Inspector's Report
ABP-317141-23

Development	Erect easyfeed slatted cubicle shed with underground slurry storage tanks, concrete yards and ancillary works.
Location	Ballyreehan West, Lixnaw, Tralee, Co Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	23/232
Applicant(s)	Tommy and Patrick Fahey
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions.
Type of Appeal	Third Party v. Grant
Appellant(s)	Peter Sweetman and on behalf of Wild Defence Ireland CLG.
Observer(s)	None
Date of Site Inspection	16 September 2024
Inspector	Cáit Ryan

1.0 Site Location and Description

1.1. The site is located approx. 3km south of Lixnaw, and approx. 12km north east of Tralee. The surrounding area is predominantly agricultural land, with a considerable amount of one-off housing. The 1.88ha site comprises an active farmyard complex. It is roughly square-shaped, save for the detached dwelling house fronting the road which does not form part of the subject site, and is indicated as applicant's dwelling. Save for this dwelling house, the nearest residential properties to the proposed slatted cubicle shed are approx. 85m to the north west and 160m to north east.

1.2. Buildings and other farmyard areas are located to the east, west and south of the house site. There are vehicular entrances to access the farmyard to both east and west of the house. The site is generally flat. There is no demarcated southern site boundary. The western site boundary comprises an electric/light wire fence. The area on which it is proposed to build the proposed slatted cubicle shed is currently grassland, on which some rushes are evident. No streams are indicated on site. Approx. 35m south of the site, a stream runs in an approx. east-west direction.

2.0 Proposed Development

2.1. Permission is sought to erect an easyfeed slatted cubicle shed with underground slurry storage tanks, concrete yards and ancillary works.

The gross floor area of the proposed works is 1969sqm. GFA of existing buildings is stated as 2522sqm. Proposed surface water disposal is to existing land drain. A Slurry, Effluent & Soiled Water Management Plan was lodged with the application. Slurry & Soiled Water Storage Calculations are outlined. Proposed source of water supply is stated on planning application form as existing connection, and a well is shown located on the northern (opposite) side of the road.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted permission subject to 5no. conditions. Conditions of note are as follows:

Condition 1: Development shall be carried out in accordance with plans and particulars received on 3 March 2023 except for any alterations in this decision.

Condition 2: Development contribution: €7,052.00

Condition 4: Roofwaters from existing and proposed buildings shall be piped uncontaminated by slurry, feedstuffs or other polluting matter into a suitable soakpit or free-flowing watercourse.

Condition 5: (f) The proposed infrastructure for the management of farmyard manures, slurries and soiled water shall be in full compliance with S.I. No. 605 of 2017, European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017 and in accordance with required farm buildings and structures specifications outlined by the Department of Agriculture, Food and Marine. Reason is in interests of pollution control.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The basis for the planning authority's decision includes:

Executive Planner's report (26 April 2023)

- concurs with conclusion reached by Biodiversity Officer, that proposed development is not likely to a significant effect on Natura 2000 sites.
- Considers EIA Screening or EIA is not required
- States proposal will increase the capacity to store slurry on the farmyard, would prevent runoff of slurry to surface and receiving waters and would contribute towards protection of surface waters and groundwater in the area.

Report counter-signed by **Senior Executive Planner** on 26 April 2023.

3.2.2. Other Technical Reports

Environmental Assessment Unit (9 March 2023): Report concludes that the proposed development, individually or in-combination with other plans or projects, is not likely to have a significant effect on the European site(s), in view of the sites' conservation objectives.

3.3. Prescribed Bodies

None.

3.4. Observations to the Planning Authority

One no. observation was received from Mr. Peter Sweetman and on behalf of Wild Ireland Defence CLG. The main issues raised are summarised as noting planning authority must assess application in accordance with Planning and Development Act 2000, as amended, Environmental Impact Assessment (EIA) Directive, Habitats Directive and Water Framework Directive. Cites CJEU rulings C-323/17, C-293/17 and C-294/17. States Appropriate Assessment is required.

4.0 Planning History

Planning applications on this overall farmyard are as follows:

PA. Ref. 02/355: Permission granted in 2002 for demolition of existing shed and construction of slatted unit.

P.A. Ref. 04/1458: Permission granted in 2004 to demolish existing shed and construct extension to existing slatted house incorporating new dairy and calving facilities.

P.A. Ref. 17/611: Permission granted in 2017 to extend existing slatted unit incorporating slatted cubicle housing and underground slurry storage.

P.A. Ref. 20/1032: Permission was granted in 2021 for a dairy, milking parlour, holding yard with dairy effluent tank, meal bin, three silage bases with walls, aprons and effluent channels and ancillary site works.

