



An
Bord
Pleanála

Inspector's Report ABP-316127-23

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|-------------------------------------|---|
| Development | Slurry store and tank, manure pit, and storage area for tyres & plastic. associated site works. |
| Location | Ballybooden, Ballacolla, Co. Laois |
| Planning Authority | Laois County Council |
| Planning Authority Reg. Ref. | 2360021 |
| Applicants | Erkina Farms Ltd |
| Type of Application | Permission. |
| Planning Authority Decision | Grant Permission |
| Type of Appeal | Third Party |
| Appellants | Peter Sweetman and on behalf of Wild Ireland Defence clg |
| Date of Site Inspection | 12 th July 2023 |
| Inspector | Dolores McCague |

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1.0 Site Location and Description

- 1.1.1. The site is located in the townland of Ballyboodin, Ballacolla, Co. Laois; approximately 3.8km south of Ballacolla village. The area is flat and on the date of inspection there was flooding in the vicinity of the river. The site fronts the Local Secondary Road, L-5591 and is accessed via an existing entrance. A number of dwellings in the immediate vicinity are served by the local road. The existing farmyard includes a milking parlour, livestock housing, several slatted tanks and a soiled water tank. A large building, a piggery, immediately adjoining the site, is part of the same landholding.
- 1.1.2. To the west, north, east and south agricultural lands are part of the River Barrow and River Nore SAC.
- 1.1.3. The site is given as 0.6ha.

2.0 Proposed Development

- 2.1.1. It is proposed to construct an overground slurry store, an underground slurry reception tank, a manure pit and a storage area for tyres and plastic, and all associated ancillary facilities, works and services.
- 2.1.2. The existing floor area is given as 1,119 sq m; the proposed floor area is given as 214 sq m.
- 2.1.3. The slurry reception tank has a stated capacity of 8,000 gallons – 36,400 litres (c36.4 cubic metres). The combined capacity of the slurry reception tank and overground slurry store is given in the application form as 480m³ therefore the overground slurry store is 443.6 m³. The proposed manure pit / dungstead is 34m³. Existing and proposed storage will amount to 1096m³, 480m³ proposed and 616m³ existing.
- 2.1.4. The details supplied of the overground slurry store are that it is to be placed on a reinforced concrete ring beam and is to have a reinforced concrete floor and a PVC reinforced cover. No details are provided of materials for the circular walls.
- 2.1.5. The underground slurry reception tank appears to be pre-fabricated but no details have been supplied.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decision, dated 15th March 2023, was to grant permission subject to 14 conditions, including:

1. The development shall be carried out in accordance with plans and particulars received by the Planning Authority on 26th January 2023, except where conditions hereunder specify otherwise.

Reason: In the interest of the proper planning and sustainable development of the area.

2. The external finishes of the shed shall be dark green or dark grey in colour with a matt finish, unless otherwise agreed in writing with the Planning Authority.

Reason: In the interest of architectural harmony and to integrate the development into the landscape.

3. The proposed development shall be constructed in accordance with the structural specification of the Department of Agriculture, Food and the Marine.

Reason: In the interests of public health.

4. Uncontaminated surface water run-off from roofs and clean paved areas within the farmyard shall be collected separately from farmyard materials (slurry, silage, effluent and contaminated surface water) and shall be disposed of directly in a sealed system to adequate stone filled soakpits designed in accordance with BRE Digest 365 – Soakaway Design. A monitoring chamber (manhole) shall be provided for the monitoring of uncontaminated surface/roof water prior to such water entering any soakaway.

Reason: In the interest of environmental protection and in particular to protect against the pollution of surface waters.

5. The developer shall take adequate precautions to ensure that waste disposal does not cause pollution to any stream, ditch, or watercourse, or contamination to any source of potable water. The developer shall also take reasonable steps to preserve the amenity of adjacent residential properties, and shall ensure, as far as possible that injury to amenity is not caused by odour, or in any other way.

Reason: In the interests of amenity, public health and pollution control.

