



An
Bord
Pleanála

Inspector's Report ABP-316071-23

Development

Construction of single storey extensions to front/side/rear of the existing manufacturing facility with toilets, staff facilities and offices, re-cladding and alterations to front and side elevations of existing two-storey adjoining building, connection to all existing services, upgrade existing waste water treatment system and percolation area, landscaping, boundary treatments, retain signage with external lighting and associated site works.

Location

Corrycholman, Kingscourt, Co. Cavan

Planning Authority

Cavan County Council

Planning Authority Reg. Ref.

22/372

Applicant(s)

Hanley Energy

Type of Application

Permission

Planning Authority Decision

Grant, subject to 21 conditions

| | |
|--------------------------------|---------------------------------|
| Type of Appeal | Third Party -v- Decision |
| Appellant(s) | Tomas Wilson |
| Observer(s) | None |
| Date of Site Inspection | 12 th September 2023 |
| Inspector | Hugh D. Morrison |

Contents

| | |
|--|----|
| 1.0 Site Location and Description | 4 |
| 2.0 Proposed Development | 4 |
| 3.0 Planning Authority Decision | 5 |
| 3.1. Decision | 5 |
| 3.2. Planning Authority Reports | 5 |
| 4.0 Planning History..... | 6 |
| 5.0 Policy and Context..... | 6 |
| 5.1. Development Plan..... | 6 |
| 5.2. Natural Heritage Designations | 9 |
| 5.3. EIA Screening | 9 |
| 6.0 The Appeal | 9 |
| 6.1. Grounds of Appeal | 9 |
| 6.2. Applicant Response | 10 |
| 6.3. Planning Authority Response..... | 10 |
| 6.4. Observations..... | 11 |
| 6.5. Further Responses | 12 |
| 7.0 Assessment..... | 12 |
| 8.0 Recommendation..... | 22 |
| 9.0 Reasons and Considerations..... | 23 |

1.0 Site Location and Description

- 1.1. The site is located 2.5 km to the west of Kingscourt, within the fork formed by the junction between the R165-2 and the L3532-0. This site lies in undulating countryside, which is punctuated by one-off dwelling houses and farmsteads. It has been developed for industrial/commercial use.
- 1.2. The site is triangular in shape, and it extends over an area of 1.627 hectares. Its form has entailed cut and fill excavations to lower its south-western portion and build-up the remainder of the site. Consequently, the site is retained along its north-west boundary with a field beyond, and along its north-eastern boundary with the R165-2.
- 1.3. The site presently accommodates an industrial/commercial building (1642 sqm), which is sited largely in its wider, north-western half. While the building is essentially of single storey form, it does have an integral two storey element behind the front elevation, which comprises a reception and offices. A small lean-two element also features towards the far end of the south-western side elevation. This building is served by a continuous yard/circulation/parking area, which surrounds three of its four sides. Access to the site is from the L3532-0. The site entrance is set at a diagonal line to the gently curving local road, which abuts the southern boundary of the site. The site entrance is the subject of security barriers, and it is enclosed on either side by palisade fencing. Elsewhere, hedgerows enclose the non-retained boundaries, and crash barriers run along the top of the retained boundaries.

2.0 Proposed Development

- 2.1. Under the proposal, the existing working site would be extended into the adjoining field to the north-west and, by means of cut and fill, it would be raised to provide a continuous surface with the existing working site. A substantial extension would be constructed to the rear of the existing building, largely on the extended working site. This extension would project slightly beyond the building line of the north-eastern side elevation and significantly beyond the building line of the south-western side elevation. It would be of distinctive contemporary design and appearance, with parapets to each elevation concealing its double pitched roof. Its floorspace would be used to extend the existing manufacturing floorspace and in its northernmost

corner a staff canteen and welfare facilities would be provided. This extension would be accompanied by extensions to the existing yard/circulation/parking areas.

