



An
Bord
Pleanála

Inspector's Report

ABP-317623-23

Development	Construction of 2 poultry houses and associated works. A Natura Impact Statement (NIS) was submitted with this application.
Location	Caherclogh, Lisronagh, Clonmel, County Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	22/660
Applicant(s)	Charlie Purcell
Type of Application	Planning Permission
Planning Authority Decision	Notification to Grant
Type of Appeal	Third Party
Appellant(s)	Tom & Eileen Acheson
Observer(s)	None
Date of Site Inspection	15 th August 2024
Inspector	Gary Farrelly

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 1.3 hectares and is located within the townland of Caherclogh, Lisronagh, County Tipperary, which is located approximately 4km north of the town of Clonmel. Access to the site is via a single carriageway local road L-7204. The immediate area is predominantly rural in nature with a number of farmyards and residential properties in proximity. The siting of the proposed poultry development is located within the northwest corner of a larger agricultural field. The landowner's existing farmyard complex is located approximately 250 metres southeast of the proposed development site on the southern side of the L-7204.
- 1.2. The nearest residential properties, outside of the landowner's ownership, to the proposed poultry development are located approximately 210 metres to the southwest and approximately 240 metres to the southeast. A further residential dwelling is located approximately 250 metres to the northeast of the site.
- 1.3. The site boundaries of the proposed poultry units are defined by mature hedgerow to the north and west, beyond which is the Lisronagh stream. This stream is hydrologically connected to the Anner River, which forms part of the Lower River Suir Special Area of Conservation (SAC) (Site Code 002137), via the Ballyclerihan stream. The east and south boundaries of the site of the proposed poultry units are undefined. The topography of the site slopes downwards from east to west towards the Lisronagh Stream. The topography of the wider agricultural field is undulating.

2.0 Proposed Development

- 2.1. Permission is sought to construct 2 no. poultry units to accommodate 17,500 hens with associated service rooms, feed bins, wash collection tank, roof mounted solar panels, access roadway, wastewater treatment system and percolation area and associated works. The gross floor space of the proposed units will measure 3,500sqm.
- 2.2. The internal layout of both poultry units will comprise of a scratching area, slatted manure area and nesting area. The western poultry unit will comprise of an egg sorting and packing area, office, toilets, lockers, plant room, fogging area and egg store. A collection area is proposed on the southern elevation of both units. A total of 6 no. galvanised steel bins to a height of 10.02 metres are proposed between the units and

roof mounted solar panels are proposed to be located on the western roof slope of each unit. The ridge height of the units is proposed to be 4.3 metres. The units will be constructed in accordance with Department of Agriculture, Food and the Marine's (DAFM) S101 minimum specifications for the structure of agricultural buildings. The external colour finishes of the structure are not specified.

- 2.3. The subject site slopes downwards from east to west and the proposed development will involve the cutting of 11,447m³ of material and the filling of 10,991m³ of material. An embankment of the excess cut material will be created within the northwest corner of the site and will measure 28 metres in length, 2 metres in height and 4 metres in width.
- 2.4. The roofs of the proposed poultry units will accommodate a total of 10 no. ventilation fans each (20 no. total) which will extend 5 metres above the level of the roof (i.e. 10.5 metres above the ground). Wash tanks are proposed within the units to contain wash from house cleaning, and these are proposed to be constructed to DAFM standards. Recovery of poultry manure litter is proposed to be once annually to an offsite biogas plant or via organic fertiliser on the applicant's 560-hectare tillage landholding or other farmyards that have capacity under the Nitrates regulations.
- 2.5. The facility will be operated by 4 no. staff members (2 no. full time and 2 no. part time). A site suitability assessment report has been submitted proposing a septic tank system and percolation area. The result of the subsurface percolation value was 46.25min/25mm indicating that a wastewater treatment system can be satisfactorily accommodated onsite.
- 2.6. A new entrance is proposed approximately 300 metres southeast of the poultry units where a new access road will run westwards, parallel to the public road, before it kinks to the northwest and then turns north towards the proposed poultry units. The length of the entrance road to the poultry units measures approximately 450 metres. A road and turning area are also proposed to the western side of the poultry units.