6. All effluent, soiled water and solid waste shall be stored on-site in adequately sized and sited underground watertight structures and shall be disposed of by land spreading in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022. Effluent, soiled water and solid waste shall be spread only in accordance with the usage of the land and the capacity of the land to retain, neutralise and decompose them. They shall not be transported over public roads except in approved leak proof transporters. There shall be no land spreading of organic fertiliser on lands with underlying extreme groundwater vulnerability without the written prior consent of the Planning Authority.

Reason: In the interest of environmental protection and in particular to protect against the pollution of surface and ground waters.

7. The applicant shall ensure that adequate measures are in place for the construction phase to ensure there is no discharge of polluting matter/sediment laden waters to any watercourse. These measures shall take account of the Guidance produced by Inland Fisheries Ireland titled "Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River Sites".

Reason: In the interest of environmental protection and in particular to protect against the pollution of surface and ground waters.

8. During the construction phase and operational phase of the development, the applicant shall immediately inform the Planning Authority & Inland Fisheries Board of any accidental spillage of wastewater, organic fertiliser, fuel, machine oil or any other substance which may threaten the quality of any watercourse or groundwater body.

Reason: In the interest of environmental protection and in particular to protect against the pollution of surface and ground waters.

9. All organic fertiliser generated by the proposed development shall be disposed of in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022.

Reason: In the interest of environmental protection and to protect public health.

10. All transfers of animal slurries from the farm shall be recorded and maintained as required by Article 23 'Keeping of Records by the Occupier' of the European

Union (Good Agricultural Practice for Protection of Waters) Regulations 2022. Such records shall be available for inspection by Laois County Council.

Reason: In the interest of environmental protection and to protect public health.

11. No spoil, dirt, debris or other materials shall be deposited on the public road, footpath or verge by operatives or vehicles travelling to or from the development site during construction phase.

Reason: To ensure that the developer keeps the public areas adjacent the development in a suitably clean state of repair during construction works.

12. Site development works shall be confined to the hours of 8:00am to 6:00pm Monday to Friday and 8:00am to 1:00 pm Saturdays. No site development works shall take place outside of these hours.

Reason: To protect the environment and amenity of the adjoining properties.

13. (a) The Developer shall consult with ESB regarding any overhead power line prior to the commencement of any work on this development.

(b) Any external lighting shall be cowled and directed away from the public roadway and adjoining properties.

Reason: In the interests of traffic safety and residential amenity.

14. Prior to the commencement of the development, a contribution shall be payable to Laois County Council, in accordance with the Council's Development Contribution Scheme 2017-2023 ...

C3 Agricultural 564sq.m €3 per square metres

564sqm – 500sqm =

64sqm

€192.

3.2. Planning Authority Reports

3.2.1. Planning Reports

RPS 877: Thatched House, Ballyboodin, Durrow is located c. 440m east of the proposed site. Given the scale and size of the development it is not envisaged that the development will have any adverse impact on the Thatched House.

There was one submission made by Peter Sweetman on behalf of Wild Defence.

The submission received by the Planning Authority is in relation to:

1. Screen the development for Appropriate Assessment.
2. The conservation of natural habitats and of wild flora and fauna.
3. The application must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned.
4. The development must be assessed for compliance with the requirements of the Water Framework Directive.

The proposed manure pit, tyre/plastic storage area, slurry reception tank and the overground slurry store are all proposed to be located 155m from the roadside edge and to the east of the existing dwellings and sheds. The proposed manure pit and tyre storage are to be adjoined with a combined stated floor area of 84sqm bounded by a reinforced concrete wall with a stated maximum height of 1.8m. The proposed overground slurry store and reception tank has a stated floor area of 480m².

The site is accessed off the Local Secondary Road, L-5591 via an existing entrance.

A development contribution is applicable in this case as the area of the proposed development exceeds the relevant threshold (500 square metres) at which contributions are imposed for agricultural type projects.

AA screening: The site is not located within or adjacent to a European designated site. Therefore, given the nature and extent of the proposed development, with no direct connections to the hydrology of the SAC/SPA, it is not considered there would be potential for significant effects on the Natura 2000 network.

