



An  
Bord  
Pleanála

## Inspector's Report ABP-316385-23

<b>Development</b>	Slatted shed, manure pit and associated works.
<b>Location</b>	Glebe, Coolrain, Portlaoise, Co Laois
<b>Planning Authority</b>	Laois County Council
<b>Planning Authority Reg. Ref.</b>	2260043
<b>Applicants</b>	George A, Jane and George E Cooper
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Peter Sweetman and on behalf of Wild Ireland Defence clg
<b>Date of Site Inspection</b>	27 <sup>th</sup> June 2023
<b>Inspector</b>	Dolores McCague

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## 1.0 Site Location and Description

- 1.1.1. The site is located in the townland of Glebe, Coolrain, Portlaoise, Co Laois, approximately 1.4km north of Coolrain. The site is located south west of Mountrath, south east of Camross, north of Rush Hall and north east of Borris-in-Ossory in rural county Laois. The site is accessed from an existing entrance and laneway from the L1038, a Strategic Local Primary Road. There are a number of agricultural structures/buildings currently within the site.
- 1.2. The site is given as 0.71ha.

## 2.0 Proposed Development

- 2.1.1. The proposal is to construct (i) Slatted shed with crush area, floor area of 250sqm (ii) Manure pit and all associated site works. Demolition of storage shed is also required. The structure extends to a maximum height of 6.93m. The structure is adjoined to the west by an existing storage shed. The external finishes are corrugated sheeting with concrete walls to the lower section of the walls and corrugated sheeting to the pitched roof. The underground tank below the slats has a stated volume of 227m<sup>3</sup>. A manure pit is to be located south west of the proposed slatted shed. To accommodate this structure an existing storage shed is to be demolished. The storage shed has a stated area of 182sqm and is a lean-to structure. The proposed manure pit comprises of concrete wall to a height of 2.43m and an area of 199sqm.
- 2.1.2. The structures are proposed within a relatively compact area at an existing farmyard, located c.140m from the public road.
- 2.1.3. Landspreading maps are provided. The following details apply:

Site	Bedrock	Aquifer category	Vulnerability	Proximity to protected site
Land adjoining the site	Limestone shale	PI poor	High	100m straight line

Glebe Td. Plots 1, 2 & 3A		Locally important		
Coolraine Td. Plots 4 & 5	Sandstone	Regionally important  Fissured bedrock	High  <b>Rock near surface or Karst</b>  <b>Extreme</b>	100m straight line
Rossnacloough Inside Td.  Plots 6 & 7	Limestone  Shale	Poor aquifer	Moderate Vulnerability	SAC/SPA 1.1km straight line. Tonet river adjoins to south and flows to SAC/SPA. Collraine Bog to south Tonet River is a hydrological divide
Rossnacloough Outside Td.  Plots 8, 8A & 9	Limestone  Shale	Poor aquifer	Moderate Vulnerability	As previous
Coolraine Td. Plots 10 & 11	Limestone  Shale	Poor aquifer	Moderate Vulnerability	As previous
Windsor or Cappaghnahoran Td.  Plot 12	Limestone  shale	Poor Aquifer	Moderate	600m straight line to SPA

Derrycarrow Td. Plots 13 & 13A	Sandstone	Regionally important	Moderate	560m straight line to SAC adjoins river which flows to SAC
Clonaddadoran Td. Plot 15	Limestone	Regionally Important Karsified Diffuse Limestone	High	Remote from Natura sites
Clonaddadoran Td. Plot 16	Limestone	Regionally Important Karsified Diffuse Limestone	Moderate <b>Extreme</b>	Remote from Natura sites

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. The Planning Authority decision, dated 6<sup>th</sup> April 2023, was to grant permission subject to 17 conditions, including:

- 1) to be in accordance with plans and particulars received by the Planning Authority on the 15/12/22 and the further information received on 11/03/23.
- 2) dark green or dark grey roof and side panels.
- 3) use for agricultural purposes only.
- 4) disposal offsite of construction & demolition wastes.
- 5) The development shall be undertaken in accordance with the requirements of the European Union (Good Agricultural Practice for Protection of Waters) Regulations, 2022.