3.0 Planning Authority Decision

3.1. Decision

In considering the application, the Planning Authority (PA) sought further information on a range of issues, including the following:

- The revision of the application to include for all works within the redline boundary as lands proposed to be raised, the stormwater inspection point and associated piping were located outside of the boundary.
- The submission of revised plans indicating the required sightlines and forward stopping distances and the submission of a swept path analysis showing adequate turning circles within the confines of the site.
- The clarification of the make up of the proposed entrance road and driveway and clarification on the disposal of surface waters.

After submission of the further information, the response was deemed significant and revised public notices were submitted by the applicant. The PA decided to grant permission by Order dated 27th June 2023, subject to 13 no. mainly standard conditions.

- Condition 1 required the development to be carried out in accordance with the drawings and documentation submitted and mitigation measures set out in the NIS, Noise Assessment and Odour Emissions Assessment.
- Condition 5 required all poultry manure to comply with the requirements of the Department, Food and the Marine's Animal By-Products legislative requirements.
- Condition 6 prohibited the change/increase in poultry type or numbers of poultry being accommodated.
- Condition 7 required all finishes of the development to be painted in a dark green matt colour or similar matt colour.
- Condition 9 required the submission of a landscaping plan for the planting of native deciduous trees and hedgerows along the east boundary of the site and

replanting of roadside hedgerow that will be removed in order to achieve sightlines.

- Condition 11 required the septic tank and percolation area to be constructed in accordance with the requirements of the EPA code of practice.
- Condition 12 required the employment of an archaeologist to monitor all groundworks onsite.
- Condition 13 required the payment of a financial contribution totalling €16,500.

3.2. Planning Authority Reports

Planning Reports

There are a total of 2 no. area planner (AP) reports which assessed the proposed development in terms of the principle of the development, landscape and visual impact, residential amenity in terms of odour and noise impact, traffic safety and potential impact on the N24 project, wastewater treatment and surface water treatment. An appropriate assessment (AA) was undertaken where it was determined that subject to mitigation in relation to water quality, the proposed development, individually or in-combination with other plans or projects, would not adversely affect the integrity of the Lower River Suir SAC, or any other European site, in view of the sites' conservation objectives. An EIA screening was also undertaken where the AP concluded that subthreshold EIA was not required as the proposed development would not result in a significant environmental impact.

Other Technical Reports

Regional Design Office (report dated 19/12/2022) – This report noted the location outside the option corridor for the N24 Waterford to Cahir project and therefore no direct conflict was foreseen. However, it was considered that there could be indirect impacts such as noise and visual and potential for revised access arrangements.

Area Engineer (reports dated 13/01/2023 and 20/05/2023) – The first report recommended further information on how minimum sightlines would be achieved from the entrance, the submission of a swept path analysis and details on how surface water at the entrance would be managed. The second report deemed the further information response acceptable and had no further observations.

Environment Section (report dated 1/2/2023) – This report agreed with the conclusions of the submitted noise and odour reports and had no objection in principle to the development subject to 2 no. conditions in relation to land spreading of poultry manure and exportation of same poultry manure.

3.3. Prescribed Bodies

An Taisce – This report outlined Ireland's exceedance of ammonia air pollution thresholds which is currently subject of an EU legal infringement complaint. The report also stated that evaluation was required on the cumulative ammonia impact in the area in combination with other agricultural facilities, particularly bovine intensification.

Department of Housing, Local Government and Heritage (Development Applications Unit) – This report recommended an archaeological impact assessment (AIA) as further information due to the proximity to recorded monuments. Its requirements included a programme of archaeological test excavations.

3.4. Third Party Observations

A third-party submission from Tom and Eileen Acheson was received by the PA which raised concerns on a number of issues including odour, the impact of the development on the River Suir SAC, noise and the risk to public water supply. A further submission was received from same in relation to the further information response which raised concerns with the truck turning area and stability of the embankment and potential for soil runoff to pollute the stream.

4.0 Relevant Planning History

PA ref. 20/1357 (subject site)

Permission was sought by Charlie Purcell for 2 no. poultry houses and associated works on the same site as this appeal. The application was withdrawn after the submission of further information.

5.0 Policy Context

5.1. Tipperary County Development Plan 2022-2028

Objective 3-J

Support local food producers as part of a vision to increase reliance on locally produced food in Tipperary and the wider area.

