views to and from archaeological monuments shall not be obscured by inappropriate development. Where appropriate, archaeological visual impact

assessments will be required to demonstrate the continued preservation of an archaeological monument's siting and context.

- **AH P2:** Protect and enhance archaeological sites, monuments and where appropriate and following detailed assessment, their setting, including those that are listed in the Record of Monuments and Places (RMP) or newly discovered archaeological sites and/or subsurface and underwater archaeological remains.
- **AH P5:** Secure the identification, protection and conservation of historic items and features of interest throughout the county including street furniture, surface finishes, roadside installations, items of industrial heritage, riverine heritage, and other stand-alone features of interest (items not listed on the RMP or RPS).
- **AH P7:** Promote appreciation of the landscape and historical importance of traditional and historic gardens, demesnes and parks within County Kildare and particularly where they constitute an important and intrinsic value to the setting of a protected structure.
- **AH P8:** Preserve and protect the historic gardens and designed landscapes identified in the National Inventory of Architectural Heritage Survey of Historic Gardens and Designed Landscapes.
- **AH O21:** Protect the curtilage of protected structures or proposed protected structures and to refuse planning permission for inappropriate development that would adversely impact on the setting, curtilage, or attendant grounds of a protected structure, cause loss of or damage to the special character of the protected structure and/or any structures of architectural heritage value within its curtilage. Any proposed development within the curtilage and/or attendant grounds must demonstrate that it is part of an overall strategy for the future conservation of the entire built heritage complex and contributes positively to that aim.
- **AH O19:** Ensure that development within the county including Council development retains, refurbishes and incorporates features of historical interest, as deemed appropriate in each instance.
- **AH O50:** Require where appropriate that an Architectural Heritage Impact Assessment report is prepared in accordance with DHLGH Guidelines and

conservation best practice to inform visual or physical impacts of a proposed development on a demesne, designed landscape, or park, that is associated with a protected structure or located within an Architectural Conservation Area.

- **AH O52:** Designate and protect historic landscape areas including demesnes and ensure that new development enhances the special character and visual setting of these historic landscapes and to prevent development that would have a negative impact on the character of the lands within these historic landscape areas.

5.1.2.1. The appeal site is located within the Northern Lowlands Landscape Character Area. This area is identified as having a 'Low Sensitivity' and described as 'Areas with the capacity to generally accommodate a wide range of uses without significant adverse effects on the appearance or character of the area'. Relevant policies and objective contained within Section 13.3 (Landscape Character Assessment) of the CDP include:

- **LR P1** Protect and enhance the county's landscape, by ensuring that development retains, protects and, where necessary, enhances the appearance and character of the existing local landscape.
- **LR O4** Ensure that local landscape features, including historic features and buildings, hedgerows, shelter belts and stone walls, are retained, protected and enhanced where appropriate, so as to preserve the local landscape and character of an area.
- **LR O5** Preserve, where appropriate, the open character of commonage.

5.1.2.2. Section 15.9.8 of the CDP provides specific policy with respect to 'Agricultural Developments' and notes that the traditional form of agricultural buildings is disappearing with the onset of advanced construction methods and a wider range of materials. Some new farm buildings have the appearance of industrial buildings and, due to their scale and mass can have serious visual impacts. The following policies apply to applications for agricultural buildings:

- In the construction and layout of agricultural buildings, the Council will require that buildings be sited as unobtrusively as possible, working with the contours of the land and that the finishes and colours used blend into the surroundings.

The Council accepts the need for agricultural buildings and associated works (walls, fences, gates, entrances, yards etc.) to be functional, but they will be required to be sympathetic to their surroundings in scale, materials, and finishes.

- Appropriate roof colours are dark grey, dark reddish brown or a very dark green. Where cladding is used on the exterior of farm buildings, dark colours (preferably dark green, red, or grey) with matt finishes will normally be required.
- New agricultural buildings shall be located within or adjacent to existing farm buildings, unless it has been demonstrated, to the satisfaction of the Planning Authority, that the building must be located elsewhere for essential operational reasons. The grouping of agricultural buildings will be encouraged in order to reduce their overall impact in the interests of amenity.
- The removal of hedges to accommodate agricultural developments shall only be permitted with the written agreement of the Planning Authority and shall only be considered as a last resort. It is important that hedgerows are retained in order to maintain and enhance existing green infrastructure networks in the interests of biodiversity. When retaining boundary hedgerows, the council requires suitably sized infill planting where possible. A landscaping plan is required as part of an application for agricultural development and should include screening and shelterbelt planting, composed principally of native species as listed in section 15.2.4 Chapter 15, Development Management Standards.
- Other considerations which will arise in agricultural developments will be traffic safety, pollution control, and the satisfactory treatment of effluents, smells and noise. Proper provision for disposal of liquid and solid wastes must be made. In addition, the size and form of buildings and the extent to which they can be integrated into the landscape will be factors which will govern the acceptability or otherwise of such development.
- Agricultural developments shall also demonstrate that the proposal does not impact significantly upon Special Areas of Conservation (SACs), Special Protection Areas (SPAs), Natural Heritage Areas (NHAs), Areas of High Amenity, Landscape Sensitivity Areas, Key Scenic Views and Prospects and

Key Amenity Routes, sites of heritage or cultural value, or areas at risk of flooding.

- Proposals for preventing surface water run-off onto the public road shall be included with planning applications.

5.2. Project Ireland 2040 National Planning Framework (NPF)

- 5.2.1. Section 5.4 (Planning and Investment to Support Rural Job Creation) of the NPF highlights that ‘creating the environment to support job creation in rural areas will be a key enabler to rejuvenating rural towns and villages, sustaining vibrant rural communities and reversing population decline’. In terms of agriculture, the agri-food sector continues to play an integral part in Ireland’s economy and is Ireland’s largest indigenous industry, contributing 173,400 direct jobs and generating 10.4% of merchandise exports in 2016. The NPF notes that 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. National Policy Objective (NPO) 23 is relevant to the consideration of the appeal which seeks to ‘facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.’

5.3. Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).