The first Planner's report (26 April 2023) noted that this permission had not been implemented. On site inspection I noted that this permission has been partially implemented, whereby the tank and some silage bases have been constructed.

The P.A. Ref. 20/1032 application originally also included an easyfeed slatted unit for dairy cows and underground slurry tanks. Following a request for Further Information (FI) for pre-development archaeological testing across the greenfield area of the subject site, this element of the proposal was omitted in the FI response. The first

County Archaeologist's report states that there are no recorded monuments listed in the Record of Monuments and Places (RMP) in proximity to the development site, which has been partly disturbed. The subsequent report on the FI response noted the revised proposal and stated that no pre-development was required.

In Vicinity of Site:

ABP-320102-24 (P.A. Ref. 24/68): Permission is currently sought for milking complex including slurry tank with associated site works at Garrynagore, Lixnaw. This site is on Regional Road R557, approx. 1.1km south west of the subject site.

ABP-318168-23 (P.A. Ref. 23/537): Permission was granted in 2024 for a slatted cubicle house, associated unerground slurry tanks, cattle crush and ancillary concrete yard, at Tullig, Kilflynn. This site is approx. 1.7km directly southeast of the subject site, although is more distant via the local road network.

5.0 Policy Context

5.1. Kerry County Development Plan 2022-2028

The site is located within 'rural area under urban influence'.

The site is not within a Visually Sensitive Area.

Objective KCDP 8-24 (i) Secure the preservation in situ of all sites, features, protected wrecks and objects of archaeological interest within the county. In securing such preservation the Council will have regard to the advice and recommendations of the National Monuments Service, Department Gaeltacht Areas, Culture & Heritage of Housing, Local Government and Heritage, the National Museum of Ireland, and the County Archaeologist. (ii) Ensure that proposed development (due to location, size, or nature) which may have implications for the archaeological heritage of the county will be subject to an Archaeological Assessment (including Underwater Archaeological Impact Assessment) which may lead to further subsequent archaeological mitigation – buffer zones/exclusion zones, monitoring, pre-development archaeological testing, archaeological excavation and/or refusal of planning permission. This includes areas close to archaeological monuments, development sites which are extensive in area (half hectare or more) or length (1km

or more) or include potential impacts on underwater cultural heritage and development that requires an Environmental Impact Assessment.

Objective KCDP 9-39 Support and facilitate the thematic objectives outlined in “Our Rural Futures”, rural development policy 2021-2025, to strengthen economic activity and employment in rural areas

Objective KCDP 9-52 Support and facilitate the implementation of the strategic objectives of Food Vision 2030 – A World Leader in Sustainable Food Systems to sustainably develop the agricultural and food sectors that contribute enormously to the economic development of rural areas.

Objective KCDP 9-53 Facilitate and support the development of sustainable agricultural practices and facilities within the county, subject to normal planning and environmental criteria and the development management standards contained in Volume 6 of this plan.

Objective KCDP 9-55 Facilitate the sustainable modernisation of agriculture and to encourage best practice in the design and construction of new agricultural buildings and installations to protect the environment, natural and built heritage and residential amenity.

Objective KCDP 9-56 Ensure agricultural waste is managed and disposed in a safe, efficient and sustainable manner having regard to the environment and in full compliance with the European Communities Good Agricultural Practice for the Protection of Waters Regulations (2010-2020) and any subsequent updates and relevant best practice guidelines.

Objective KCDP 9-62 Ensure the economic benefits associated with promoting the County’s agri-food sector are balanced with due consideration for the conservation and protection of the rural environment.

Objective KCDP 11-77 Protect the landscapes of the County as a major economic asset and an invaluable amenity which contributes to the quality of people’s lives.

Objective KCDP 11-78 Protect the landscapes of the County by ensuring that any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area. Any development which could unduly impact upon such landscapes will not be permitted.

5.2. National Policy

Climate Action Plan 2024

Project Ireland 2040 – National Planning Framework (2018) and National Development Plan 2021-2030

Department of Rural and Community Development's Our Rural Future: Rural Development Policy 2021-2025

Department of Agriculture, Food and the Marine's Food Vision 2030

Department of Agriculture, Food and the Marine's Ag Climatise A Roadmap towards Climate Neutrality

Nitrates Action Programme (NAP) 2022-2025

5.3. Regional Policy

Regional Spatial and Economic Strategy for the Southern Region

5.4. Other Guidance

European Commission's Farming for Natura 2000 Guidance on how to support Natura 2000 farming systems to achieve conservation objectives, based on Member States good practice experiences.

5.5. Natural Heritage Designations

The site is not located in or adjacent to any European sites.