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

- 6) There shall be no increase in the number of livestock being accommodated unless otherwise agreed with in writing by the Planning Authority and in accordance with an approved Farm Waste and Nutrient Management Plan.

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

- 7) 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 2002. 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.

- 8) All uncontaminated surface water runoff from the proposed development shall be collected separately from farmyard materials (slurry, silage effluent, slatted shed washings and contaminated surface water) and shall be disposed of directly in a sealed system to adequate stone filled soakaways within the curtilage of the application site or, alternatively, shall be recycled for use in the proposed development. A monitoring chamber (manhole) shall be provided for the monitoring of uncontaminated surface/roof water prior to discharge to any soakaway. All soakaways shall be designed in accordance with BRE Digest 365 – Soakaway Design. No contaminated storm water shall be discharged to any storm water drain or watercourse.

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

- 9) All Storage facilities shall:

a) Be designed, sited, constructed, maintained and managed so as to prevent run-off or seepage, directly or indirectly, into groundwater or surface water of any effluent produced,

b) Comply with such construction specifications for those facilities as may be approved by the Minister for Agriculture, Food and the Marine. Separation distances set out in Department of Agriculture S.123 - Minimum Specification for Bovine Livestock Units and Reinforced Tanks (Sept. 2017) shall be adhered to.

c) All construction works shall be carried out in accordance to with the relevant Department of Agriculture, Food & Marine building specifications.

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

10) All overground fuel/chemical storage tanks shall be adequately bunded to protect against spillage and leakage etc. Bunding shall be impermeable and shall be capable of retaining a volume equal to 1.50 times the capacity of the overground storage tank it is being provided for. Filling and off-take points shall be located within the bunded area.

Reason: In the interest of public health to avoid pollution. and to ensure proper development.

11) Facilities shall be provided for the collection and segregation of recyclable waste. Wastes shall be collected for recycling/reuse whenever feasible or otherwise disposed of in accordance with the Waste Management Act 1996 as amended.

Reason: In the interest of sustainable waste management and environmental protection.

12) The applicant / developer 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.

13) During the construction phase and operational phase of the development, the applicant / developer shall immediately inform the Planning Authority & Inland Fisheries Board Ireland 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.

14) 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.

15) Organic fertiliser shall only be transported over the public road network in approved leakproof transporters. The organic fertiliser shall only be taken offsite by contractor/haulers who are registered with the Department of Agriculture Food and Marine and the organic fertiliser shall be utilised in accordance with the requirements of the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022.

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

16) 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.

17) a) consultation with ESB. regarding overhead power line, and b) cabling of external lighting.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- 3.2.2. The first planner's report, 14<sup>th</sup> February 2023, recommending further information (FI), which issued, includes:

The site is located c.140m off the public road. It is considered the siting, scale and design of the proposed structures are acceptable given their location within an existing and established farmyard. It is further considered that given the siting of the proposal within a rural area, offset from the public road and relatively well screened by existing hedgerow that the proposed development would not be obtrusive or visually intrusive. There are no concerns regarding residential amenity.

It is noted that Supplementary Application Form – B, which is required for all agricultural developments was not received with the planning documentation. The number of animals to be housed is unknown and therefore it is not possible to assess fully whether the proposed slatted tank is of sufficient capacity to cater for the animals to be housed. It is also noted that the planning application form indicates that the surface water runoff is to be disposed of to a watercourse, however the site layout plan indicates that surface water disposal is via soakpits. It is considered that the reference to the watercourse is in error as it appears that there is no such watercourse adjoining the site. However these matters have also been raised in the report of the Environment Section and it is considered that the applicant should be afforded an opportunity to address and clarify same.

- 3.2.3. AA screening report determination.

Having regard to the proximity of the nearest Natura 2000 site and 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.

- 3.2.4. The FI request includes:

1. The Applicant is requested to submit a fully completed Supplementary Application Form – B which is required for all Agricultural Developments.
2. The Applicant is requested to confirm the total number of animals to be housed in the existing and proposed development. Animal numbers to include all calves and follow-on stock.
3. The Applicant is requested to provide details on the storage capacity of all existing and proposed storage tanks to cater for all animals within the existing and

proposed development. Further the Applicant is requested to confirm the size of the storage tanks to be provided with the number of animals that each tank will cater for. Storage calculations etc. to be submitted.