- 5.3.1. Section 4.8 (Rural Places: Towns, Villages and the Countryside) of the RSES recognises the major contribution that rural places make towards regional and national development in economic, social and environmental terms. Rural areas in the Region, including the Gaeltacht area, contribute to Ireland’s unique culture and identity, and provide significant natural resources, biodiversity, environmental qualities and landscape features.
- 5.3.2. Regional Policy Objectives (RPO) that are relevant to the development proposal

include:

- RPO 4.79: Local authorities shall identify and provide policies that recognise the contribution that small towns, villages and rural areas contribute to social and economic wellbeing. As part of this policy provision that seeks to support and protect existing rural economies such as valuable agricultural lands to ensure sustainable food supply, to protect the value and character of open countryside and to support the diversification of rural economies to create additional jobs and maximise opportunities in emerging sectors, such as agri-business, renewable energy, tourism and forestry enterprise is supported.
- RPO 6.24: Support the Departments of Agriculture, Food and the Marine, and Communications, Climate Action and Environment to enhance the competitiveness of the agriculture sector with an urgent need for mitigation as well as real and effective and adaptation mechanisms for the long-term sustainability of the agri-sector.

5.4. European Union, Good Agricultural Practice for the Protection of Waters Regulations 2022.

5.5. Climate Action Plan (CAP) 2024

5.6. Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, (Department of Housing, Local Government and Heritage) (August 2018).

5.7. Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009).

5.8. Natural Heritage Designations

- 5.8.1. The site is not located within or contiguous to a Natura 2000 site. The nearest designated sites are the Ballynafagh Lake Special Area of Conservation (SAC) (Site Code: 001387) and the Ballynafagh Bog SAC (Site Code: 000391), which are located

c. 7.3km to the south-west of the site. The Rye Water Valley/Carton SAC (Site Code: 001398) is also located c. 9km to the north-east of the site.

5.9. EIA Screening

- 5.9.1. 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 no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A Third Party appeal has been submitted by Adrian and Amanda Morgan with an address at Rathcoffey Lodge, School Road, Rathcoffey, Co. Kildare. The appeal submission sets out in detail the relevant policy context that they deem relevant to the assessment of the subject proposal. The submission refers to Ireland's various obligations under international agreements and a summary of the policies contained within the NPF, the RSES, the current Kildare CDP and the CAP 2023 is provided. The submission also refers to the planning history of the site surrounds (i.e. Ref. 10/425), whereby permission was previously refused due to the sensitivity of the site's historic character. The appellant's grounds of appeal can be summarised as follows:
- 6.1.2. Under the heading of 'Historic & Architectural Record', the submission sets out that the proposed development lies within the curtilage of Rathcoffey Demesne and the key features of the Demesne are a ruined Castle (KD010-01801), Gatehouse (KD010-01802), Landscape Features (KD010-01803) and a Ringfort (KD010-016). The appellant also notes that Rathcoffey Castle is designated a Protected Structure (B10-02) under the County Development Plan and that the Castle is identified as a National Monument in State Ownership. The appellant again refers to the planning history of the surrounds and notes the refusal of permission for an agricultural development. Although the proposed development is in a different location, it is highlighted that it remains within the curtilage of the historic site and hilltop.

- 6.1.3. The appellant notes that the listed structures shown are the dominant features of a historic ridgeline development that informs the area's landscape character and are visible in Richardstown, Longtown and Baybush along the R403 (from the southeast) and the R408 (from the north). It is highlighted that the Walled Gardens (mid-18th century) form part of the historical connection with the Castle and the surviving Gatehouse (late 14th century) and it is their view that they inform the curtilage of the listed buildings. The submission provides detailed information of Rathcoffey Demesne and a description of the architectural features on the site.
- 6.1.4. In terms of 'Water Quality', the submission notes that the subject site drains to the catchment of the southern branch of the Lyreen_010 sub-basin [12] and there has been no assessment of the proposed development for an impact on the water quality under the Water Framework Directive. The appellant notes that the water quality status of this waterbody is listed as poor.
- 6.1.5. Under the heading of 'Air Quality', the appellant notes the location of the appeal site relative to the existing school within the village and concerns are raised that ammonia emissions from the storage of slurry waste have not been assessed for an impact on the air quality at the school.
- 6.1.6. It is stated within the appeal that the Applicant submitted high-level detail to utilise an entrance on the L5046 but without any details of a road connection to the L5046. The appellant raises concerns that the Applicant's drawings did not show the location of the site notice near the L5046. The drawing shows the site notice located on the north edge of the red- line area, which is not accessible to the public road. In addition, there are no published details of a proposed location or route from the red-line area, past the protected structures, to the L5046. While it is acknowledged that planning conditions require archaeological supervision of any works, it is not possible to understand from the Planner's Assessment (12 January 2023) how a concept road with an unspecified location or route was assessed for impact on architectural and archaeological heritage. The submission also highlights that it is not possible to

understand from the Planner's Assessment how sub-threshold screening was carried out, in the absence of an Environmental Impact Assessment report being completed. The construction of a private road in a historically sensitive setting cannot be agreed by way of condition after planning permission has been granted.

6.1.7. The appellant refers to the requirement for the Applicant to export 9,350 cubic metres of slurry annually by road via the L5046 which reflects the lack of waste-spreading capacity within Rathcoffey Demesne from the proposed herd of c. 450 cattle. The submission goes on to note that the impact of movements of HGVs and other large agriculture vehicles onto the L5046 does not appear to have been assessed.

6.1.8. As the proposed development seeks to establish the introduction of milking cows in a historic demesne, a transition from established cereal-growing farming, it is highlighted that intensive bovine farming is directly linked to the increase in greenhouse gas emissions and atmospheric concentrations. The proposed development therefore goes against the aims and objectives of policies introduced to mitigate the impact of climate change.

6.2. Planning Authority Response

6.2.1. A response has been received from the Planning Authority confirming its decision and indicating that they have no additional comments.

6.3. Observations

6.3.1. A submission to the appeal has been received from An Taisce who provide information on the historical significance of the appeal site. Within the observation, reference is made to the extensive concerns raised by the appellants on the sustainability and impact of the proposal. It is stated that the application raises significant considerations on dairy expansion under the Environmental Impact Assessment (EIA) Directive. There is also the overarching issue of the compatibility of existing and continuing bovine milk production with climate action. The submission refers to EPA published data regarding the continued water quality deterioration and a breach of the EU emissions ceiling limit on ammonia air pollution, which is 98% caused by animal

agriculture. Attached to the submission is a complaint from An Taisce to the European Commission Ireland regarding Ireland's breach of the ammonia emission ceiling level since 2016.