3.3. Third Party Observations

- 3.3.1. A third party observation on the file has been read and noted. Issues raised are similar to those raised in the grounds of appeal.

4.0 Planning History

12/407: Planning permission granted to Bernard Ryan to construct an extension to an existing Pig Finishing Unit for an additional 720 pigs and associated site works to include a new meal bin.

08/846: Planning permission granted to Bernard Ryan to erect an extension to existing pig fattening unit for 500 pigs together with associated site works.

07/1248: Planning permission granted to James Ryan to construct new 2 bay slatted weanling shed, new underground slatted tanks with outdoor easy feeding system combined with underground soiled water tank and milking parlour and dairy wash tank and all associated site works.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Laois County Development Plan 2021 – 2027 is the operative plan. Relevant provisions include:

Agricultural developments have the potential to impact on the environment and the landscape. The traditional form of agricultural buildings is disappearing with the onset of advanced construction methods and wider range of materials. Some new farm buildings have the appearance of industrial buildings and due to their scale and mass can have serious major visual impacts.

In dealing with applications for agricultural developments the Planning Authority will have regard to the following:

- 1) Require that buildings be sited as unobtrusively as possible and that the finishes and colour used will blend the development into its surroundings.
- 2) The proposed developments shall meet with the requirements of the Department of Agriculture with regard to storage and disposal of waste.
- 3) The Council accepts the need for agricultural buildings and associated works (walls, fences, gates, entrances, yards) to be functional but they will be required to be sympathetic to their surroundings in scale, material and finishes.
- 4) Buildings should relate to the landscape. Traditionally this was achieved through having the roof a darker colour than the walls.

5) Appropriate roof colours are dark grey, dark reddish brown or a very dark green. Where cladding is used on the exterior of the farm buildings dark colours should be used.

6) Location and impacts on the road network and other associated uses.

7) Ensure it does not have an undue negative impact on the visual/scenic amenity of the countryside and identify mitigating measures where required.

RL 1 - Maintain a vibrant and healthy agricultural sector based on the principles of sustainable development whilst at the same time finding alternative employment in or close to rural areas to sustain rural communities.

RL 2 - Facilitate the development of agriculture while ensuring that natural waters, wildlife habitats and conservation areas are protected from pollution.

DM RL 1 – General Consideration for Agricultural Buildings

ES 17 – Implement the provisions of water pollution abatement measures in accordance with National and EU Directives and other legislative requirements in conjunction with other agencies as appropriate.

ES 18 - Maintain and improve the water quality in rivers and other water courses in the county, including ground waters. The Council will have cognizance of, where relevant, the EU's Common Implementation Strategy Guidance Document No. 20 and 36 which provide guidance on exemptions to the environmental objectives of the Water Framework Directive.

All agricultural buildings should be located an adequate distance from any watercourse to reduce the risk of contamination.

Natural Heritage – the plan sets out policy objectives to protect the natural heritage and biodiversity of the county, including special protection areas (SPAs), special areas of conservation (SACs), natural heritage areas and proposed natural heritage areas.

Groundwater protection - the plan sets out policy objectives to protect groundwater.

5.2. Natural Heritage Designations

- 5.2.1. The nearest Natura sites are the River Barrow and River Nore SAC (002162) and the River Nore SPA (004233) located to the west, north, east and south-east of the site, the SAC as close as c 120m straight line distance, and the SPA at the river

channels, at 150m and 600m straight line distance. Lands outlined in blue are within the SAC.

5.3. EPA Pollution Impact Potential Mapping

- 5.3.1. EPA mapping under the heading Pressures & Activities include Pollution Impact Potential Mapping (PIP) for Nitrates and Phosphorus, and indicates various levels of risk for Nitrate and Phosphorus.

5.4. EIA Screening

- 5.4.1. Having regard to the nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.2. The third party appeal grounds include:

Stating An Bord Pleanála's legal functions:

1 The Planning Acts

It must examine the application to ascertain if the contents comply with the planning regulations.