Policy 8-4

Facilitate the development of alternative farm enterprises, whilst balancing the need for a proposed rural-based activity with the need to protect, promote and enhance the viability and environmental quality of the existing rural economy and agricultural land.

Objective 8-F

Support the implementation of the Tipperary Food Strategy, 2020 and the development of, and promotion of a Tipperary Food Brand.

Policy 11-14

Ensure that proposals for agricultural developments, as appropriate, comply with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2010 or any amendment thereof.

Policy 15-2

Require that all new septic tanks, proprietary effluent treatment systems and percolation areas to be located and constructed in accordance with the Water Services Guidelines for Planning Authorities (and any review thereof) and the Code of Practice for Domestic waste water treatment systems (EPA, 2021) (and any amendment) and the development management standards of this Plan as set out in Volume 3.

5.2. National Policy

- Project Ireland 2040 – National Planning Framework (2018) and National Development Plan 2021-2030
- Climate Action Plan 2024
- Department of Agriculture, Food and the Marine's Food Vision 2030

5.3. **Regional Policy**

Regional Spatial and Economic Strategy for the Southern Region

RPO 50 – Diversification

It is an objective to further develop a diverse base of smart economic specialisms across our rural Region, including innovation and diversification in agriculture (agri-Tech, food and beverage), the marine (ports, fisheries and the wider blue economy potential), forestry, peatlands, renewable energy, tourism (leverage the opportunities from the Wild Atlantic Way, Ireland's Ancient East and Ireland's Hidden Heartlands brands), social enterprise, circular economy, knowledge economy, global business services, fin-tech, specialised engineering, heritage, arts and culture, design and craft industries as dynamic divers for our rural economy

5.4. **National Guidance**

- Framework and Principles for the Protection of the Archaeological Heritage (Department of Arts, Heritage, Gaeltacht and the Islands 1999)

5.5. **Other Guidance**

- EPA's Integrated Pollution Control Licensing Batneec Guidance Note for the Poultry Production Sector (1996)
- EPA's Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) (2021)

5.6. **Natural Heritage Designations**

5.7. The subject site is not located within any designated natural heritage site. The nearest designated site is the Lower River Suir Special Area of Conservation (SAC) (Site Code 002137) which is located approximately 4km west of the subject site (and approximately 6km hydrologically).

5.8. **Environmental Impact Assessment (EIA) Screening**

Having regard to the nature, size and location of the proposed development, comprising the construction of 2 no. poultry units to accommodate 17,500 hens (layers), and to the criteria set out under Schedule 7 of the Planning and Development

Regulations 2001, as amended, 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. I refer the Board to Appendix 1 regarding this preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal was lodged to the Board on 21st July 2023 by Tom and Eileen Acheson and this is summarised as follows:

- The adjacent stream flows into the Lower River Suir SAC. A significant amount of earthworks, adjacent to the stream, were introduced into the design at further information, and this was not included in an updated AA screening or NIS.
- The report from the environment section is based on the AA screening/NIS included with the application, and this was not updated at further information.
- The earthworks terminate at the site boundary and therefore there is insufficient space to implement the necessary safeguarding measures.
- The location and planning status of the percolation area is unclear due to the revised truck turning area.
- It is unclear why the PA did not request an archaeological impact assessment as recommended by the Department.
- Reference is made to appeal ref. 247354 which cited odour as a reason for refusal in which there was a similar separation distance. It is acknowledged that the Batneec Guidance note deals with poultry houses with units over 50,000 layers.

6.2. Applicant Response

The Applicant did not issue a response to the third party's grounds of appeal.

6.3. Planning Authority Response

The PA responded to the grounds of appeal on 17th August 2023. Its response is summarised as follows:

- Having regard to the grounds of appeal, as well as all observations and submissions, reports and plans and particulars on file, the PA is satisfied that the grant of permission was appropriate and in the interest of the proper planning and sustainable development of the area. All issues raised were fully considered and responded to.
- The PA completed a stage 2 appropriate assessment and was satisfied that the works proposed, individually or in combination with other plans or projects, would not adversely affect the integrity of the Lower River Suir SAC.
- It is respectfully requested that the Board upholds the decision of the PA.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the planning authority and having inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Residential Amenity – Odour
- Wastewater Treatment
- Archaeological Heritage
- Appropriate Assessment

7.2. I note that the threshold for requiring an Environmental Protection Agency (EPA) Integrated Pollution Control (IPC) licence is for installations above 40,000 places. The Board should note that the application relates to an installation totalling 17,500 places and therefore is well below the EPA threshold.