- 2.2. Under the proposal, too, a single storey extension would wrap around the eastern most corner of the existing building. This extension would provide a new reception and offices. It would be of distinctive contemporary design and appearance. Re-cladding and alterations to the front and side elevations of the two-storey portion of the existing building would also be undertaken.
- 2.3. The total additional floorspace would aggregate to 1572 sqm. The existing waste water treatment system and percolation area on the site would be upgraded, and landscaping and boundary treatments would be undertaken.
- 2.4. Signage on the existing building and external lighting would be retained.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was granted, subject to 21 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The case planner addresses the principle of the proposal. He refers to the permitted factory on the site and how the applicant's use has a manufacturing element and so is consistent with being a factory. He cites the following advice from Section 12.4 of the CDP, "Where established authorised rural based enterprises seek to expand beyond their existing capacity and, in the opinion of the planning authority, the proposed extension would seriously affect the rural nature or amenity of the rural areas and surrounding countryside, they will be encouraged to relocate in serviced zoned lands." He considers that such serious affect would not ensue.

Under further information, the following matters were raised:

- i. Details of and proposal for unauthorised retaining wall and car park,
- ii. Structural certification for retaining wall,

- iii. Details of proposed extension to retaining wall,
- iv. Items 1, 2 & 3 to be discussed with Area Engineer and Waste Management Team,
- v. Cut and fill to be quantified,
- vi. Comprehensive surface water drainage scheme,
- vii. Detailed external lighting plan,
- viii. Clarify hours of operation,
- ix. Revised site entrance, and
- x. On-site HGV turning circle.

The applicant submitted the further information requested, and it was to the PA's satisfaction.

3.2.2. Other Technical Reports

Cavan County Council:

- Municipal District Engineer: Commentary provided, which raised issues that were addressed under Items (i), (ii), (iii), (vi), (ix) & (x) of the PA's further information request.
- Scientist: Conditions request with respect to a comprehensive surface water drainage scheme, such scheme to be wholly within the site, and an on-going monitoring programme.

4.0 Planning History

- 84/15202: Erection of factory with ancillary services: Permitted.

5.0 Policy and Context

5.1. Development Plan

Under Appendix 21 of the Cavan County Development Plan 2023 – 2029 (CDP), the site is shown as lying within a stronger rural area.

Section 6.13 of the CDP addresses locations of employment.

Rural area economic development objective RE01 states the following:

It is a development objective of Cavan County Council to:

Consider proposals for enterprise and employment uses on their merits in rural locations and where their specific location offers amenity, environmental and economic advantage. Such enterprises or industrial projects, new or expanded, may sometimes require sites outside settlements because of their size or other specific site requirements. Such projects will be assessed taking account of:

- *The contribution of the proposed development to the county's economy;*
- *The contribution of the proposed development to the county's environment and the principles of sustainable development;*
- *Assessment of any potential environmental effects;*
- *Impact on traffic safety including the impact on the capacity and safety of the road network.*
- *The economic viability and availability of alternative sites; and*
- *National planning policy.*

It will be the responsibility of the developer to consider all environmental impacts, both direct and indirect. The Council will consider not only the immediate needs and benefits, but the wider long-term environmental effects of the proposal.

Section 12.4 of the CDP addresses rural enterprise and economy. Beyond agriculture, the following examples of rural-based economic activity are given “agri-food, forestry, energy production and carbon reduction, tourism, recreation, mineral extraction and/or other new and emerging rural based enterprises.”

The case planner's report cites the following rural enterprise and economy development objectives:

REE 04

Support the location of medium to large scale rural enterprises where it is demonstrated to the Council, that the enterprise can be more readily accommodated in a rural setting than in a designated settlement centre and in compliance with development management standards.

REE 10

Support the provision of a high-quality rural environment, encourage diversification and improved competitiveness of the rural economy, sustain the livelihood of rural communities and promote the development of the wider rural economy, all within the context of the sustainable management of land and resources.

REE 14

Enhance the competitiveness of rural areas by supporting innovation in rural economic development and enterprise through the diversification of the rural economy into new sectors and services, including ICT-based industries and those addressing climate change and sustainability.