It must assess the merits of the application to ensure it is in accordance with the proper planning and sustainable development of the area.

2 The Environmental Impact Assessment Directive

Article 4(4) provisions are listed.

The Board is required to form and record a view as to the environmental impacts of the development considering the EIA report, the views of the public concerned and applying its own expertise, or, if no EIAR is submitted, to screen the development for EIA.

3 An Bord Pleanála is the competent authority having responsibility under the Habitats Directive to screen under Article 6.3, to make a decision as required under 6.3.

The legal case for screening: AG Sharpston in the opinion 259/11 Sweetman & Others v An Bord Pleanála is referred to. Paragraph 47 is quoted.

This is implemented into Irish law by Finlay Geoghegan J in Kelly v An Bord Pleanála (2014 IEHC 400). Paragraphs 26 and 47 are quoted.

26 There is a dispute between the parties as to the precise obligations imposed on the Board in relation to the stage 1 screening by s.177U but its resolution is not strictly necessary in these proceedings. There is agreement on the nature and purpose of the screening process which is well explained by Advocate General Sharpston in Case C-258/11 Sweetman at paras 47-49:

47. It follows that the possibility of there being a significant effect on the site will generate the need for an appropriate assessment for the purposes of Article 6(3). The requirement at this stage that the plan or project be likely to have a significant effect is thus a trigger for the obligation to carry out an appropriate assessment. There is no need to establish such an effect.

The threshold Appropriate Assessment must pass in this context is explained in paragraph 44 of CJEU Case 258/11.

So far as concerns the assessment carried out under Article 6(3) of the Habitats Directive, it should be pointed out that it cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned.

On the basis of the total lack of certainty in the information submitted it is not possible for An Bord Pleanála to make a decision that would comply. This is a strict standard and An Bord Pleanála does not have legal jurisdiction to give permission if it is not met.

Additional grounds:

The planner's report - AA Screening – 'a screening for appropriate assessment report was prepared and is appended to this report. It concludes that no likely significant impacts are predicted due to the nature of the proposed development'. This is the wrong test.

Conditions 6, 7 and 9 state:

6. All effluent, soiled water and solid waste shall be stored on-site in adequately sized and sited underground watertight structures and shall be disposed of by land spreading in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022. Effluent, soiled water and solid waste shall be spread only in accordance with the usage of the land and the capacity of the land to retain, neutralise and decompose them. They shall not be transported over public roads except in approved leak proof transporters. There shall be no land spreading of organic fertiliser on lands with underlying extreme groundwater vulnerability without the written prior consent of the Planning Authority.

7. The applicant shall ensure that adequate measures are in place for the construction phase to ensure there is no discharge of polluting matter/sediment laden waters to any watercourse. These measures shall take account of the Guidance produced by Inland Fisheries Ireland titled "Requirements for the Protection of Fisheries Habitat during Construction and Development Works at River Sites".

9. All organic fertiliser generated by the proposed development shall be disposed of in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022.

These conditions show that the planning authority had no interest in the judgement of the CJEU.

- 1 Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that the grazing of cattle and the application of fertilisers on the surface of land or below its surface in the vicinity of Natura 2000 sites may be classified as a 'project' within the meaning of that provision, even if those activities, in so far as they are not a physical intervention in the natural surroundings, do not constitute a 'project' within the meaning of Article 1(2)(a) of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.

6.3. Applicant Response

- 6.3.1. The response from the applicant is made by Mary Cotter Chartered Engineer, which includes:

The purpose of the proposal contained in the planning application is to bring Erkina Farms Ltd into compliance with SI No 112 of 2022 as amended by SI No 716 of 2022.

These regulations have increased the requirements for slurry storage on this farm, hence the proposed development and recourse to the planning system to bring the existing farm and its related activities into compliance with the latest regulations.

7.0 Assessment

- 7.1.1. I consider that the main issues which arise in relation to this appeal are as follows: appropriate assessment, principle of development, and further information and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

- 7.2.1. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site, there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision.
- 7.2.2. The planning authority carried out a preliminary screening for appropriate assessment and arrived at a conclusion of no potential significant effects.
- 7.2.3. The grounds of appeal refers to the requirement for the Board to carry out appropriate assessment.