6.3.2. In this case, the application is predicated on continuing and increasing levels of bovine milk production in Ireland, which faces multiple sustainability incompatibilities. The application particulars, in this case, do not address the lack of EIA and Appropriate Assessment (AA) of the cumulative increase in milk production and it fails to address compatibility with the need to mitigate upstream milk supply and resource consumption to meet climate action, biodiversity as well as sustainable land use production and diversification, as set out in the objectives in the 2021 EU Farm to Fork policy.

6.3.3. It is submitted that this application warrants refusal on:

- General grounds relating to unjustified dairy expansion with multiple adverse impacts, such as the generation of greenhouse gas emissions, nitrates, water catchment quality and ammonia air pollution.
- Grounds relating to adverse impacts on the medieval and later complex of structures, which represent one of the most important historic sites in Co. Kildare.

In particular, the observation notes the concerns raised in the appeal submission with regard to the internal roadway machine access, fencing, shed and slurry tank construction and other considerations on both the archaeology of the site and the character of its architectural and landscape setting as a historic complex of structures.

6.4. First Party Response

6.4.1. A response to the Third Party appeal has been prepared and submitted on behalf of the Applicant, the content of which can be summarised as follows:

- As part of its Climate Action Strategy, Teagasc has set out a road map on how to achieve the Government's target of a 25% reduction in greenhouse gas emissions by 2050. In this roadmap a suite of measures has been identified to assist in achieving these targets. The First Party response indicates that a significant number of Phase 1 measures have been included in the Nitrates

Regulation and are part of the new CAP Strategic Plan with many now compulsory on Irish farms and in particular, dairy farms. The measures are also part of the national strategy to implement the requirements of the Climate Action and Low Carbon Development Act. It is stated that the proposed development will be subject to all the requirements of the Water Framework Directive and the Nitrates Directive together with additional regulation related to greenhouse gas emissions, ammonia emissions and water quality. The submission notes that the proposed development has been designed to comply with the relevant legislation and all facilities will be constructed to Department of Agriculture Specification and this holding will be required to operate within the boundaries set down by the Department of Agriculture, Food and the Marine and The Department of the Environment, Climate and Communications.

- An Architectural Heritage Impact Assessment has been carried out and concluded that there would be no direct impact to the architectural heritage of the Rathcoffey Complex.
- Details of a road connection from the site to L5046 are addressed as part of the conditions of the Grant of Permission. If additional details are required, this information can be furnished to An Bord Pleanála and Kildare County Council within a specified reasonable timeframe.
- Livestock are currently fenced off from all protected and recorded monuments by means of electric fence wire as standard on the vast majority of dairy farms.
- The stocking rate on the holding will be monitored by The Department of Agriculture, Food and the Marine and the applicant will be required to remain within maximum stocking rates.
- The submission notes that the current proposal is the first and only application made by the Applicant in relation to this site. It is stated that the applicant is a young trained farmer who is dependent on the success of this application to progress in her farming career.

6.5. Further Responses

None sought.

7.0 Assessment

Having regard to the totality of the documentation on file and having inspected the appeal site and surrounding area, the main issues are those raised in the Third Party's grounds of appeal and the Planning Reports, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Architectural & Archaeological Heritage
- Transport & Site Access
- Waste & Emissions
- Appropriate Assessment

7.1. Principle of Development

- 7.1.1. The proposed development seeks planning consent for an agricultural development on the appeal site comprising the construction of a rotary milking parlour, dairy and associated structures. The development also includes the erection of an external milk tank, meal bins, water storage tank and all associated site works necessary to facilitate the proposed development. It is understood that tillage farming has historically been carried out on the appeal site and the proposed development seeks to alter the type of farming practice to dairying. Section 4.19 (Agriculture) of the current Plan acknowledges that there is a need to recognise the economic value of agriculture and to protect productive agricultural land from inappropriate industrial, commercial or residential development. I also note that there is policy support within the current Plan for agricultural development, whereby RE P13 seeks to 'support and facilitate sustainable agriculture, horticulture, forestry and other rural enterprises at suitable locations in the County where there will be no potential for likely significant effects on a European Site or on a site that shares a hydrological connection to a European Site. In addition, RE O89 of the Plan seeks to 'Protect agriculture and traditional rural enterprises from haphazard and/or incompatible development'.
- 7.1.2. The appellant has raised concerns regarding the Applicant's proposals to transition from established cereal-growing farming to dairy and it is highlighted that intensive

bovine farming is directly linked to the increase in greenhouse gas emissions and atmospheric concentrations. The proposed development would in their view go against the aims and objectives of policies introduced to mitigate the impact of climate change. Similar concerns have been raised in the submission from An Taisce, where they note that the application is predicated on continuing and increasing levels of bovine milk production in Ireland, which faces multiple sustainability incompatibilities. It is stated that the application particulars do not address the lack of EIA and Appropriate Assessment (AA) of the cumulative increase in milk production and it fails to address compatibility with the need to mitigate upstream milk supply and resource consumption to meet climate action, biodiversity as well as sustainable land use production and diversification.

- 7.1.3. Considering the context for this development, including the historical tillage farming practices carried out on site, the predominance of agriculture in the wider area, and as agricultural operations are constantly transforming and adapting, I am satisfied that the principle of the proposed development of facilitating a dairy farm operation at this location would be acceptable, subject to more detailed consideration of the planning and environmental impacts addressed below. However, I note that the appeal site lies within a historic demesne of significant architectural and archaeological potential. In addition, the increase in traffic volumes to the site as a result in the change in farming practices could not be described as insignificant and therefore, this aspect of the proposed development requires careful consideration. In this regard, the following sections of my assessment will also focus on these specific matters in further detail.