Section 13.6.11 of the CDP's development management chapter addresses enterprise and employment as follows:

The Planning Authority encourages high quality design, materials and finishes and good quality landscaping for all commercial and industrial developments. In assessing planning applications a number of considerations will be taken into account:

- *Conformity with relevant Development Plan land use policies and objectives*
- *The intensity and nature of the proposed use*
- *Achievement of an appropriate density and scale of development*
- *Provision of open space and high quality landscaping plans*
- *High quality design*
- *Potential impact of traffic movement and parking provision.*
- *Impact on amenities of the surrounding areas*
- *Energy efficiency and overall sustainability of the development*
- *Waste Management measures*

The Planning Authority places significant emphasis on ensuring development proposals are of high design, suitably landscaped, provide good facilities for pedestrians and cyclists and include staff facilities.

Digital hubs provide opportunities and places for people to work in hubs within the local community and reduce the necessity for commuting to work and reduce greenhouse gas emissions.

5.2. Natural Heritage Designations

Kilyconny Bog SAC

5.3. EIA Screening

Under Item 10(b)(iv) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2023, where a proposal is for urban development on a 20-hectare site the need for a mandatory EIA arises. The proposal is for the extension of an existing factory on a 1.627-hectare site. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall well below the relevant threshold, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- The appellant draws attention to the change in policy, which has resulted in planning permission for rural housing being more difficult to obtain than heretofore.
- The appellant draws attention to the additional land, which would be needed to facilitate the substantial extension to the rear of the existing building on the site. This land is not in the applicant's ownership, and so the applicant submitted a letter of consent for its application from Dun na Ri Investments Ltd, which purported to be the owner. However, the appellant contends, on the basis of relevant extracts from the Property Register Authority, that John Muldoon is the owner. Accordingly, under Article 22(2)(g) of the Planning and Development Regulations, 2001 – 2023, the application is invalid. Notwithstanding the appellant drawing this matter to the PA's attention at the application stage, it was not addressed.
- The appellant also draws attention to the agricultural zoning of the additional land. He considers that the applicant's use is industrial, rather than rural

enterprise, and so its expansion onto this land would entail a material contravention of the CDP.

- The appellant contends that the unauthorised car park and retaining wall beside the R165 were constructed within the last 7 years. The applicant was asked, under further information, to address these developments. It proceeded, under an accompanying cover letter, to “propose to retain yard surface, car parking and retaining wall.” However, no application for retention permission was submitted.

The appellant further contends that these developments remain unauthorised, and so Condition 6 attached to the PA’s permission, which seeks to monitor the existing retaining wall, is misplaced.

He emphasises the importance of these matters insofar as, under the current proposal, the car park would be the subject of greater use, as the applicant’s business expands. This car park is supported by the retaining wall in question, which is of uncertain structural capacity.

- The application should have been accompanied by a Traffic Impact Assessment.

The applicant questions whether the requisite sightlines, i.e., 3m x 90m, would be achievable at the proposed site entrance.

- The applicant mistakenly used the EPA’s Code of Practice for domestic rather than commercial development.

The proposed WWTS upgrade is for 16 people, whereas 60 would be employed on the site between the hours of 06.00 and 24.00 on weekdays.

6.2. Applicant Response

None

6.3. Planning Authority Response

- Rural housing policy is irrelevant to the current application/appeal.

- The PA recounts how the application was validated. It now appears that someone else owns the additional land. The PA draws attention to the absence of objection from the landowner and the provisions of Section 34(13) of the Planning and Development Act, 2000 – 2023.
- The PA considers that the proposal is for a rural enterprise and so no material contravention of the CDP would arise. As the proposed expansion of this enterprise would be undertaken without unduly compromising the rural character and amenity of the area, under CDP provisions, it would be in order.
- With respect to the inclusion of the unauthorised development proposed for retention within the application, the PA insists that, under Article 35(1)(a) of the Planning and Development Regulations, 2001 – 2023, there is no requirement for the applicant to describe the nature and extent of this development, as distinct from flagging the submission of significant further information.
- While the existing retaining wall has not been structurally certified, the PA stands over Condition 6 as a means of monitoring it and requiring any remedial works that may become necessary.
- The need for a TIA is not self-evident, i.e., the basis for the appellant’s view that one is needed has not been substantiated.
- The PA states that the EPA’s Domestic Code of Practice is not used exclusively for domestic development. It draws attention to Appendix F of the submitted “Proposal for an O’Reilly Oakstown Treatment System and EcoFlo CoCo Filter”, which compares domestic and commercial hydraulic and biological loadings. In page 3 of the “Soil Characterisation and Site Suitability Assessment Report”, a PE of 16 would reflect the maximum workforce of 45 on the site at any one time.