4. The Planning Authority notes that the application form states that all clean storm water runoff is to be discharged to a watercourse, whereas the site layout plan indicates surface water discharging to ground by way of soakpit. The Applicant is requested to clarify which arrangement is in fact proposed. Where discharge is to a watercourse the Applicant is requested to submit a Revised Site Layout Drawing showing the watercourse, the route of the proposed storm water disposal pipeline and the final point of discharge of the storm water sewer.

3.2.5. Further Information was received - 11/03/23.

3.2.6. The second planner's report, 5<sup>th</sup> April 2023, recommending permission, includes:

Satisfied with FI responses,

A fully completed Supplementary Application Form – B was received on 11/03/23.

The completed form indicates the number of animals to be accommodated in the proposed development as follows:

50 Suckler cows,

1 beef cattle,

10 young cattle and

50 calves.

The capacity of the dungstead and seepage tank is confirmed to be 472m<sup>3</sup> with the capacity of the underslat tanks 96m<sup>3</sup>. The applicant also confirms that soiled water / dungstead seepage will be disposed of by contract tanker. A fertiliser plan has also been developed and was received in response to the further information request in addition to details relating to compliance with the Nitrates Regulations and the requirement for the proposed development.

It is considered that the information received adequately addresses the matters raised in the further information request. The information has been assessed by Waste Management and Environmental Protection Section who have no objection to the proposed development subject to condition.

Re. item 4: 'The Planning Authority notes that the application form states that all clean storm water runoff is to be discharged to a watercourse, whereas the site layout plan indicates surface water discharging to ground by way of soakpit. The Applicant is requested to clarify which arrangement is in fact proposed. Where discharge is to a watercourse the Applicant is requested to submit a Revised Site Layout Drawing showing the watercourse, the route of the proposed storm water disposal pipeline and the final point of discharge of the storm water sewer.' A revised site layout plan was received on 11/03/23, which indicates the soiled water and clean water network as proposed. The clean water is disposed of to ground by way of a soakpits. The revised site layout plan confirms clean water is to be disposed of to ground by way of soakpits and is considered to address the matters raised in item 4.

#### AA screening

The previous AA screening report concluded that, having regard to the proximity of the nearest Natura 2000 site and given the nature and extent of the proposed development, with no direct connections to the hydrology of the SAC, it is not considered there would be potential for significant effects on the Natura 2000 network. This conclusion remains applicable following consideration of the response to the Further Information request.

#### 3.2.7. Other Technical Reports

3.2.8. Western Area Roads Department, 12<sup>th</sup> January 2023 – no objection.

### 3.3. Prescribed Bodies

None

### 3.4. Third Party Observations

Third party observations have been read and noted.

## 4.0 Planning History

None stated.

## 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.

BHN 1 – 9 - Policy Objectives for Biodiversity and Designated Sites - to conserve and protect habitats and species listed in the annexes of the EU Habitats Directive and the Birds Directive.

## **5.2. EPA Pollution Impact Potential Mapping**

- 5.2.1. EPA have mapping under the heading Pressures & Activities include Pollution Impact Potential Mapping (PIP) for Nitrates and Phosphorus.

## **5.3. Natural Heritage Designations**

- 5.3.1. The River Barrow and Nore SAC is to the north, to the east and to the south-east at a straight line distance of c330m. The River Barrow and Nore SPA is c750m to the south-east. Colrairie Bog SAC (002332) is located close to the south of landspreading areas.

## **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:

The planner's report as it refers to the observation of Peter Sweetman & Associates on behalf of Wild Ireland Defence CLG, Shangri La is quoted.

- The Planning Authority is the competent authority having responsibilities under the Habitats Directive.

The threshold for screening is set out in *Kelly v An Bord Pleanála* (2014 IEHC 400). Paragraphs 26 is quoted.

The distance to the SAC is given as 350m. the accepted zone of influence to a river SAC in Ireland is 15km. There is proposed slurry spreading on the bank of a river.