The nearest part of the Lower River Shannon SAC (Site Code 002165) is approx. 0.8km north of the site.

The nearest part of Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161) is approx. 2.5km south east of the site.

5.6. EIA Screening

See completed Form 1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a preliminary examination or screening assessment.

6.0 The Appeal

6.1. Grounds of Appeal

An appeal has been received from Peter Sweetman and on behalf of Wild Ireland Defence CLG. The grounds of appeal are summarised as follows:

- Regard was not had to appellant's submission.
- Cites opinion 259/11 Sweetman & Others v An Bord Pleanála and Kelly v An Bord Pleanála, [2014] IEHC 400, case C3223/17 People Over Wind and Peter Sweetman v Coillte Teoranta, CJEU Case 258/11
- The building of this development will have an effect.
- Planning authority failed to have regard to CJEU cases C-293/17 and C-294/17.
- Buildings appear to be about 5m from Lower River Shannon SAC (002165).
- It is not possible to assess the spread lands as they are not included in the application.
- Cites NPWS site synopsis.

6.2. Applicant Response

The applicant's response to the grounds of appeal is summarised as follows:

- The submission to the local authority is subheaded Reg. No. 23118. Concern that correct procedure was not followed in accepting this as valid. Assuming this is invalid, this would preclude Mr. Sweetman from appealing.
- Appeal appears to have inaccurately located the subject site, suggesting that the buildings appear to be 5m from Lower River Shannon SAC (002165).

- The site is approx. 750m due south of this SAC, with the proposed building being 880m due south.
- Claim that Biodiversity Officer's report does not actually exist is unfounded.
- Department of Agriculture and specifically the EU (Good Agricultural Practice for the Protection of Waters) Regulations 2017, currently transposed into Irish law under S.I. No. 113 of 2022 govern the operation of agricultural holdings. The development does not have any direct hydrological link to the SAC, is a medium scale agricultural development and is not intensive.
- The significant volume of proposed slurry storage is a significant statement of the applicant's commitment to increasing compliance levels and contribute to protecting groundwater and surface water in the area. This is not a proposal to significantly increase herd size but to develop the existing holding and improve standards of farming practice and environmental compliance.
- No justification supplied with applicant's claim that proposed development may have an effect other than suggesting buildings are 5m from SAC.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

7.0 Assessment

7.1. The proposed development comprising a slatted cubicle shed with underground slurry tanks and concrete yards would extend an existing active farmyard onto a grassland area, west of an existing silage pit. Having regard to Objectives KCDP 9-39, KCDP 9-52, KCDP 9-53 and KCDP 9-55, I consider that the proposed development would be in accordance with the provisions of Kerry County Development Plan 2022-2028 and would, in principle, be acceptable.

7.2. The scope of this application relates to works within the red line boundary of the

subject site, and in this regard the Board should note that the carrying out of land spreading does not form part of this application.

7.3. The proposed structure is set back approx. 70m from the adjoining public road. It would have an overall length of 72m and 9.4m ridge height, and would be highly visible as viewed on approach from the south west. However, notwithstanding its large scale and the absence of mature planting along the site's western boundary, having regard to its location as an extension to an existing farmyard, I consider that the proposed development would be acceptable in terms of impacts on the visual amenities of the area. In order to assist in integrating the building into the landscape, I recommend that in the event the Board was minded to grant permission, that a condition is attached requiring external finishes to be dark grey or dark green in colour.

7.4. Surface water is to flow to existing land drain. Effluent from the slatted shed will discharge to the underground slurry tank. I consider that the proposed development would be acceptable in terms of public health.

7.5. Having examined the application details and all other documentation on file, including the submission received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues on this appeal relates to potential impacts on European sites, context to planning history (new issue), archaeology (new issue) and legal and procedural matters. The matter of European sites is discussed at Section 8.0 below and Appendix 2.

7.6. **Proposed Development and Context to P.A. Ref. 20/1032 – New Issue**

7.6.1. On site inspection I noted that silage pits have been constructed west of the proposed slatted shed location. The site plan on file shows silage pits (No.s 18 and 19) and silage apron (No. 20) as existing buildings, annotated as 6.5m (excluding eaves overhang) east of the proposed slatted shed.

7.6.2. In contrast, the FI drawings on P.A. Ref. 20/1032 show 3no. silage bases, whereby silage base 3 extends further west (than shown on current file) such that it would overlap, albeit marginally, with the slatted shed proposed in the subject case. The proposed development would therefore, if permitted, prevent the most westerly part

of the permitted silage base 3 being provided, i.e., it would prevent P.A. Ref. 20/1032 from being implemented in full.