6.4. Observations

None

6.5. Further Responses

None

7.0 Assessment

7.1. I have reviewed the proposal in the light of the Cavan County Development Plan 2023 – 2029 (CDP), relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Legalities,
- (ii) Land use,
- (iii) Residential amenities,
- (iv) Landscape and visual impacts,
- (v) Traffic, access, and parking,
- (vi) Water, and
- (vii) Appropriate Assessment.

(i) Legalities

7.2. The proposal would rely upon an extension of the existing working site into the adjoining field to the north-west. This field is not in the applicant's ownership, and so the applicant submitted a letter of consent from Dun na Ri Investments Ltd, which purported to be the owner. However, the appellant contends, on the basis of relevant extracts from the Property register Authority, that John Muldoon is the owner, and so he considers that, under Article 22(2)(g) of the Planning and Development Regulations, 2001 – 2023 (hereafter referred to as the Regulations), the application is invalid.

7.3. The PA confirms that the application was validated on the basis of the letter of consent submitted. However, it accepts that someone else appears to own the land in question. By way of response, it draws attention to the absence of objection from the landowner and the provisions of Section 34(13) of the Planning and Development Act, 2000 – 2023 (hereafter referred to as the Act).

- 7.4. From the documentation submitted by the appellant, it appears that the letter of consent submitted relates to the applicant's existing working site rather than the field into which it proposes to extend. The PA's response assumes that the owner in question was aware of the application. While it is regrettable that the owner's formal consent to the application was not obtained, Section 34(13) of the Act does provide a "back stop" provision that is applicable in these circumstances.
- 7.5. The proposal was the subject of a request for further information, which included under Item (i) the following: "Indicate a proposal to regularise the extent of unauthorised car parking on the existing site and associated works including the erection of a retaining wall against the regional road R165..." The applicant responded by stating that "As part of this application and significant further information request, we propose to retain the existing site yard surface, car parking on the existing site and erection of retaining wall along the public road." The PA accepted that this meant that retention permission was being sought for these works. The subsequent planning permission was granted subject to conditions including the following one denoted as Condition No. 6:

The existing retaining wall against the regional road R165 shall be monitored once annually by a chartered or structural engineer to ensure its structural integrity against the public road, and any defects shall be rectified immediately by the operator of the site. Should any remedial action require the removal of the said wall, it shall be repositioned a minimum of 6 metres from the edge of the regional road.

The accompanying reason states "In the interests of public safety and to ensure a satisfactory standard of development."

- 7.6. The appellant contends that the further information submitted with respect to the above cited unauthorised development did not amount to an expansion of the application for the purpose of obtaining retention permission, e.g., no additional fee was paid, and the ensuing permission is for planning permission as distinct from permission for retention. He also contends that, in the absence of retention permission, Condition No. 6 is misplaced.
- 7.7. All the parties accept that the existing site yard surface, car parking on the existing site and erection of retaining wall along the public road are unauthorised and so in need of regularisation. (Condition and Limitation 1 of Class 21 of Part 1 of Schedule 2 to Article 6 of the Regulations may be relevant in this respect). An application for

permission to retain these works would be the appropriate route to seek such regularisation. However, the PA accepted the applicant's submission of further information as an alternative route, and it contends that, under Article 35(1)(a) of the Planning and Development Regulations, 2001 – 2023, there is no need to revisit the description of the proposal.