Residential Amenity - Odour

7.3. I note the appellant's concerns regarding odour from the proposed development and their reference to the EPA 1998 Guidance document on IPPC units and the recommended 400 metre separation distance from dwellings in this regard.

7.4. The Board should note that this recommended separation distance is in relation to intensive rearing of poultry with more than 40,000 places and I recognise that this is acknowledged by the appellant. I have measured the distance between the rear boundary of the appellants' property and the proposed poultry units as circa 210 metres. The proposed poultry units are also located approximately 250 metres from an existing dwelling to the northeast and approximately 240 metres from an existing dwelling to the southeast.

7.5. The Board should note that having regard to the 400 metre separation being a recommended distance and to the capacity of the development being below the IPC threshold, I do not consider it appropriate to prohibit such a development on this basis alone. Furthermore, I note that the Tipperary County Development Plan 2022-2028

does not provide any minimum distances between such poultry units and sensitive receptors.

- 7.6. Notwithstanding this, I consider that there is still a requirement for the applicant to ensure that no unreasonable impact on residential amenity occurs as a result of the proposed development and I note that an odour dispersion modelling assessment (ODMA) of the proposed ventilation fans was submitted as part of the application. I note that the PA and Environment Section were satisfied with the conclusions of the submitted modelling which considered any adverse odour impact on the appellant's dwelling (sensitive receptor 1) as very unlikely.
- 7.7. The ODMA methodology involved screening 5 years of hourly sequential meteorological data from Moorepark, County Cork (2016-2020) in order to provide a 5 year average and to determine the worst year. The worst case scenario was based on the highest temperature during this period at 30° Celsius being applied to the model. A number of wind rose maps from Moorepark are included under Appendix A of the ODMA showing the breakdown of wind direction and speed during the 5 years.
- 7.8. The ODMA states that the worst-case year for the 26 no. sensitive receptors has been determined on the odour exposure experienced at the worst case sensitive receptors. However, the Board should note that the appellant's dwelling was not included as a worst case sensitive receptor due to it not being situated downwind of prevailing or frequently occurring conditions.
- 7.9. Whilst I acknowledge that the ODMA has been based on professional judgement, the Board should note that I have concerns that the full potential impact on the appellants' dwelling has not been adequately assessed and it should have been included as a worst case sensitive receptor, notwithstanding its location to the southwest of the proposed development. My reasoning for this is due to the close proximity of the dwelling to the units and associated ventilation fans and to the times of the year that the wind doesn't blow or when there is an easterly/northeasterly wind. I note that the submitted wind maps illustrate that a 1-3 knot northeasterly wind occurs between 3 and 4% of the year between 2016-2020 and whilst I note that this isn't frequent it still represents approximately 11-14 days of the year.
- 7.10. Therefore, whilst I acknowledge that the site is located within a rural area and a certain level of agricultural nuisance is to be expected, on the basis of the information

submitted, I am not satisfied that it has been fully demonstrated by the applicant that the proposed development would not result in an unacceptable adverse impact on the appellant's residential amenity with regards to odour.

Wastewater Treatment

- 7.11. The appellant raises concerns with the location of a truck turning area above a proposed percolation area. I note that this turning area was introduced to the design at further information stage along the western boundary of the site in the location originally proposed for a septic tank and percolation area with associated piping (*originally shown on drawing no. 001 Rev1*). The area is described as a porous hardcore roadway and turning area for an articulated truck. However, the drawings submitted at further information do not illustrate a relocation of the treatment system in response to this substantial design change. Furthermore, given the cut and fill groundworks proposed as part of the application, the ground conditions would not appear to be reflective of those described in the site suitability assessment report.
- 7.12. Having reviewed the Geological Survey Ireland's GIS Mapping, I note that the proposed wastewater treatment system has been sited within a regionally important aquifer with extreme vulnerability, which indicates a very productive aquifer with a high level of transmissivity. The groundwater flow is not indicated on any of the plans, however, having regard to the topography of the site and proximity to the Lisronagh stream, I can reasonably conclude that it is from east to west towards said stream.
- 7.13. The Board should note that I have significant concerns with the location of the wastewater treatment system below an area that is to be used for vehicles. I consider such siting could potentially result in a damaged wastewater system and piping through compaction of soils, ponding or the escape of inadequately treated wastewater. Furthermore, the Board should note that such siting is contrary to sections 11.5.1 and 12.2.5 of the Environmental Protection Agency (EPA)'s Code of Practice for Domestic Waste Water Treatment Systems (population equivalent <10) (March 2021). I recognise the PA attached a condition for the system to be designed, located and constructed in accordance with the 2021 EPA Code of Practice, however, on the basis of the submitted further information, I am not satisfied that this can be achieved. Therefore, I recommend that permission should be refused in the interest of public