7.6.3. The silage bases are stated on P.A. Ref. 20/1032 to comprise 2098sqm. I estimate the combined area of the silage pits and silage apron shown on the current file's site plan is approx. 1508sqm. The most easterly part of the permitted silage pit is not shown on this site plan. In this regard I note however that the final grant date on P.A. Ref. 20/1032 is 8 March 2021, and as such this planning permission has not expired at time of writing.

7.6.4. Based on the plans and particulars on file, the nature of the proposed building, the proximity of the structure (primarily the canopy) at minimum 5m from the western site boundary, and the 'path of clean water' to west, I do not consider that the proposed slatted cubicle shed could be easily modified in terms of re-positioning its eastern building line, i.e., reducing the extent of the proposed structure or repositioning the entire structure westwards in order to allow for the full extent of the permitted silage bases. Accordingly, in the event that the Board was minded to grant, I do not recommend that conditions are attached to re-position or modify the dimensions of the proposed slatted shed to accommodate the full extent of permitted silage base 3.

7.6.5. In the particular circumstances of this case, I consider that the consequent minor reduction in the extent of the permitted silage base along its western side arising from a grant of permission for the proposed slatted shed, would not, in the context of the overall development permitted by P.A. 20/1032 and the slatted shed proposed in the current case, give rise to new impacts relating to surface water management on the existing farmyard nor materially impact on the residential amenities of the nearest dwelling houses in the vicinity of the site.

7.6.6. It remains however that the description of the proposed development, and the plans and particulars on file do not refer to consequent impacts of the proposed development on the partially implemented P.A. Ref. 20/1032 development.

7.6.7. For clarity, I note that no information has been provided on file to indicate that the silage pits or other works relate to exempted development.

7.6.8. In this regard I recommend that in the event the Board was minded to grant permission, that a condition is attached, requiring a revised site plan to be submitted and agreed in writing by the planning authority prior to commencement of

development, showing the slatted cubicle shed in the context of all development permitted by P.A. Ref. 20/1032, and which differentiates between those elements of P.A. Ref. 20/1032 which have and have not been constructed, and any discrepancies in the detailing of the development permitted by P.A. Ref. 20/1032 arising from the subject grant of permission to be clearly highlighted in the revised site plan. The reason for the condition is in the interests of clarity and development management.

7.6.9. However, this is a new issue and the Board may wish to seek the views of the parties.

7.7. Archaeology – New Issue

The planning history relating to P.A. Ref. 20/1032 indicates that FI was sought relating to pre-development archaeological testing, as outlined in further detail in Section 4.0 of this report. In that case, the first County Archaeologist's report noted that there were no recorded monuments listed in the RMP proximate to the development site, which has been partly disturbed. The County Archaeologist's report on the FI response noted the revised proposal (to omit the slatted cubicle house) and stated that no pre-development was required. The site area outlined in red was reduced in the FI response to 0.4487ha, from originally proposed 2.04ha. The Significant FI was re-advertised.

7.7.1. Having viewed the Sites and Monuments Record on www.archaeology.ie, I note that the nearest recorded monument is approx. 260m north west of the site, on the opposite side of the road; KE016-068001- : Mound: BALLYREEHAN WEST refers. The description includes that it consists of a circular area enclosed by a well-defined earthen bank and a slight trace of an exterior fosse.

7.7.2. Having reviewed all documentation on file, I note that the matter of archaeology has not been raised in this application or appeal, and as such, this is a new issue.

7.7.3. Objective KCDP 8-24 (ii) states that it is an objective to ensure that proposed development which may have implications for the county's archaeological heritage will be subject to archaeological assessment, and this includes areas close to archaeological monuments and development sites which are extensive in area (half hectare or more). While the site outlined in red comprises 1.88ha, the proposed

1959sqm slatted shed and concrete yards are substantially less than the 0.5ha stated in Objective KCDP 8-24.

7.7.4. Having regard to the separation distance to the recorded monument, in noting also that there are no recorded monuments on site, and to the relatively limited extent of the area subject of proposed works, I recommend in this instance that the matter of archaeology could be adequately addressed by way of condition requiring archaeological notification if, during the course of site works any archaeological material is discovered. In the event the Board was minded to grant permission, it may wish to consider the attachment of a such a condition.

7.8. **Legal and Procedural**

7.8.1. In terms of procedural matters raised in the grounds of appeal, I note that the observation received by the planning authority was recorded and summarised in the Planner's Report. With regard to the matter raised relating to the Biodiversity Officer's report not being on file, I note that the Environmental Assessment Unit (EAU) report dated 9 March 2023 is on file.