7.2. Architectural & Archaeological Heritage

- 7.2.1. The appeal site has a stated area of c. 3.3ha. and lies within the curtilage of Rathcoffey Demesne, a site of significant architectural and archaeological significance. As per Appendix 5 (Record of Monuments and Places) of the current Plan, there are a total of 4 no. recorded monuments within the demesne, which include the:
- Castle - KD010-01801-,
 - Gatehouse - KD010-01802-, and,
 - Landscape Formal Garden - KD010-01803-.

These monuments are located to the east of the proposed development and are positioned centrally within the demesne lands. There is also a Ringfort (KD010-016) located further to the north-east of the demesne, proximate to the boundary with the L5046. Section 11.10.2 (Monuments in the ownership/guardianship of the State/subject of preservation orders) of the current Plan notes that there a number of monuments that are further protected by being in the ownership or guardianship of the State or the subject of preservation orders (National Monuments). I note that Table 11.2 of the Plan identifies Rathcoffey Castle (KD010-01801) as a National Monument in State Ownership (Tale 11.2). The Historic Environment Viewer for Archaeological and Architectural Heritage (See Appendix 2 of this Report) also identifies a number of additional features of archaeological significance that have been recorded across Rathcoffey Demesne. Further to this, Appendix 6 (Record of Protected Structures) of the current Plan designates Rathcoffey Castle as a Protected Structure (Ref. B10-02).

- 7.2.2. Within their initial assessment of the proposed development, the Planning Authority referred to the commentary of their Conservation officer who indicated that the demesne lands were surprisingly intact. As the Castle is a designated Protected Structure, it was indicated by the Planning Authority that the demesne lands, including the subject site form part of its curtilage and it was considered that any development should be sensitively integrated with the existing heritage fabric so to retain its unique setting in consideration of its archaeological significance and great historic importance. As the Planning Authority raised concerns regarding the development's impact on the setting and character of the Protected Structure and Recorded Monuments, the Applicant was requested to submit an Archaeological Impact Assessment and an Architectural Heritage Impact Assessment. In addition, the Applicant was requested to submit an assessment of the visual impact of the proposed buildings on the character and setting of the castle, and its demesne, with particular reference to contiguous sections and elevations of the site. It was noted that this assessment should comment on the massing and siting of the new buildings and highlight any measures that were adopted in developing the design to mitigate its impact on the castle and further mitigation measures should be proposed.

7.2.3. In terms of archaeology, the Applicant submitted an Archaeological Testing Report by way of further information which indicated that the appeal site is not located within the constraint zone of any site or monument noted in the Sites and Monuments Record (SMR) or the statutory Record of Monuments and Places (RMP). However, it was acknowledged that the site is located in a landscape of some significance and at its closest point, it is located c. 250m south-west of the constraint zone around National Monument No. 404, the surviving gatehouse (KD010-018002) of the 14th century constructed Rathcoffey Castle (KD010-018001) and the later, 17th-century, fortified house (KD010-018004) which was in turn incorporated into the late 18th-century mansion (KD010-018005). The report also refers to the presence of the formal gardens (KD010-018003), which were illustrated on the 1st-edition OS mapping. The Applicant's report notes that the archaeological testing of the proposed development site took place on the 10th May 2022 with the aid of a 13-tonne mechanical excavator with all trenches (4 no. trenches as per Figure 4 of the Report) excavated to the natural subsoil in order to inspect for the presence of archaeological deposits and features. It is stated within the report that nothing of archaeological significance was encountered in the four trenches which totalled 793m in length and which were excavated across the proposed site. The report concludes that that if the proposed development were permitted then there would be little, or more probably no, direct impact to the archaeological heritage within the proposed site area and thus it was the opinion of the consultant archaeologist that permission should be granted for the proposed development.

7.2.4. The Applicant also submitted an Architectural Heritage Impact Assessment to address the concerns of the Planning Authority. The report provides a description of the site's historical and archaeological background, and it acknowledges that in assessing the impact of the proposed development, there are two issues that require assessment. Firstly, the upstanding structures of the walled garden, gatehouse and mansion and secondly, those elements of the demesne landscape evidenced by the 1st-edition OS mapping and modern aerial photography, which are now located subsurface. In terms of 'direct impacts', it is stated that none shall arise from either its construction phase or operational phase given the distance of the existing structures from the proposed

development (i.e. between c. 250-330m) and the results of the archaeological testing on site.

- 7.2.5. Section 5.3.2.1 (Pre-mitigation Impact) of the Applicant's assessment contends that the downslope location of the proposed development site, in tandem with the orientation of the structures and alignment of the features on a north-west to south-east basis, falling with the natural slope will somewhat mask their presence from view. It is stated that the structures would be set against the backdrop of the existing hedgerow and mature deciduous trees which comprise the existing field boundary and treeline, at a low point in the south-western horizon. It is considered therefore that the selection of the site and its distance from the historical complex lessens any potential impact. The report goes on to note that the presence of the proposed structures would be concealed from view, when observed from ground level at the Rathcoffey complex and the pre-mitigation indirect impact of the development is therefore assessed to be slight to moderate.
- 7.2.6. In addition to site selection, Section 5.3.2.2 (Proposed Mitigation Measures) of the Report notes that the green pre-painted sheeting which has been included as part of the Cubicle shed's design will aid to disguise its massing against the backdrop of the existing hedgerow and mature trees along the south-western boundary. The report notes that the appeal site when viewed from the gatehouse and mansion, at ground level, is completely obscured by a windbreak of coniferous trees and the walled Garden. To assist in obscuring the proposed development and its massing from view elsewhere in the demesne and in the wider landscape, the Applicant is proposing a landscaped earthen bank, 1.2m wide and 1.5m high, to be constructed along the south-eastern and north-eastern site boundaries. In conclusion, the report notes that the change in land use from arable to dairying respects the setting of the Rathcoffey complex and will require no intervention other than the designed mitigation. Additionally, it is stated that there will be no impact to the setting of the Rathcoffey complex, either directly due to the existing livestock proof fencing on site, which will ensure the dairy cows remain separate to the architectural heritage or indirectly through the presence of livestock in the surrounding landscape, which is already of an

agricultural nature.