7.8. Under Section 33(2)(g) of the Act, PA's can require "any applicants to submit any further information with respect to their applications (including any information as to any estate or interest in or right over land) or information regarding any effect on the environment which the development may have". This Section is amplified by Article 33(1), which states that a PA can require an applicant –

(a) to submit any further information (including any plans, maps or drawings, or any information as to any estate or interest in or right over land), which the authority considers necessary to enable it to deal with the application, or

(b) to produce any evidence which the authority may reasonably require to verify any particulars or information given in, or in relation to, the application.

7.9. Section 5.7 of the Development Management Guidelines advises that "Further information may only be sought where it is necessary for the determination of the application. Requests for further information may not be used to seek changes to aspects of the proposed development."

7.10. I, therefore, consider that further information is a mechanism that allows an applicant to elaborate on the proposal that it has made to a PA. It is not a mechanism for expanding a proposal to encompass matters that do not come within the description of the originally submitted proposal. In the current case, the description of the proposal did not refer to the retention of the existing site yard surface, car parking on the existing site and erection of retaining wall along the public road. However, these works would be relied upon to facilitate both access/egress to the north-eastern elevation of the proposed rear extension, and an extension to the existing car park adjacent to the north-eastern boundary of the site. Accordingly, in the absence of their regularisation, the current proposal would rely on unauthorised development, which is untenable.

7.11. In the light of the foregoing paragraph, I consider that the PA's planning permission does not grant permission to retain the existing site yard surface, car parking on the

existing site and erection of retaining wall along the public road, and so the attachment of Condition No. 6 is indeed misplaced.

- 7.12. If the Board take a contrary view as to the admissibility of the unauthorised development under the current application, then the outstanding issue of the structural stability of the retaining wall would need to be addressed, along with its proximity to the regional road, and its landscape and visual impacts.
- 7.13. I conclude that, insofar as the proposal would rely upon unauthorised development to facilitate access/egress to it, this proposal would be premature in advance of any regularisation of the unauthorised development.

(ii) Land use

- 7.14. Under the CDP, the site lies within a stronger rural area. It was developed, under permitted application 84/15202, to provide a factory with ancillary services. The applicant uses the site at present. It states that its “core capabilities cover the design, development, supply, installation and commission of turnkey critical power and energy management solutions – from the power grid all the way to the data centre IT rack.” It also states that “the intended use/operation of the new manufacturing building will be for storage, fabrication and distribution of materials enabling contract works.” During my site visit, I observed that panel boxes were being assembled and wired in the existing factory.
- 7.15. Under the proposal, the existing working site would be extended into the adjoining field to the north-west. The majority of the proposed single storey rear extension to the existing factory would be sited within this field, which would be the subject of cut and fill excavations to provide a level surface with the existing working site. Accordingly, the proposal would entail a change of use of the portion of the field in question from agricultural to industrial/commercial use.
- 7.16. Section 6.13 of the CDP addresses locations of employment. Specifically, rural area economic development objective RE01 sets out the objective to “Consider proposals for enterprise and employment uses on their merits in rural locations and where their specific location offers amenity, environmental and economic advantage. Such enterprises or industrial projects, new or expanded, may sometimes require sites outside settlements because of their size or other specific site requirements...”

- 7.17. The applicant was not the original industrial/commercial user of the subject working site, and this site is one of several that the applicant has, i.e., its website (www.hanleyenergy.com accessed 8th November 2023) indicates that it has a Global Competence Centre in City North Business Park off the M1 in Stanmullen and a manufacturing facility in North Point Business Park in Monaghan Town. It may be significant that these sites are located in business parks, as distinct from stand-alone rural sites, if the activities undertaken upon them are comparable to those undertaken on the subject working site. The Monaghan Town site may well be comparable as it, too, is a manufacturing facility.
- 7.18. The applicant has not indicated that the location of the subject working site has either “amenity, environmental and economic advantages” or any “size or other specific site requirements”, which necessitated its selection outside any settlements and in a rural area. Under the current proposal, it would expand this site beyond its existing north-western boundary, onto lands, which have not previously been permitted for industrial/commercial use. In these circumstances, its proposed expansion would not come within the ambit of objective RE01.
- 7.19. Section 12.4 of the CDP addresses rural enterprise and economy. Beyond farming, rural-based economic activities are cited as agri-food, forestry, energy production and carbon reduction, tourism, recreation, mineral extraction and/or other new and emerging rural based enterprises. This Section goes on to state that “Where established authorised rural based enterprises seek to expand beyond their existing capacity and, in the opinion of the planning authority, the proposed extension would seriously affect the rural nature or amenity of the rural areas and surrounding countryside, they will be encouraged to relocate in serviced zoned lands.”
- 7.20. The appellant states that the applicant’s use is industrial, rather than rural enterprise, and so its expansion onto this land would entail a material contravention of the CDP. However, the PA contends that it is a rural enterprise, and so its expansion would be in order as it would not unduly compromise the rural character and amenity of the area.
- 7.21. In the light of the applicant’s description of its use of the existing working site, I consider that the manufacturing being undertaken is not rural-based, and so the expansion of this use beyond the existing working site boundaries is not one that