7.8.2. Separately, the applicant's response to grounds of appeal includes that as the submission to the local authority is subheaded Reg. No. 23118, and assuming this is invalid, it would preclude the appeal. I note that while an incorrect reference, Reg. No. 23118, is stated in the observation submitted to the planning authority, the observation also includes the subject site's address. The planning authority's acknowledgement of receipt of the observation states that this acknowledgement will be required if the third party wishes to appeal the decision. Given the planning authority's acknowledgement of the observation, I consider that this is acceptable.

8.0 **AA Screening**

8.1. See Appendix 2 for Appropriate Assessment screening determination. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site and is therefore excluded from further

consideration. Appropriate Assessment (and submission of a Natura Impact Statement) is not required.

This determination is based on:

- Nature and scale of the proposed development
- The distance of the subject site to the nearest European site, namely Lower River Shannon SAC, and lack of direct hydrological connections or other pathways to same
- Standard pollution controls that would be employed regardless of proximity to a European site and effectiveness of same
- Impact predicted would not affect the conservation objectives.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

9.0 Recommendation

I recommend that permission be granted for the proposed development.

10.0 Reasons and Considerations

10.1.1. Having regard to the nature and scale of the proposed development which directly adjoins an established farmyard, it is considered that subject to compliance with the conditions set out below, the development would not seriously injure the visual or residential amenities of the area and would be acceptable in terms of public health and environmental sustainability. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	The development shall be carried out in accordance with the plans and particulars submitted with the planning application except as may be

	otherwise required by the following conditions. Reason: To clarify the plans and particulars for which permission is granted.
2.	The use of the proposed building shall be for agricultural purposes only. Reason: In the interest of clarity.
3.	The cladding to the walls and roof of the proposed building shall be dark grey or dark green in colour. Reason: In the interest of visual amenity.
4.	The slatted shed shall be constructed in accordance with the specifications as issued by the Department of Agriculture, Farming and the Marine and referenced in the European Union (Good Agricultural Practice for the Protection of Waters) (Amendment) Regulations 2022, as amended. Reason: In order to avoid pollution and to protect residential amenity.
5.	Clean surface water and run-off from roofs and clean paved areas shall be collected and directed to a soakpit or the nearest field drain located within the boundaries of the site and shall not be allowed to flow onto any roadway or discharge to soiled water/slurry/effluent storage areas. Reason: In the interest of environmental protection and public health.
6.	The removal of organic waste material and its spreading on land by the applicant or third parties shall be undertaken in accordance with the systems of regulatory control implemented by the competent authorities in relation to national regulations pursuant to Council Directive

	91/676/EEC (the Nitrates Directive) concerning the protection of waters against pollution caused by nitrates from agricultural sources. Reason: In the interest of environmental protection.
7.	(a) Prior to commencement of development, a revised site plan shall be submitted to and agreed in writing by the planning authority, with principal dimensions annotated and the scale stated thereon, which shall show: (i) the slatted cubicle shed hereby permitted in the context of all development permitted by P.A. Ref. 20/1032. (ii) clear differentiation between those elements of P.A. Ref. 20/1032 which have and have not been constructed. In particular, the permitted silage bases shall be clearly shown. (b) Any discrepancies in the detailing of the development permitted by P.A. Ref. 20/1032 consequent to the grant of permission pursuant to ABP-317141-23 (P.A. Ref. 23/232) shall be clearly highlighted in the revised site plan. Reason: In the interest of clarity and in the interest of development management.
8.	If, during the course of site works any archaeological material is discovered, the City/County Archaeologist/Planning Authority shall be notified immediately. (The applicant/developer is further advised that in this event that under the National Monuments Act, the National Monuments Service, Dept. of Housing, Heritage and Local Government and the National Museum of Ireland require notification.) Reason: In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.

9.	The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme. Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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.

Cáit Ryan
Senior Planning Inspector

10 October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317141-23
Proposed Development Summary	Erect an easyfeed slatted cubicle shed with underground slurry storage tanks, concrete yards and ancillary works.
Development Address	Ballyreehan West, Lixnaw, Tralee, Co. Kerry.

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**	X
	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	X		Proceed to Q.3

3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?

		Threshold	**Comment (if relevant)**	**Conclusion**
No	X	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:** _____

Appendix 2

Appropriate Assessment Screening

Appropriate Assessment Screening Determination

(Stage 1, Article (6)(3) of Habitats Directive)

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000, as amended.

The proposed development comprises an easyfeed slatted cubicle shed with underground slurry storage tanks, concrete yards and ancillary works. The GFA of proposed works is 1969sqm.
Proposed surface water disposal is to existing land drain.