7.3. Screening for Appropriate Assessment

- 7.3.1. The nearest Natura sites are the River Barrow and River Nore SAC (002162) located c 150m to the north and c 250m to the south of the subject site and the River Nore SPA (004233) located c 150m to the north and c 250m to the south. Lands associated with the proposed development include lands within the Natura site.

- 7.3.2. I am satisfied that no other Natura sites are likely to be affected by the proposed development.
- 7.3.3. The proposed development comprises:
- An overground slurry store, an underground slurry reception tank, a manure pit and a storage area for tyres and plastic, and all associated ancillary facilities, works and services.
- The slurry reception tank has a stated capacity of 8,000 gallons – 36,400 litres (c36.4 cubic metres). The combined capacity of the slurry reception tank and overground slurry store is given in the application form as 480m³ therefore the overground slurry store is 443.6 m³. The proposed manure pit / dungstead is 34m³.
- The existing buildings and structures are identified on the site layout drawing and include a milking parlour, livestock housing, several slatted tanks and a soiled water tank. A large building to the north and close to the proposed development, outside the site but within the overall lands, is a piggery.
- 7.3.4. The planning authority requires a supplementary application form to be completed by applicants for agricultural development. It includes the number of animals to be accommodated in the proposed development. The form states that no animal accommodation is proposed.
- 7.3.5. A letter accompanying the application from Environmental Agricultural Consultants states that Erkina Farms Ltd. intends to facilitate additional storage requirements in accordance with SI No 113 of 2022 European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 and amendments. The proposed overground slurry store has a capacity of c 444m³ and the proposed reception tank has a capacity of c36m³ (after freeboard and rainfall). The existing slurry and soiled water capacity on the site is c 616m³ (after freeboard and rainfall). In accordance with storage capacity changes over the next three years the site has a requirement for c884m³ based on the current farming practice. The existing and proposed storage capacity will amount to 1096m³, therefore in excess of the required storage under the regulations.
- 7.3.6. The areal extent of the landholding is not given but it is shown outlined in blue on a 6" map. It extends to the north, south and east of the subject site, including on the opposite side of the public road to the south, and the public road to the east.

Upwards of one third of the lands which comprise the landholding, are within the River Barrow and River Nore SAC (002162). These lands are along the River Goul (to the south) and Erkina River (to the north) and are identified on historic maps as wet land and subject to flooding. Flood risk is confirmed for lands north and south of the site in the vicinity of the rivers, on floodmaps.ie. The rivers join about 1km to the east of the subject site and continue to flow east to meet the River Nore east of Durrow.

- 7.3.7. The site is in a very sensitive area where construction impacts and operational impacts from the structures could have adverse effects on the integrity of the European site.
- 7.3.8. The qualifying interest/special conservation interest species (QI/SCI) for these sites as set out in the following table:

| European Site | Site Code | Relevant QI & SCI | Potential for Impact |
|---------------------------------|-----------|--|---|
| River Barrow and River Nore SAC | 0024162 | Estuaries Mudflats and sandflats not covered by seawater at low tide Reefs Salicornia and other annuals colonising mud and sand Atlantic salt meadows Mediterranean salt meadows Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation European dry heaths Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels Petrifying springs with tufa formation* | c 120m, straight line distance to the north and c 250m to the south. Hydrological connectivity. Potential impacts may arise from construction, inappropriate surface water management at the site, flooding of the site and / or land spreading. This could give rise to significant effects on the QIs of this SAC. |

| | | | |
|----------------|--------|--|--|
| | | <p>Old sessile oak woods with Ilex and Blechnum in the British Isles</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior*</p> <p>Desmoulin's Whorl Snail</p> <p>Freshwater Pearl Mussel</p> <p>White-clawed Crayfish</p> <p>Sea Lamprey</p> <p>Brook Lamprey</p> <p>River Lamprey</p> <p>Twaite Shad</p> <p>Salmon</p> <p>Otter</p> <p>Killarney Fern</p> <p>Nore Pearl Mussel</p> | |
| River Nore SPA | 004233 | Kingfisher | <p>c 150m, straight line distance to the north and c 600m to the south.</p> <p>Hydrological connectivity</p> <p>Potential impacts may arise from construction, inappropriate surface water management at the site, flooding of the site and / or land spreading.</p> <p>This could give rise to significant effects on the SCIs of this SPA.</p> |