The AA screening report was written prior to receiving FI.

They submitted the following to the PA:

The threshold for screening is set out in *Kelly v An Bord Pleanála* (2014 IEHC 400). Which states at paragraphs 26.

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 Planner should have concluded that the only legal answer is that the proposed project may have an effect on the SAC.

5. The development shall be undertaken in accordance with the requirements of the European Union (Good Agricultural Practice for Protection of Waters) Regulations, 2022.

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

Had the planner read the referred case law of the Courts of Justice of the EU the decision of the CJEU in Joined Cases C-293/17 and C-294/17 he would have realised that this condition is not permitted in a development which may have an effect on a SAC.

For conditions: 6, 7, 8 and 9, the reason given is: 'In the interest of environmental protection and in particular to protect against the pollution of surface and ground waters.' Why would you insert these conditions on a development that you found cannot have an effect on the SAC into which all waters drain.

The NPWS management plan for the river Nore states:

Nore freshwater pearl mussel *Margaritifera durrovensis*, which inhabits the river downstream

These EQRs correspond to high ecological status for these two Water Framework Directive biological quality elements. They represent high water quality with very low nutrient concentrations (oligotrophic conditions). The habitat of the Nore Pearl mussel failed both standards during 2009 sampling for the Sub-basin Management Plan (DEHLG, 2010).

An Bord Pleanála has no legal alternative other than to refuse this application and award the observers their outgoings against the planning authority as they failed to carry out the law as required and as explained to them in their submission.

### **6.3. Applicant Response**

6.3.1. ADP Architectural & Agricultural Design Services have submitted a response to the grounds of appeal on behalf of the applicant, which includes:

6.3.2. A letter from the applicant including the following:

- He and his father farm together, with full time off farm jobs. His mother is relied on in tending to the cattle when they are at work.

- They have been farming at this location for four generations.
- They already have an existing farm yard at this location with existing slatted tanks and this shed is going to be incorporated into the same yard at the same distance from the watercourse.
- This shed is vital not only to the sustainability of their already under pressure farming enterprise but essential in ensuring the safety of his ageing parents in tending to the cattle. It will have a new up to date handling facility, which will help in cattle handling by the applicant on his own; as it is not financially viable to hire help.
- They are participating in the new acres scheme and they always try to do their part for the environment. They follow all EU rules in relation to spreading farm slurry and keep the appropriate distances from any watercourse as stated in the regulations. They follow strict guidelines on slurry spreading dates.
- No slurry is spread during the closed period and no slurry is spread during adverse weather conditions on any of their distribution lands. They envisage a longer closed period for slurry spreading coming in the future and are trying to take all necessary actions for such an event and this tank will help in extra storage.
- This is also a benefit to the environment.
- As they are small scale suckler farmers they rely on getting government young farmers grant aid. This facility is going to make their farm a more sustainable business for the next generation to follow.

6.3.3. Environmental Agricultural Consultants, have submitted a response to the grounds of appeal on behalf of the applicant, which includes:

- The purpose of the proposal contained in the planning application in question is to bring the Cooper farm at Glebe, Coolrain, Co Laois into conformance with the requirements of SI 113 of 2022 as amended by SI 393 of 2022 and SI 716 of 2022.
- These regulations have increased the requirements for slurry storage on this farm; hence the proposed development and the recourse to the planning system to bring the existing farm into compliance with the latest regulations.

- As an additional comment, please note that in land spreading operations mandatory setback distances are required to be observed from various sensitive receptors under the SIs referenced above.

## **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 other Issues 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 proposed development comprises:  
demolition of storage shed and construction of slatted shed with crush area; and construction of manure pit and all associated site works.
- 7.2.3. A report of screening for appropriate assessment was not provided with the application.
- 7.2.4. The planning authority carried out a preliminary screening for appropriate assessment and arrived at a conclusion of no potential significant effects.
- 7.2.5. Grounds of appeal – the substance of the grounds of appeal is that appropriate assessment has not been carried out in accordance with the requirements of the Directive.
- 7.3. Screening for Appropriate Assessment
- 7.3.1. The nearest Natura sites are the River Barrow and River Nore SAC (002162), located to the east and to the south-east, c 330m straight line distance; the River

Barrow and River Nore SPA (004233) located c750m to the south-east; and Colraine Bog SAC (002332) located close to the south of landspreading areas (6-11).