Wastewater management is described as slurry, effluent and soiled water collected in existing and proposed tanks and land spread on applicant's holding in accordance with good agricultural practice.

I note that the carrying out of landspreading does not form part of this application.

Water supply is stated as existing connection, and the planning drawings show private well on the opposite (northern) side of the road to the subject site.

The 1.88ha site site is located approx. 3km south of Lixnaw, and the surrounding area is predominantly agricultural land, with a considerable amount of one-off housing. The proposed development would extend an existing farmyard complex. The overall site is roughly square-shaped, save for the dwelling house site fronting the road. Buildings and other farmyard areas are located to the east, west and south of this house site. The nearest other residential properties to the proposed slatted cubicle shed are approx. 85m to the north west and 160m to north east.

No streams or drains are located on site. Approx. 35m south of the site, a stream runs in an approx. east-west direction. This stream is indicated BRICK_030 on www.catchments.ie , and its EPA name is Knocknakilly.

This watercourse is hydrologically connected to River Brick, which flows into Lower River Shannon SAC approx. 2.3km downstream.

A Slurry, Effluent & Soiled Water Management Plan lodged with the application states that the proposed development will improve compliance in line with new Nitrates Regulations.

The planning authority concludes that proposed development is not likely to have a significant effect on Natura 2000 sites.

The Biodiversity Officer's report states

- In relation to Lower River Shannon SAC, notes approx. 750m distance, that the lands are not annexed habitat and are not likely to support annexed species, only potential for significant effects on SAC would be possible

indirect effects at construction and/or operational phase on local water quality, notes no local surface waterbody that provides direct hydrological connectivity between subject site and SAC, construction of these units are governed by Department of Agriculture, Food and Marine specifications. The report further outlines that on site management of waste water and effluent spreading is governed by GAEC, there is separate legislation, e.g., European Unit (Good Agricultural Practice for the Protection of Waters) Regulations, 2017, as amended for the operational phase.

- In relation to Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA, notes approx. 2.5km distance to the subject site, states that the site is improved grassland/partial built ground within a farmyard complex, and is not supporting or functionally linked habitat associated with hen harrier, does not identify significant effects on hen harrier, it can continue to utilise the SPA in the same manner.

Report concludes that the proposed development, individually or in combination with other plans or projects, is not likely to have a significant effect on the European sites, in view of the sites' conservation objectives.

No reports from prescribed bodies are on file.

European Sites

The proposed development is/is not located within or immediately adjacent to any site designated as a European site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA).

Two no. European sites are located within a potential zoned of influence of the proposed development.

- Lower River Shannon SAC (Site Code 004161) approx. 0.8km north of the site.

- Stack's to Mullaghareirk Mounts, West Limerick Hills and Mount Eagle SPA (Site Code 004161) approx. 2.5km to south east, on the opposite (south eastern) side of N69.

Table 1: European sites located within a potential zone of influence of the proposed development.

European Site (Site Code) **Distance**	**Qualifying Interests (QIs) (Summary)**	**Conservation Objective (Summary) (favourable status)**	**Connections**
Lower River Shannon SAC (002165) **S.I. No. 328**	1110 Sandbanks which are slightly covered by sea water all the time 1130 Estuaries	Maintain Maintain	No direct connection. Potential hydrological connection via stream approx. 35m south of subject site, which

of 2023 Approx.0.8km to south east	1140 Mudflats and sandflats not covered by seawater at low tide 1150 Coastal lagoons 1160 Large shallow inlets and bays 1170 Reefs 1220 Perennial vegetation of stony banks 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts 1310 Salicornia and other annuals colonising mud and sand 1330 Atlantic salt meadows (Glauco-Puccinellietalia maritimae) 1410 Mediterranean salt meadows (Juncetalia maritimi) 3260 Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation 6410 *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) 91E0 Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior*	Maintain Restore Maintain Maintain Maintain Maintain Maintain Restore Restore Maintain Maintain Restore	flows in River Brick. River Brick flows into Lower River Shannon SAC approx. 2.3km downstream of subject site. River Brick flows into River Feale.

	(Alno-Padion, Alnion incanae, Salicion albae)*		
	1029 Freshwater Pearl Mussel *Margaritifera margaritifera*	Restore	
	1095 Sea Lamprey *Petromyzon marinus*	Restore	
	*1*096 Brook Lamprey *Lampetra planeri*	Maintain	
	1099 River Lamprey *Lampetra fluviatilis*	Maintain	
	1106 Salmon *Salmo sala*r	Restore	
	1349 Common Bottlenose Dolphin *Tursiops truncatus*	Maintain	
	1355 Otter *Lutra lutra*	Restore	

The NPWS site synopsis for **Lower River Shannon SAC (Site Code 002165)** includes that this very large site stretches along the Shannon valley from Killaloe in Co. Clare to Loop Head/Kerry Head, a distance of some 120 km, and includes the Shannon and Fergus estuaries. These estuaries form the largest estuarine complex in Ireland, forming a unit stretching from the upper tidal limits of the Shannon and Fergus Rivers to the mouth of the Shannon Estuary.