* Priority habitat

7.3.17. A NIS or a report of screening for appropriate assessment have not been provided with the application.

7.3.18. Very little detail has been provided in relation to the construction of the tanks or of mitigation in the event of structural failure or inundation of the site.

7.3.19. No details have not been provided of the use of the effluent other than the necessity to comply with SI No 113 of 2022 European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 in terms of storage capacity.

7.3.20. Report of Board's Scientist

7.3.21. The Board's Scientist has prepared a report of this application and the report is attached as Appendix 7 to this report. It includes:

Based on the fact that the groundwater vulnerability is classified as high and based on recommendations regarding farm development by the Minister for Agriculture, Food and the Marine, the applicant would be expected to be able to demonstrate by report by a hydrogeological Assessment that the development as proposed will not impact on the condition of any wells within three hundred metres of the facility.

The development is located c.400 metres to the south of the Erkina river at its closest point and 215 metres from the River Barrow & River Nore SAC/SPA boundary, with the river Goul at its closest point located c.550 metres to the south east with the river Barrow & River Nore SAC/SPA boundary located c.400 metres to the south East. The water body (Reference Erkina_050) is deemed to be of moderate status and deemed to be at risk, with the primary pressure being agriculture. The development is located within the Rathdowney groundwater body (IE_SE_G_114) which has an overall good status both quantitatively and chemically and is not deemed to be at risk.

EPA Pollution impact potential maps (PIP Maps) were generated to indicate areas of high pollution potential with specific regard to Phosphorus and nitrogen losses to waters. They are used to target measures in areas where monitoring data has indicated ongoing issues.

Elevated risk areas for phosphorus loss typically have poor draining soils and dominant overland pathways. Whereas freely draining soils and substantial groundwater pathways pose an elevated risk for nitrogen losses.

From the maps provided with the application: 'location map lands farmed'; a sizeable portion of these lands are wetlands with springs throughout. If these lands are utilised for land spreading of the slurry would pose a significant risk to the River Barrow & River Nore SAC/SPA by virtue of phosphorus loading from overland run-off. In addition, these wetlands are included in CFRAM river flood extents.

The applicant has not indicated any outlet for the stored slurries either by export or by land spreading. There is no indication of any volumes of soiled waters that would be collected at the site as a whole. The applicant would need to take account of all these details in the form of a nutrient management plan.

The land holding outlined in blue is assigned high/moderate vulnerability with a locally important aquifer with moderately productive bedrock in local zones. Overall, the land holding would have groundwater protection response R1 for land spreading, acceptable subject to normal good practice. Normal good practice would include no land spreading on waterlogged land, lands liable to flood or flooded lands which would preclude a sizeable portion of the landholding outlined in blue on the OS map entitled 'Location Map lands Farmed.'

7.3.22. In my opinion in the absence of sufficient details of the construction of the tanks and of proposed mitigation in the event of structural failure or of inundation of the site, the Board is not in a position to conclude that the structures would not impact on the adjacent European sites.

7.3.23. The Board has not been provided with any information on the sources or intended use of the effluent to be stored in the structures. No information is provided on the livestock on the farm or the farm stocking rate. A nutrient management plan has not been provided. The statement in the letter accompanying the application that the development is intended to facilitate the additional storage requirements in accordance with SI No 113 of 2022 European Union (Good Agricultural Practice for Protection of Waters) regulations 2022, is not adequate to enable the Board to carry out appropriate assessment.

7.3.24. In my opinion in the absence of sufficient details on the sources or intended use of the effluent to be stored in the structures the Board is not in a position to conclude that the proposed development would not impact on the adjacent European sites.