- 7.2.7. Following the submission of further information, the Planning Authority referred to the additional reports on file from the DAU and the Planning Authority's Conservation Officer, which both noted that they had now no objection to the proposed development subject to compliance with standard conditions. This was irrespective of the Conservation Officer confirming that the Applicant had failed to submit sections or elevations of the proposed development in the context of the existing structures within the demesne. From a review of the second Planner's Report on file, it is not evident whether the consultant reports have been engaged with in any meaningful way as no commentary has been provided by the Planning Authority regarding the suitability of the proposed development or otherwise. The commentary of the Conservation Officer and DAU has been reproduced, and permission was granted.
- 7.2.8. Section 15.9.8 of the current Plan indicates that the Council will require that buildings be sited as unobtrusively as possible, working with the contours of the land and that the finishes and colours used blend into the surroundings. The policy also highlights that the size and form of buildings and the extent to which they can be integrated into the landscape will be factors which will govern the acceptability or otherwise of such development. It is evident that the Applicant has sought to minimise the visual impact of the proposed development through site selection. I note the site is located down slope (albeit a moderate slope) from the existing structures within the demesne and is currently afforded a backdrop of mature trees along the site's south-western boundary. This existing vegetation acts to largely screen the development from the south-west. From my observations on site and from along the immediate surrounding road network, views to the existing structures within the demesne are largely obscured when viewed from the west (School Road), north-west (R408) and north (R408) by either vegetation and/or the topography of the demesne and its hinterland. However, the structures are visually prominent when viewed from the east along the L5046, whereby they form a striking feature on the horizon. I am conscious of the policies and objectives of the current Plan, including AH O5 which require the preservation of the context, amenity, visual integrity and connection of the setting of archaeological

monuments. As a general principle, views to and from archaeological monuments shall not be obscured by inappropriate development. In addition, Objective AH O21 seeks to protect the curtilage of protected structures and to refuse planning permission for inappropriate development that would adversely impact on the setting, curtilage, or attendant grounds of a protected structure, cause loss of or damage to the special character of the protected structure and/or any structures of architectural heritage value within its curtilage. The objective goes on to note that any proposed development within the curtilage and/or attendant grounds must demonstrate that it is part of an overall strategy for the future conservation of the entire built heritage complex and contributes positively to that aim.

- 7.2.9. Having inspected the site and surrounds and examined the plans and particulars, I am generally satisfied that the proposed structures by themselves would not adversely impact on the setting, curtilage, or attendant grounds of the Protected Structure owing to their overall scale, their siting within the demesne and the separation distances provided from the existing built heritage fabric. In addition, views to and from the archaeological monuments are unlikely to be obscured by the development as stipulated by the policy of the Plan. However, it is evident that the proposal is not part of an overall strategy for the future conservation of the entire built heritage complex, nor does it contribute positively to that aim as required the policy of the Plan. Whilst I fully acknowledge the established agricultural use on site, I note that the proposed development seeks to alter the type of farming practice being carried out. The Applicant's Agricultural Report (Table 1) indicates that c. 600 no. animals will be housed on the site (450 no. dairy cows, 75 no. weanlings, 75 no. stores & 20 no. young calves). Given the sensitivities of the surrounding lands, within which it is expected the animals will roam, it is my view that the application should at a minimum, demonstrate that the change in farming practices will not have an adverse impact on the features of architectural and archaeological significance and suitable mitigation measures should be outlined as required. Whilst I acknowledge the Applicant's commentary that livestock are currently fenced off from all protected and recorded monuments by means of electric fence wire as standard on the vast majority of dairy farms, I note from my observations on site that it was possible to freely roam the site. The wider

demesne lands have been identified as being within the control of the Applicant and measures such as this should be clearly outlined in the application documents. In the absence of this information, I am not satisfied that the proposal would fully accord with the various policy provisions of the current Plan.

7.2.10. As detailed earlier in this report, the Planning Authority in their initial assessment of the application assumed that access to the site was to be provided via the main avenue to Rathcoffey Demesne to the north-west. At further information stage, the Applicant then amended the scheme, whereby it is now proposed to utilise an existing agricultural entrance to the east of the site via the L5046. The existing gate at this location is to be removed and a new gate erected which is to be set back c. 18m from the public road in order to allow larger vehicles to enter the site before stopping. Within their assessment of the response, the Planning Authority acknowledge that the Applicant had not detailed the proposed internal roadway serving the appeal site and a condition was recommended for a revised layout plan to be submitted showing the internal road prior to the commencement of development. The condition specified the internal road to be a minimum width of 3.5m with geotextile fabric, 300mm minimum thickness of hardcore and 150mm thickness of Clause 804 Sub Base Material.

7.2.11. As noted above, the Applicant failed to provide any details of how access to the site is to be provided from the new entrance. When examining the reports on file, it is evident that neither the submitted Architectural Heritage Impact Assessment nor the Archaeological Testing Report addressed this aspect of the proposal. In addition, it is not clear whether the construction of an internal road through lands which are highly sensitive had been given due consideration in the reports of the Planning Authority's Conservation Officer or the DAU. The reliance on access and egress from the east would require the construction of an internal road measuring a total length of c. 1.2km. From my observations on site, it is evident that an agricultural track has been provided across the landholding from the eastern entrance on the L5046. This track is partly comprised of gravel adjacent the entrance to the L5046 and is in a similar position to the tree lined avenue that would have originally served the wider demesne as depicted in the historical mapping that pertains to the site and surrounds (See Appendix 2 of

this Report). Whilst it may be the Applicant's intention to utilise this track for site access, I note that an indicative route for the internal road has not been identified in the submitted documentation. Any route from this entrance would also be highly visible in the foreground of the Protected Structure and Monuments when viewed from the L5046. I note that the number of vehicular movements on this internal road during both the construction and operational phase of the development could not be deemed to be insignificant. This existing tracks runs adjacent to the existing Protected Structure, and I would have concerns regarding the reliance on this track as a through route for associated traffic given its proximity. In the absence of an identifiable indicative route and a more detailed architectural and archaeological appraisal of its potential impact, I have significant concerns regarding this aspect of the proposed development. Given the overall length of the road and its siting and visibility in the context of the features of architectural and archaeological significance on the site, it is my view that it is entirely inappropriate for this matter to be addressed by way of condition. For this reason, the proposed development is considered to be contrary to Objectives AH O5 and AH O21 of the Kildare County Development Plan (CDP), 2023-2029 and should therefore be refused planning permission.