The site includes the Shannon, Feale, Mulkear and Fergus estuaries and the freshwater stretches of much of the Feale and Mulkear catchments. Rivers within the sub-catchment of the Feale include the Galey, Smearlagh, Oolagh, Allaughaun, Owveg, Clydagh, Caher, Breanagh and Glenacarney. The Feale and Mulkear catchments exhibit all the aspects of a river from source to mouth. The River Feale is a designated Salmonid Water under the E.U. Freshwater Fish Directive.

Five species of fish listed on Annex II of the E.U. Habitats Directive are found within the site. These are Sea Lamprey (Petromyzon marinus), Brook Lamprey (Lampetra planeri), River Lamprey (Lampetra fluviatilis), Twaite Shad (Allosa fallax fallax) and Salmon (Salmo salar). Freshwater Pearl Mussel Margaritifera margaritifera), a species listed on Annex II of the E.U. Habitats Directive, occurs abundantly in parts of the Cloon River.

It further states that this site is of great ecological interest as it contains a high number of habitats and species listed on Annexes I and II of the E.U. Habitats Directive, including the priority habitats lagoon and alluvial woodland, the only

known resident population of Bottle-nosed Dolphin in Ireland and all three Irish lamprey species.

European Site (Site Code) **Distance**	**Qualifying Interests (QIs) (Summary)**	**Conservation Objective (Summary) (favourable status)**	**Connections**
Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (004161) S.I. No. 591 of 2012 Approx. 2.5km to south east.	*Circus cyaneus* Hen Harrier	Restore	No direct connection.

The NPWS site synopsis for Stack's to **Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161)** states that the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA is a very large site centred on the borders between the counties of Cork, Kerry and Limerick, and is skirted by the towns of Newcastle West, Ballydesmond, Castleisland, Tralee and Abbeyfeale.

The site consists of a variety of upland habitats, though almost half is afforested. A substantial part (28%) of the site is unplanted blanket bog and heath, with both wet and dry heath present. The remainder of the site is mostly rough grassland that is used for hill farming. This varies in composition and includes some wet areas with rushes (Juncus spp.) and some areas subject to scrub encroachment.

The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for Hen Harrier. The site is a stronghold for Hen Harrier and supports the largest concentration of the species in the country.

The early stages of new and second-rotation conifer plantations are the most frequently used nesting sites, though some pairs may still nest in tall heather of unplanted bogs and heath. Hen Harriers will forage up to c. 5 km from the nest

site, utilising open bog and moorland, young conifer plantations and hill farmland that is not too rank. Birds will often forage in openings and gaps within forests.

Having regard to the approx. 2.5km distance of the subject site from this SPA which is on the opposite (south eastern) side of the N69, and given that the area of the proposed works is on grassland adjacent to an active farmyard complex, I do not consider that the subjects lands are suitable habitat for nesting or foraging for hen harrier. I am satisfied that the proposed development would not be likely to result in significant ex-situ effects on the hen harrier. Accordingly, I consider that this SPA can be removed from further consideration due to the absence of any direct connection from the proposed development to this SPA and the unlikelihood of direct or ex-situ effects on this species.

Likely impacts of the project (alone or in combination)

The proposed development will not result in in any direct effects such as habitat loss of any European site.

Sources of impact include:

- Surface water pollution during construction phase resulting in changes to environmental conditions such as water quality/habitat degradation.
- Surface water pollution during operation resulting in changes to environmental conditions such as water quality/habitat degradation.

Where an existing hydrological/ecological pathway exists, these indirect impacts could negatively alter the quality of the existing environment, negatively affecting qualifying interest species and habitats that are dependent on high water quality, that require maintenance of vegetation composition and for mobile species, unimpeded access.

European Sites at Risk

Table 2: European sites at risk from impacts of the proposed development

Effect mechanism	Impact pathway/zone of influence	European Site(s)	Qualifying interest features at risk
Deterioration in water quality	Hydrological pathway from development site via surface water flows to watercourse approx. 35m south of site and downstream to SAC.	Lower River Shannon SAC (002165)	Freshwater species dependent on high water quality: Freshwater Pearl Mussel Sea Lamprey Brook Lamprey

			River Lamprey Salmon Otter <u>Habitats</u>: Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation

Likely significant effects on the European site 'alone':

Having reviewed all documentation on file, the conservation objectives documentation for the above referenced site accessed on the NPWS website (www.npws.ie), and noting the nature, scale, design and location of the proposed development, I am satisfied that the likely significant impacts on the qualifying interests of the European site that are not listed in the Table 3 below can be ruled out and do not require further consideration. Table 3 below focuses on the qualifying interest features at risk having regard to the specifics of the proposed development.