Section 12.4 of the CDP sanctions. I, therefore, agree with the appellant that a material contravention of the CDP would arise. Nevertheless, under Section 37(2)(a) of the Act, the Board may, in circumstances where the PA granted planning permission, still itself grant planning permission.

7.22. I conclude that the applicant was not required for operational reasons to locate on the existing working site, and so its proposed expansion cannot be justified on these grounds. I also conclude that, insofar as the proposal would extend beyond the existing working site, which is authorised for industrial use, into the adjoining agricultural field, it would entail a material change of use, which is not contemplated by the CDP for non-rural based enterprises.

(iii) Residential amenities

7.23. Under the proposal, the expanded working site would be used more intensively than at present. Thus, floorspace of the existing building would increase by 1572 sqm, from 1642 sqm to 3214 sqm, and the number of staff would increase by 25, from 35 to 60.

7.24. The operating hours would remain as at present, i.e., 06.00 to 24.00 on weekdays and half days on Saturdays. While the applicant has not stated explicitly what a half day is, a literal interpretation would be 06.00 to 15.00.

7.25. The applicant has submitted a noise assessment of the proposal. This assessment draws upon a survey of existing noise sensitive locations (NSL1 – 4), i.e., the four dwelling houses nearest to the site, which was undertaken on Tuesday 19th July 2022. This survey also entailed the monitoring of noise on-site (N1) during the daytime (07.00 to 23.00 on 6th – 12th July) and during the night time (23.00 to 07.00 on 7th – 11th July). The noise assessment also undertakes noise modelling to allow the impact of the proposal to be tracked, too.

7.26. Table 23 of the noise assessment indicates that the contribution of noise from the existing and proposed developments on site is/would be capable of abiding by the conventional 55 dB(A) and 45 dB(A) parameters for daytime and night time noise levels at the surveyed NSLs. The contribution of noise from the proposed development, as distinct from the existing development, on site would be neutral to imperceptible at these NSLs. Nevertheless, the assessment recommends that a site

representative be appointed to deal with matters relating to noise in accordance with protocols and that noisy plant be sited as far away from NSLs as the site will allow.

- 7.27. Under further information, the applicant submitted an external lighting plan (drawing no. PP(00)005) with an accompanying lighting specification. This plan proposes the removal of existing floodlighting in favour of new lighting, which automatically switches off when not needed. Such lighting would be installed around the site's boundaries at a height of 4m, and it would be directed downwards to minimise spillage and glare.
- 7.28. I conclude that the proposal would be compatible with the existing residential amenities of the area.