7.3. Site Access

- 7.3.1. As indicated in the foregoing, the proposed development was amended at further information stage to provide access to the site from the east via the L5046. In support of the Applicant's further information response, sightline diagrams (Drawing No. NRB-SK-001), a Traffic Management Plan (TMP) and a traffic count/speed survey was submitted. Table Nos. 1 & 2 of the TMP provides a list of the main traffic that will access the site during the both the construction and operational phase of the proposed development. The construction phase is anticipated to be carried out over a period of c. 6 months with c. 450 vehicular movements expected for trucks, cars and vans. For the operational phase of development, the annual site frequency is repeated below as per Table No. 2 of the TMP:

- Milk Lorry (15.25m length): 100.
- Tractor & Slurry Tank: 240.
- Meal Truck (15.25m length): 20.

- Trucks (<6.2m length): 12.
- Cars, Vans: Daily (generally 2-3 vehicles per day).
- Livestock Transport: 12.
- Tractors with associated machinery: 6.

7.3.2. Section 15.9.8 of the CDP acknowledges that traffic safety is a consideration that will arise with agricultural developments. Whilst I acknowledge that a TMP (including Traffic Count/Speed Survey) was submitted in support of the further information response, it was evident from my observations on site that the L5046 is somewhat restricted due to the overall width of the carriageway, particularly between the entrance to the site and the junction with the R408 to the north. There are significant stretches of this road along the boundary of the wider landholding where I observed that it is not possible for cars to safely pass. On multiple occasions, cars were required to pull into the entrance of existing dwellings in order for oncoming cars to pass. Whilst I acknowledge that the development is proposing to rely on an existing agricultural entrance, the development seeks to alter the farming practices being carried out and it appears from the documentation on file to result in a significant increase in the volume of traffic that will access the site. Having examined the submitted documentation, I am not satisfied that the implications of this increase in traffic volumes have been adequately addressed in the submitted Traffic Management Plan. In addition, it is not clear whether the existing carriageway can readily accommodate the size of the vehicles that will now be required to traverse the site, in particular the various trucks and lorries associated with the operation of the proposed development. Therefore, in the absence of further analysis on the ability and capacity of the L5046 to facilitate the proposed development, it is considered that the intensification of the existing agricultural entrance has the potential to result in a traffic hazard. Whilst I do not consider that this should form a reason for refusal, any future application for the lands should robustly demonstrate that the L5046 has the capacity to be able to accommodate a development of this scale.

7.3.3. I note that the Appellants have raised concerns within their appeal regarding the adequacy of the site notice. Following the submission of the further information

response, the Planning Authority deemed the response to be significant and the Applicant was required to re-advertise the application. The report on file from the MD Engineer confirmed that the site notice was in place upon their inspection of the site. However, concerns were regarding the location of the notice on private lands and I note that the Site Location Plan submitted as part of the response only indicates the erection of a singular site notice adjacent the boundary of the appeal site (i.e. red line boundary). However, I note from my observations on site that notices were in place at the original location at the avenue to the demesne to the north-west of the site and at the new entrance on the L5046. Notwithstanding this, it is noteworthy that works to the existing entrance and associated drainage proposals are located outside the application red line boundary. In addition, the internal road, as conditioned by the Planning Authority would also fall outside the application boundary.

7.4. Waste & Emissions

- 7.4.1. The appellant in their submission highlighted that there has been no assessment of the proposed development in terms of its impact on water quality under the Water Framework Directive. Given the topography of the site, the lands would naturally drain in a south-easterly direction towards the 'Lyreen_010' river which in turn, flows in a north-easterly direction. Here, it bisects the southern portion of the site and continues north, adjacent the demesne's eastern boundary. The Lyreen River is a tributary of the Rye River and ultimately the River Liffey. Using the Environmental Protection Agency (EPA) online mapping resources (<https://gis.epa.ie/EPAMaps/Water>), it is possible to identify that the river is identified as having a 'poor' water status under the Water Framework Directive (WFD) for the period 2016-2021. In the latest third cycle risk assessment, the river is identified as being 'at risk' of not meeting its WFD objectives by 2027. The significant pressure that needs to be addressed in order to improve water quality in this river is identified as arising from agriculture and domestic waste water. Clonshanbo-Lyreen is also included as an 'Area for Action' (Restoration) identified under the WFD. The relevant groundwater body, Dublin, is identified as having a 'good' water status under the WFD for the period 2016 to 2021. As per the River Basin Management Plan 2018-2021, 'at risk' waterbodies require not only implementation of the existing measures described in the various regulations, for example, the SI No.605

of 2017 - European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, as amended by SI 65 of 2018 and SI 40 of 2020 (hereinafter referred to as the 'Good Agricultural Practice Regulations'), but also in many instances more targeted supplementary measures.

Construction Phase

- 7.4.2. In terms of the construction phase of the development, I note that the application is not supported by a construction management plan or a construction and environmental management plan (CEMP) which would typically set out proposals with respect to the use/storage of materials on site, including measures to protect surface water and groundwater. The CEMP would also generally outline measures to control potential pollutant or sediment-laden run-off. Notwithstanding this, I am satisfied that this matter could be addressed by way of compliance through the inclusion of an appropriate condition, and I note that the use of standardised measures can readily satisfy any concern regarding the potential for run-off during the construction phase. Subject to compliance with an appropriate condition, it is considered that the potential for the development to have an adverse impact on receiving water quality during the construction would not arise.