### 7.3.2. Screening summary

European Site	Site Code	Relevant QI & SCI	Distance
River Barrow and River Nore SAC	002162	<p>Estuaries</p> <p>Mudflats and sandflats not covered by seawater at low tide</p> <p>Reefs</p> <p>Salicornia and other annuals colonising mud and sand</p> <p>Atlantic salt meadows</p> <p>Mediterranean salt meadows</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation</p> <p>European dry heaths</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels</p> <p>Petrifying springs with tufa formation</p> <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>c330m, straight line distance from the site.</p> <p>No physical connection.</p> <p>Potential hydrological connection.</p> <p>Landspreading areas drain to the River Nore, some are close to the protected site.</p> <p>There is potential for indirect effects on water quality and on the qualifying interests.</p>

		Salmon Otter Killarney Fern Nore Pearl Mussel	
River Nore SPA	004233	Kingfisher	C750m, straight line distance from the site. No physical connection. Potential hydrological connection.  Landspreading areas drain to the River Nore, some are close to the protected site.  There is potential for indirect effects on water quality and on the special conservation interest.
Coolrain Bog SAC	002332	Active raised bogs  Degraded raised bogs still capable of natural regeneration  Depressions on peat substrates of the Rhynchosporion	Close to landspreading areas 6-11, c90m distance to the north across the R Tonet, which is a hydrological divide.  There is no potential for indirect effects and on the qualifying interests.

7.3.13. I am satisfied that no other protected sites need to be considered.

7.3.14. Site specific conservation objectives have been developed for the River Barrow and River Nore SAC (site code 002162) which could be summarised as, to restore and or maintain the favourable conservation condition of the qualifying interest habitats and species for which the site has been designated.

7.3.15. Conservation objectives for the River Nore SPA (site code 004233) are to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA: Kingfisher.

- 7.3.16. Site specific conservation objectives have been developed for Coolrain Bog SAC (site code 002332) which could be summarised as, to restore and or maintain the favourable conservation condition of the qualifying interest habitats and species for which the site has been designated.
- 7.3.17. Construction Phase Impacts
- 7.3.18. In the absence of mitigation, there is potential for significant indirect effects on the qualifying interest and special conservation interests of River Barrow and River Nore and River Nore SPA. This would need to be examined in a NIS.
- 7.3.19. The farm is given as 39.5ha of which 5.82ha is shown on the map as the holding within which the site is located. Maps for 13 landspreading areas have been provided. These areas drain to the River Nore and a considerable proportion are close to river channels.
- 7.3.20. Operational Phase Impacts
- Potential Indirect Impact
- 7.3.21. In the absence of mitigation there is potential for impact on surface water from activities at the farmyard and hence potential for significant indirect effects on protected downstream sites.
- 7.3.22. In the absence of mitigation there is potential for indirect impact on groundwater and surface water from landspreading associated with the proposed development and hence potential for significant indirect effects on protected downstream sites.
- 7.3.23. Conclusion of Screening
- 7.3.24. There is potential for impact during construction and operation and for significant effects on protected sites, such that Appropriate Assessment stage 2, is required.
- 7.3.25. The applicant should be requested to provide a NIS, a detailed construction management plan and a detailed plan for landspreading.

#### **7.4. Principle of Development**

- 7.4.1. The Laois County Development Plan 2021-2027 is generally supportive of sustainable agriculture. This is a rural, agricultural area.
- 7.4.2. In my opinion the proposed development is acceptable in principle.