7.4. Cumulative Impact

7.4.1. There is potential for cumulative impacts arising from other significant existing or permitted infrastructure. The most significant potential cumulative impact is with other intensive agricultural development and associated landspreading within the catchment.

7.4.2. The Site Synopsis for the River Barrow and River Nore SAC, includes:

The main threats to the site and current damaging activities include high inputs of nutrients into the river system from agricultural run-off ... The water quality of the site remains vulnerable. Good quality water is necessary to maintain the populations of the Annex II animal species listed above. Good quality is dependent on controlling fertilisation of the grasslands, particularly along the Nore.

7.5. Conclusion of AA

- 7.5.1. In my opinion there is insufficient information before the Board to carry out appropriate assessment. In the absence of adequate information the Board cannot conclude that the proposed development would not impact adversely on the protected sites River Barrow and River Nore SAC & River Nore SPA in view of their conservation objectives.

7.6. Principle of Development

- 7.6.1. The Laois County Development Plan 2021-2027 is generally supportive of sustainable agriculture. This is a rural, agricultural area. The proposed development is acceptable in principle.

7.7. Further Information

- 7.7.1. The Board requires the following further information to enable it to carry out an assessment of this application:
- Demonstrate by providing detailed specifications of the overground tanks that they have the structural integrity required for the safe containment of the volume of effluent proposed.
 - What, if any, mitigation is proposed in the event of structural failure of the overground tanks or inundation of the site.
 - A Hydrogeological Assessment, (prepared by a hydrogeologist,) to show that the development as proposed will not impact on the condition of any well within three hundred metres of the facility.
 - A nutrient management plan. This should include all lands, distinguishing those on which landspreading is proposed. In this regard it is noted that the lands

comprising the identified landholding include lands liable to flooding. As is normal good practice no landspreading should take place on waterlogged land, lands liable to flood or flooded lands. This would preclude a sizeable portion of the landholding outlined in blue, from landspreading.

- A NIS.

8.0 Recommendation

- 8.1.1. Since issues regarding appropriate assessment, groundwater impact, flood risk or nutrient management were not raised by the planning authority, it is considered reasonable to request the applicant to address these matters and it is therefore appropriate for the Board to request the submission of further information as set out under paragraph 7.6.1.

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.

Planning Inspector

5th March 2024

Appendices:

Appendix 1 Photographs

Appendix 2 Laois County Development Plan 2021-2027, extracts.

Appendix 3 Extracts from Catchments.ie mapping - Pollution Impact Potential Mapping (PIP) for Nitrates and Phosphorus, extracts.

Appendix 4 Site Synopsis, River Barrow and River Nore SAC (002162), extract

Appendix 5 extracts from flood maps – floodmaps.ie

Appendix 6 Conservation Objectives for River Barrow and River Nore SAC (002162), extracts.

Appendix 6 Report of Board's Scientist

Appendix 7 - Form 1

EIA Pre-Screening

[EIAR not submitted]

| | | | |
|---|---|------------|--------------------------------|
| An Bord Pleanála Case Reference | 316127 | | |
| Proposed Development Summary | Proposal to construct an overground slurry store, an underground slurry reception tank, a manure pit and a storage area for tyres and plastic, and all associated ancillary facilities, works and services. | | |
| Development Address | Townland of Ballyboodin, Ballacolla, Co. Laois. | | |
| 1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings) | | Yes | / |
| | | No | No further action required |
| 2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class? | | | |
| Yes | | Class..... | EIA Mandatory EIAR required |
| No | / | | Proceed to Q.3 |
| 3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]? | | | |

| | | Threshold | Comment (if relevant) | Conclusion |
|------------|---|----------------------|--------------------------|---|
| No | / | N/A | | No EIAR or Preliminary Examination required |
| Yes | | Class/Threshold..... | | Proceed to Q.4 |

| 4. Has Schedule 7A information been submitted? | | |
|--|---|----------------------------------|
| No | / | Preliminary Examination required |
| Yes | | Screening Determination required |

Inspector: _____

Date: _____