Operational Phase

- 7.4.3. Article 8 of the Good Agricultural Practice Regulations sets out general obligations to ensure that the capacity of storage facilities for livestock manure and other organic fertilisers, soiled water and effluents from dung sheds, farmyard manure pits, silage pits or silage clamps on a holding, are adequate to provide for the storage on the holding for such period as are required in the Regulations. In support of the application, the Applicant submitted an Agricultural Report which identified the stock numbers to be housed on the farm, the dairy washings production and the storage capacity. It is evident from the information (Table Nos. 1,2 & 3) within the report that the proposed structures will have sufficient slurry storage capacity for all stock housed on the site. The report also confirms that the holding will be in full compliance with the Good Agricultural Practice Regulations and it was confirmed that the slurry tank and channels are to be constructed in line with all Department of Agriculture specifications

(namely S101 & S123), the lined slurry lagoon will be constructed in line with S126 and S126A and the silage pit will be constructed in accordance with the specifications set out in S120 and S128. I note that the Planning Authority's Environment Department raised no concerns with the proposed development and suitable conditions were recommended in the event of a grant of permission. Based on the stated livestock type and number, the size of the slatted tanks and the open slurry pit, the proposed development would appear to exceed the minimum assigned waste storage holding volumes required for this part of the country in the Good Agricultural Practice Regulations. The separation distance of the storage tanks from various features, including wells and surface waters would be well in excess of the minimum requirements under the Good Agricultural Practices Regulations. In addition, there is no indication that the area of the proposed development is prone to flooding according to the available flood maps for this area (see www.floodinfo.ie/map/floodmaps/).

- 7.4.4. Storm water runoff from the development would be collected and discharged to a surface water soak pit system which has been identified on the submitted plans and particulars. A condition has also been included by the Planning Authority to ensure that all internal surface water generated is attenuated on the site.
- 7.4.5. I note that any spreading of cattle manure and nutrients would be required to be in accordance with the provisions of the Good Agricultural Practices Regulations, which provide greater protection for water quality from agricultural activities. As part of the Planning Authority's request for further information, the Applicant was requested to submit details of spreading lands for slurry generated by the proposal given the overall scale of development. In support of the response, a Fertiliser Plan for the Applicant was submitted which contains details of the proposed quantity of slurry and soiled water and the associated quantities of organic nitrogen and phosphorus produced for a full calendar year. The figure in the fertiliser plan is the anticipated highest production level likely to occur. It goes on to note that slurry will be exported to 3 no. holdings located within close proximity to the proposed site and enclosed with the response are letters from Martin Donovan, Maurice Hanafin and Pdraig Hanly confirming same. Each letter indicates the quantity of cattle slurry it expects to import on an annual basis

which aligns with the figures provided in the Applicant's fertiliser plan. It is also confirmed that the proposed quantity of organic nitrogen and phosphorus are within limits permitted under current Nitrates Regulations. In addition, it is stated that all movements of slurry will be reported to the Nitrates Section of the Department of Agriculture as required under Nitrates Regulations. The Applicant confirms that the proposed whole farm stocking rate when exported slurry is included will be 165Kg/N/Ha and will therefore be subject to a maximum organic nitrogen level of 170 Kg/Organic N/Ha (or 250 Kg/N where derogation granted). Having regard to the information on file, I am satisfied that there would appear to be sufficient and suitable lands within the identified grazing areas to take all of the slurry generated, in accordance with the standards set out in the Good Agricultural Practice Regulations.

7.4.6. Within their grounds of appeal, the appellant refers to the location of the appeal site relative to Rathcoffey National School which is located c. 250m to the north-west of the appeal site. It is stated that ammonia emissions from the storage of slurry waste have not been assessed for an impact on the air quality of the school. In addition, concerns are highlighted regarding the contribution that intensive agriculture is having on climate change, including via increased greenhouse gas emissions. This was also a point which was reiterated by An Taisce in their observation on file. As indicated above, the Applicant has set out that the proposed development is consistent with the current planning policy framework for this sector. I note that any perceived limitations of the broader environmental emissions from agricultural sectors, such as dairying, arising from national agricultural policies are beyond the scope of this assessment. I note that malodours from the development are likely to arise principally from slurry, with greatest risk at times of slurry agitation, movement and spreading. However, I note that the Applicant is proposing to export slurry from the farm as detailed in Section 7.4.5 above.

7.4.7. Having regard to the information on file, the observed site characteristics and the proposed means to manage waste water on site during the construction and operation phases, I am satisfied that the proposed development, including measures to address impacts on surface waters, can be undertaken and operated without substantial risk

of pollution of water bodies in the vicinity of the site. In addition, I am satisfied that the proposed development shall not unduly impact on the residential amenity of residents within the surrounding area by reason of malodours.

7.5. Appropriate Assessment

Screening Introduction

- 7.5.1. As part of the development management process, it is necessary to determine whether the proposed development would be likely to have significant effects on Natura 2000 sites, and therefore, whether an appropriate assessment is required. The site is not located within or contiguous to a Natura 2000 site. The nearest designated sites are the Ballynafagh Lake Special Area of Conservation (SAC) (Site Code: 001387) and the Ballynafagh Bog SAC (Site Code: 000391), which are located c. 7.3km to the south-west of the site. However, the Rye Water Valley/Cartron SAC (Site Code: 001398) is also located c. 9km to the north-east of the site and there is an indirect hydrological connection between the site, whereby the site natural drains to the Lyreen River which traverses the demesne's lands and is a tributary of the Rye River.

Receiving Environment & Proposals

- 7.5.2. The site location is described in section 1 of this report above. A description of the proposed development is provided in section 2 of this report and expanded upon in the various sections in the planning assessment above and within the application documentation. Details regarding the status of neighbouring receiving waters are outlined in section 7.4.
- 7.5.3. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of the likely significant effects on European sites:
- Discharge of silt laden / polluted waters from the site during construction works;
 - Habitat disturbance / species disturbance (construction and / or operational);
 - Pollution to receiving waters during the operational phase.

European Sites

7.5.4. Using the source-pathway-receptor model, there is weak connectivity via the grazing lands and then the Lyreen River which eventually flows into the Rye Water Valley/Carton SAC (Site Code: 001398), c. 9km downstream. In my view, the Rye Water Valley/Carton SAC is the only designated site considered to be within the project's zone of influence having regard to the separation distances when taking into consideration the separation distances and the lack of a hydrological connection to the Ballynafagh Lake SAC (Site Code: 001387) and the Ballynafagh Bog SAC (Site Code: 000391).