## 7.5. Groundwater Protection

7.5.1. Landspreading maps are provided. The following details apply:

Site	Bedrock	Aquifer category	Vulnerability	Proximity to protected site
Land adjoining the site Glebe Td. Plots 1, 2 & 3A	Limestone shale	PI poor  Locally important	High	100m straight line distance
Coolraine Td. Plots 4 & 5	Sandstone	Regionally important  Fissured bedrock	High  <b>Rock near surface or Karst</b>  <b>Extreme</b>	100m straight line distance
Rossnacloough Inside Td. Plots 6 & 7	Limestone Shale	Poor aquifer	Moderate Vulnerability	SAC/SPA 1.1km straight line distance. Tonet river adjoins to south and flows to SAC/SPA. Colraine Bog to south Tonet River is a hydrological divide
Rossnacloough Outside Td. Plots 8, 8A & 9	Limestone Shale	Poor aquifer	Moderate Vulnerability	As previous

Coolraine Td. Plots 10 & 11	Limestone Shale	Poor aquifer	Moderate Vulnerability	As previous
Windsor or Cappaghnahoran Td. Plot 12	Limestone shale	Poor Aquifer	Moderate	600m straight line distance to SPA
Derrycarrow Td. Plots 13 & 13A	Sandstone	Regionally important	Moderate	560m straight line distance to SAC adjoins river which flows to SAC
Clonaddadoran Td. Plot 15	Limestone	Regionally Important Karsified Diffuse Limestone	High	Remote from Natura sites
Clonaddadoran Td. Plot 16	Limestone	Regionally Important Karsified Diffuse Limestone	Moderate <b>Extreme</b>	Remote from Natura sites

7.5.2. Landspreading areas include small areas of land identified on Geological Survey of Ireland mapping, as having extreme groundwater vulnerability, with rock near the surface or karst. The EPA groundwater response recommendation for landspreading in such areas is that the depth of soil should be established, and in order to be suitable for landspreading, should have a consistent minimum thickness of 1m of soil and subsoil over locally important aquifers and a consistent minimum thickness of 2m of soil and subsoil over regionally important aquifers. An examination of soil conditions has not been carried out in this case.

- 7.5.3. The applicant should be requested to identify all proposed land banks within areas of regionally important, locally important and poor aquifers, with a vulnerability rating of extreme (where the groundwater protection responses will be R3<sup>2</sup> – for regionally important aquifers, not generally acceptable, unless consistent minimum thickness of 2m of soil and subsoil can be demonstrated; and R3<sup>1</sup> – for locally important and poor aquifers, not generally acceptable, unless consistent minimum thickness of 1m of soil and subsoil can be demonstrated).
- 7.5.4. The applicant should be required to demonstrate by way of a report, with maps and photographs, the trial holes and their locations, that a minimum of 2m thickness of subsoil exists above bedrock and / or watertable for regionally important aquifers, and that a minimum of 1m thickness of subsoil exists above bedrock and / or watertable for locally important or poor aquifers. In the event that the required vertical separation cannot be demonstrated the applicant is required to remove the landbank from the proposed spreadlands. The applicant is required to demonstrate that adequate lands are available for landspreading.

## 8.0 Recommendation

- 8.1.1. Since the applicant was not previously requested to provide a NIS or information on groundwater impact I consider it appropriate for the Board to request the applicant to submit a NIS accompanied by a detailed construction management plan and a detailed plan for landspreading; and to submit the information on groundwater protection set out in paragraph 7.5.3 and 7.5.4.

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.

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Planning Inspector

1<sup>st</sup> February 2024

**Appendices:**

Appendix 1 - Form 1

**EIA Pre-Screening****[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	316385		
<b>Proposed Development Summary</b>	Construct slatted shed with crush area, floor area of 250sqm, manure pit and all associated site works and demolish storage shed		
<b>Development Address</b>	Ballinrahin, Ballickmoyler, Co. Laois.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	/
		<b>No</b>	No further action required
<b>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?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	/		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>	/	/	No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....	Proceed to Q.4

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

Appendix 2 Photographs

Appendix 3 Laois County Development Plan 2021-2027, extracts.

Appendix 4 Catchments.ie - Pollution Impact Potential Mapping (PIP) for Nitrates

Appendix 5 Groundwater Protection Responses to the Landspreading of Organic Wastes, EPA.

Appendix 6 Site Synopses, River Barrow and River Nore SAC (002162), River Nore SPA (004233), Colraine Bog SAC (002332)