Table 3: Could the project undermine the conservation objectives of the site 'alone'

European Site and qualifying feature	**Conservation Objective** **To restore or maintain the favourable conservation condition (Summary)**	**Could the conservation objectives be undermined (Y/N)?** **Deterioration in Water Quality**
Freshwater Pearl Mussel	Restore	N This conservation objective applies to the freshwater pearl mussel population in the Cloon River, Co. Clare only. The Cloon population is confined to the main

		channel and is distributed from Croany Bridge to approx. 1.5km upstream of Clonderalaw Bridge. This location is minimum 39km (as the crow flies) north east of the appeal site, on the opposite site of the Lower Shannon Estuary. Having regard to this separation distance, I consider that the proposed development would not give rise to any impacts on the FMP in the Cloon River, and that potential impacts on FMP can be screened out.
Sea Lamprey	Restore	N
Brook Lamprey	Maintain	N
River Lamprey	Maintain	N
Salmon	Restore	N
Otter	Restore	N
Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation	Maintain	N The NPWS supporting document for this habitat (Version 1, 2012) accessed on the NPWS website states – • The full distributions of this habitat and its sub-types in this site are currently unknown; • It is not generally possible to quantify the area of this habitat in a site, as rivers are linear

		features of variable width, along which the habitat varies both spatially and temporally. • Appendix 1 shows the known distribution of this habitat. This shows an area of Limerick city, and also with regard to bryophyte-rich streams and rivers sub-type, these are shown a distance east of Limerick city.

The site layout shows downpipes on the proposed structure, and that 'path of clean water' extends south of the site. Surface water disposal is stated to be to existing land drain.
All effluent from the slatted cubicle shed will be disposed of via the underground slurry tanks.

I note that the slurry tanks would be will be designed and sealed in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations, as amended. Furthermore, I note that the application of fertilisers are regulated under the European Union (Good Agricultural Practice for Protection of Waters) Regulations, as amended. The regulations contain specific measures to protect surface waters and groundwater from nutrient pollution arising from agricultural sources. This includes, inter alia, no land spreading within 5- 10 metres of a watercourse following the opening of the spreading period (16th January for County Kerry). I note that an Appropriate Assessment was completed as part of Ireland's fifth Nitrates Action Programme (NAP) 2022-2025, which is given effect by the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2022, and concluded that the programme would not adversely affect the integrity of any European Site.

Notwithstanding this, the Board should note that the carrying out of landspreading does not form part of this application.

Having regard to this distance, the nature, scale and extent of the proposed works, the established agricultural use on the site, the absence of a direct hydrological link, and implementation of standard construction techniques, significant effects on the European site are unlikely.

I conclude that the proposed development would have no likely significant effect 'alone' on any qualifying features of Lower River Shannon SAC. Further AA screening in-combination with other plans and projects is required.

Where relevant, likely significant effects on the European site(s) 'in combination with other plans and projects'.

I note the planning history on the subject site, as set out in more detail at Section 4.0 of my report. With regard to the permitted developments on the overall farmyard comprising slatted shed (P.A. Ref. 02/355), extension to slatted house (P.A. Ref. 04/1458), extension to slatted unit incorporating underground slurry storage (P.A. Ref. 17/611) and dairy and milking parlour with effluent tank and silage bases (P.A. Ref. 20/1032), and having viewed the planning authority's and An Bord Pleanála's online mapping systems, I do not consider that the there are any projects which could have the potential to have significant in-combination effects on a European site when considered alongside the proposed development. I am not aware of any plans that could have potential for in-combination effects on a European site when considered alongside the proposed development.

I conclude that the proposed development would not have likely significant effects in combination with other plans or projects on the qualifying features of any European site(s). No further assessment is required for the proposed development.

Overall Conclusion – Screening Determination

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site and is therefore excluded from further consideration. Appropriate Assessment (and submission of a Natura Impact Statement) is not required.

This determination is based on:

- Nature and scale of the proposed development
- The distance of the subject site to the nearest European site, namely Lower River Shannon SAC, and lack of direct hydrological connections or other pathways to same
- Standard pollution controls that would be employed regardless of proximity to a European site and effectiveness of same
- Impact predicted would not affect the conservation objectives.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.