7.5.4.1. I note that the qualifying interests and conservation objectives of the Rye Water Valley/Carton SAC is included as follows:

Table 7.1

European Site	Qualifying Interest	Conservation Objectives	Distance from Site
Rye Water Valley/Carton SAC 001398	Petrifying springs with tufa formation (Cratoneurion) [7220] Vertigo angustior (Narrow-mouthed Whorl Snail) [1014] Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]	[7220] To restore the favourable conservation condition of Petrifying springs with tufa formation (Cratoneurion)* in Rye Water Valley/Carton SAC... [1014] To restore the favourable conservation condition of Narrow-mouthed Whorl Snail (Vertigo angustior) in Rye Water Valley/Carton SAC... [1016] To maintain the favourable conservation condition of Desmoulin's Whorl Snail (Vertigo moulinsiana) in Rye	9km

		Water Valley/Carton SAC	
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Test of Likely Significant Effects

7.5.5. The proposed development is examined in relation to any possible interaction with the stated European sites, to assess whether it may give rise to significant effects on the sites in view of their conservation objectives. Factors potentially impacting on the sites arising from the proposed development comprise:

- Habitat loss or modification;
- Spread of invasive species;
- Disturbance or displacement of qualifying species;
- Ex-situ impacts.

Habitat Loss or Modification

7.5.6. The development area of the project is not directly connected to or necessary to the management of any European site and the proposed development would not result in the direct loss of habitats within any European sites. Due to the topography of the site and surrounds, the site drains in a south-easterly direction towards the Lyreen River. As detailed earlier in this report, a CEMP would typically include details of how it is intended to address potential risks to surface water during construction. As referenced in section 7.4 above, I am satisfied that this could readily be addressed by way of condition given the scale of development proposed and it is considered that the potential for the development to have an adverse impact on water quality during the construction phase would not arise. Any emissions to air during the construction phase would be limited and short-term in nature and having regard to separation from the European sites and their respective conservation objectives, no effects on the integrity of the sites are considered likely from emissions to air.

7.5.7. As outlined in section 7.4, the wastewater element arising from the proposed development would not be likely to cause a deterioration in the quality of waters in the area, with details provided outlining surface and storm water management and how

the proposals would comply with the Good Agricultural Practice Regulations.

Spread of Invasive Species

- 7.5.8. I note that the proposed agricultural operations do not involve works that would lead to the spread of invasive species nor did I observe the presence of any invasive species on site.

Disturbance or Displacement of Qualifying Interests Species

- 7.5.9. Having regard to the distance of the project from the SAC waters and the pattern of similar agricultural activity within the surrounding rural area, the development would not lead to additional substantive disturbance effects on fauna within the SAC.

Ex-situ Impacts

- 7.5.10. It is evident that the application site does not support habitats of ex-situ ecological value for the relevant qualifying interests within the zone of influence.

In Combination or Cumulative Effects

- 7.5.11. I do not consider that there are any specific in-combination effects that arise from the development when taken in conjunction with other plans or projects. Of itself, the development would comprise a very modest proportion of the national dairy herd (1.5 million cows, IFA Dairy Fact Sheet, Factsheet on Irish Dairying 2020) and cumulative impacts would be equally modest.

Screening Conclusion

- 7.5.12. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Rye Water Valley/Carton SAC (Site Code: 001398), or any other European site, in view of the site's Conservation Objectives. An Appropriate Assessment and submission of a Natura Impact Statement is not therefore required. No measures designed or intended to avoid or reduce any harmful

effects of the project on a European Site have been relied upon in this screening exercise.

8.0 Recommendation

I recommend that the planning application be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. The appeal site lies within the curtilage of Rathcoffey Demesne, a site of significant architectural and archaeological significance, containing a Protected Structure (RPS Ref. B10-02) and a number of Recorded Monuments ((KD010-01801-, KD010-01802-, KD010-01803- & KD010-016). The proposed development, as modified by way of Further Information, is reliant on access to the site via the L5046 to the east. This would require the construction of an internal road measuring a total length of c. 1.2km through lands which are highly sensitive. However, an indicative route for the internal road has not been identified in the submitted documentation and it is evident that any route from this entrance would be highly visible in the foreground of the Protected Structure and Monuments when viewed from the L5046. Having regard to the overall length of the road and its siting and visibility in the context of the features of architectural and archaeological significance, and in the absence of an identifiable indicative route and a detailed architectural and archaeological appraisal of its potential impact on the wider lands, it is considered that the proposed development is contrary to Objective AH O5 of the Kildare County Development Plan (Plan), 2023-2029 which 'Require the preservation of the context, amenity, visual integrity and connection of the setting of archaeological monuments...'. In addition, the proposed development fails to comply with Objective AH O21 of the current Plan, where it is sought to 'Protect the curtilage of protected structures or proposed protected structures and to refuse planning permission for inappropriate development that would adversely impact on the setting, curtilage, or attendant grounds of a protected structure, cause loss of or damage to the special character of the protected structure and/or any structures of architectural heritage value within its curtilage...'. In addition, it has not been

adequately demonstrated that the proposal is part of an overall strategy for the future conservation of the entire built heritage complex, nor does it contribute positively to that aim as required the policy of the Plan. For these reasons, the proposed development has the potential to have a significant impact on the features of architectural and archaeological significance on the wider lands and the proposal would therefore be contrary to the proper planning and sustainable development of the area.

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.

Enda Duignan

Planning Inspector

22/04/2023

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-315780-23		
Proposed Development Summary	Construction of a rotary milking parlour, dairy, plant room, collecting yard, drafting facilities, cubicle shed, roofless cubicles, underground slatted tank, silage pit and lined slurry lagoon.		
Development Address	Rathcoffey Demesne, Rathcoffey, Co. Kildare.		
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	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) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		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)
No			No EIAR or Preliminary Examination required

Yes	X	All private roads which would exceed 2000 metres in length.	Class 10(dd)	Proceed to Q.4
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: 22nd April 2024

EIA Preliminary Examination

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<ul style="list-style-type: none"> Are there significant cumulative considerations having regard to other existing and/or permitted projects? 		No
<ul style="list-style-type: none"> Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area? 	<p>No designations apply to the subject site.</p> <p>As detailed in Section 7.4 & 7.5 of this report, the proposed development does not have the potential to significantly affect other environmental sensitivities in the area.</p>	<p>No</p> <p>No</p>
<ul style="list-style-type: none"> Conclusion 		
<ul style="list-style-type: none"> There is no real likelihood of significant effects on the environment. EIA not required. 		

Inspector: _____

Date: 22nd April 2024

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 2 – Features of Archaeological Significance