(iv) Landscape and visual impacts

- 7.29. The building on the existing working site occupies a prominent position on rising ground within the fork formed by the junction between the R165-2 and the L3532-0. This site entailed cut and fill excavations that mean its south-western portion was lowered in relation to the rising local road, which abuts its southern boundary. Consequently, on approach from the west along the local road, the building is largely concealed, until the site has been reached. Beyond the said junction along the regional road, the site is elevated and the subject of retaining measures, which are variously exposed and hid from view behind a roadside hedgerow.
- 7.30. Under the proposal, the building on the existing working site would be extended by means of a wrap around extension to its easternmost corner. This extension would be undertaken in conjunction with alterations to and recladding of the two-storey front portion of the existing building. Consequently, the "public face" of the extended building from the said junction would take on a more contemporary feel.
- 7.31. Under the proposal, too, the existing building would be extended by means of a substantial extension to its rear elevation onto lands to the north-west of the existing working site. These lands presently slope downwards to the regional road, and so they would be raised, by means of new cut and fill excavations, to the same level as the existing working site. In addition to the built extension, the accompanying yard/circulation/parking area would be extended to the north-east of this extension and retained. This area would be set back further than the existing retaining measures adjacent to the regional road, i.e., by 6m. An existing roadside hedgerow

would be retained and augmented to screen the presence of these 4.5m high retaining measures.

- 7.32. Road users approaching from the north-west have intermittent views of the existing working site and its building and roadside retaining measures. Thus, for example, glimpses of the elevated gabled rear elevation are visible through gaps between trees in the roadside hedgerow and through a gateway. With the addition of the proposed rear extension, the extended building would be larger and more prominent than at present, but it would still be capable of being screened significantly from the regional road. Within north-eastern views from the nearest dwelling house to the south-west, the proposed rear extension would feature prominently.
- 7.33. I conclude that the proposal would enlarge the landscape and visual impacts of the existing building on the working site. Consequently, it would be more prominent than at present from public and private vantage points in the vicinity.

(v) Traffic, access, and parking

- 7.34. The applicant states that daily operational traffic typically entails 2 no. truck-type deliveries/collections and 15 no. van-type deliveries/collections. The applicant also states that daily non-operational traffic typically entails each member of staff commuting to and from the site in their own car or works van.
- 7.35. It is unclear if the aforementioned information relates to existing traffic only or the traffic that could be expected under the proposed expansion. If the former is in view, then some increase in operational traffic could be anticipated, with, presumably, the same pattern of non-operational traffic.
- 7.36. The appellant states that due to an effective doubling of the capacity of the site, under the proposal, a TIA should have been submitted. However, given the above cited traffic figures and their extrapolations, I do not consider that the increases in traffic movements either on the L3532-0 or at its junction with the R165-2 would reach any of the thresholds necessary for a TIA.
- 7.37. Under further information, the applicant submitted a revised design for the site's entrance (drawing no. PP(00)001), which would allow it to meet the local road at right angles rather than a diagonal. This site entrance would be significantly safer than the existing one and it would be accompanied by the requisite sightlines of 2.4m x 90m.

- 7.38. Under further information, too, the applicant depicted an HGV turning circle in the south-western portion of the site, and car parking spaces adjacent to the retaining wall along the north-eastern boundary of the site and beside the proposed wrap around extension to the easternmost corner of the existing building. Sixty-four spaces are thus depicted. The vast majority of these exist already but are included within the unauthorised works discussed under the first heading of my assessment. Under Table 7.4 of the CDP, the PA allows for parking spaces to reflect the commuting patterns of staff. It also requires 1 no. bicycle stand for every 500 sqm of working floorspace. Under the proposal the floorspace of the extended building would be 3214 sqm, and so 7 no. bicycle stands should be provided.
- 7.39. I conclude that traffic generated by the proposal would be capable of being accommodated on the public road network, which serves the site. I conclude, too, that, subject to the provision of the revised site entrance, access/egress to the site would be satisfactory, and that, subject to the regularisation of unauthorised works, car parking provision would be satisfactory.

(vi) Water

- 7.40. The site is served by a private well.
- 7.41. The OPW's flood maps do not indicate that the site is the subject of any formally recognised flood risk.
- 7.42. Under the proposal the existing on-site surface water drainage system would be replaced by a new one, which would incorporate an attenuation tank and hydro-brake, and which would continue to discharge to a culvert underneath the regional road and towards the northernmost corner of the site (drawing no. 22206-500 revision 1). The new system would be designed to handle 1 in 100-year storm events with an additional 20% allowance for climate change.
- 7.43. The PA's Scientist consultee recommended that the discharge of surface water from the site be monitored. I concur with this recommendation. As a precaution against pollution, a hydrocarbon interceptor should be included within the design of the proposed surface water drainage system.
- 7.44. Under the proposal the existing on-site septic would be upgraded. To this end, the applicant has submitted a "Soil characterisation and site suitability assessment

report”, and “A proposal for an O’Reilly Oakstown Treatment System and EcoFlo CoCo Filter”. Key findings of the report are as follows:

- The aquifer is poor and of moderate vulnerability. The groundwater protection response is R1. Appendix E of the EPA’s CoP DWWTs states that this response is “Acceptable subject to normal good practice...”
- Local groundwater flows to the east.
- The trial hole was dug to a depth of 2.1m. Surface material comprised stone chippings below which the sub-soil consists of clay intermixed with stone. Groundwater was encountered at a depth of 1m.
- The “T” (sub-surface/depth of 600mm) and “P” (surface/depth of 400mm) test results were 71.75 min/25mm and 6.56 min/25mm, respectively. Accordingly, both the sub-soil and the topsoil have average percolation properties.

7.45. In the light of the above findings, the report proposes that a new waste water treatment system (WWTS) be installed, i.e., an O’Reilly Oakstown Treatment System, and an EcoFlo CoCo Filter, which would be bedded on crushed stone to a depth of 300mm. The outlet from the WWTS to the filter would be at 300mm above ground level to ensure that the minimum vertical separation distance between this filter and ground water of 900mm is available.

7.46. The WWTS would have a PE capacity of 16. Under Appendix F of the above cited proposal, this would equate with the maximum number of 45 staff likely to be in attendance on the site at any one time.

7.47. The appellant critiques the applicant’s site suitability assessment, insofar as it was undertaken in accordance with EPA’s Code of Practice for domestic rather than commercial development. He also critiques the capacity of the proposed WWTS, insofar as the total number of staff would be 60.

7.48. The PA responds by stating that “in practise” EPA’s Code of Practice for domestic development is used for non-domestic development, too. It also expresses satisfaction with the capacity of the proposed WWTS.

7.49. I note the PA’s testimony from practise concerning the EPA’s Code of Practice. I, note, however, that, under Appendix F, the proposal is assessed as an office and/or factory without a canteen, whereas the submitted floor plan on drawing no.

PP(00)002 indicates that there would be a canteen. Some doubt as to the adequacy of the capacity of the proposed WWTS, therefore, exists.

7.50. I conclude that the applicant's proposals for the handling/treatment of surface water and water waste are in need of further development/justification.

(vii) Appropriate Assessment

7.51. The site does not lie in nor beside a European site. The nearest such site lies 14.9 km away, i.e., Kilconny Bog SAC. I am not aware of any source/pathway/receptor route between the site and this SAC. The proposal for the site would entail essentially extensions to an existing factory. No appropriate assessment issues would arise.

7.52. Having regard to the nature, scale, and location of the proposed development, the nature of the receiving environment, and the proximity to the nearest European site, it is concluded that no appropriate assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

That permission be refused.

9.0 Reasons and Considerations

1. Having regard to:

- the location of the site within a rural area,
- the proposed expansion of the existing industrial/commercial site onto agricultural land, and
- Objective RE01 and Section 12.4 of the Cavan County Development Plan 2023 – 2029,

it is considered that, in the absence of any stated site-specific advantages or requirements for the applicant's non-rural based enterprise to be located on the existing site, its expansion onto agricultural land within this rural area, by means of the proposed rear extension and accompanying enlarged parking and circulation area, would be contrary to Objective RE01 and it would materially contravene the provisions of Section 12.4 of the Development Plan. The proposal would, thus, fail to accord with the proper planning and sustainable development of the area.

2. Having regard to the unauthorised works comprised in the provision of a yard surface, car parking spaces, and a retaining wall adjacent to the regional road, any further development on the existing working site or adjoining land would be premature in advance of any possible regularisation of these unauthorised works by means of a permission for retention.

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.

Hugh D. Morrison
Planning Inspector

15th November 2023