health. The Board should also note that I have concerns with this issue in relation to appropriate assessment which I address under Section 8 below.

Archaeological Heritage

- 7.14. I note the appellants' concerns regarding the PA's conditioning of an archaeological assessment which was recommended to be submitted as further information by the Development Applications Unit (DAU) of the Department of Housing, Local Government and Heritage. I note that the PA conditioned for archaeological monitoring to take place which is different to the recommendation from the DAU which requested test excavations. I note the PA does not have any internal archaeologist report on file.
- 7.15. Having reviewed the National Built Heritage Service's Historic Environment Viewer, I note that the proposed site (including access road) is located outside the zone of notification of any recorded monument site, however, is located approximately 50 metres from a holy well ritual site (ref. TS077-032----) and 90 metres from an enclosure (Ref. TS077-031----). Having regard to the contents of the submission of the DAU the Board should note that I am satisfied that its recommendation for archaeological test trenching could be conditioned in the event of a decision to grant permission.

8.0 Appropriate Assessment (AA)

- 8.1. I have determined under Appendix 2 of this report that Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000, as amended, of the proposed development is required.

(a) Natura Impact Statement (NIS)

- 8.2. A Natura Impact Statement (NIS) has been submitted as part of the application which assesses the potential adverse effects of the proposed development on the Lower River Suir SAC. The Applicant's NIS concluded that *"with the mitigation measures outlined in this document and with the operation of the facility with the figures used in the SCAIL model,..the proposed operation of the poultry farm will not lead to any significant impacts upon the designated Lower River Suir SAC"*.
- 8.3. I note the appropriate assessment undertaken by the planning authority and the appellant's comments that a significant amount of earthworks were introduced at further information and the report from the environment section was not updated. The

Board should note that the earthworks were not introduced at further information, however, the red line boundary was amended to include for such earthworks. However, the submitted NIS states under Section 1.1 that there will be “*normal site clearance for construction purposes only*” and does not appear to assess the impact of the cut and fill groundworks.

(b) Appropriate Assessment of implications of the proposed development

- 8.4. A description of the site and its Conservation and Qualifying Interests/Special Conservation Interests, are set out as part of my assessment within Appendix 3 of this report. I have also examined the Natura 2000 data forms and relevant attributes and targets (including the NPWS’ Article 17 Species and Habitats reports) and the Conservation Objectives supporting documents for these sites available through the National Parks and Wildlife Service’s website.

(c) Potential Impacts

- 8.5. The main aspects of the proposed development that could adversely affect the conservation objectives of the European sites include the following.
- Surface water run-off containing contaminant, silt and sediment during the construction phase.
 - Leakage of wastewater effluent as a result of damage to the wastewater treatment system and associated piping during the operational phase.

(d) Mitigation Measures

- 8.6. Section 4 of the submitted NIS outlines a number of mitigation measures including the following:
- The implementation of silt fencing in the west and southwestern side of the site.
 - The excavation of cut-off drains prior to commencement of earthen works to prevent the entry of flowing water into the works area.
 - The covering of stockpiles to avoid silt-laden run-off and erection of additional silt fencing around stockpiles.
 - The refuelling of machinery in designated areas with impermeable surfaces only.

- The keeping of spill kits onsite.
- All operational washings will be directed to wash tanks constructed to DAFM standards.
- The storage of manure within the floor of the houses until it is located offsite to biogas plants once annually or to farmers for land spreading.
- The disposal of only roof and clean yard water to the hedgerow to the west of the site to the ground before reaching the stream.
- The retention and maintenance of the hedgerow along the western side of the site.
- All bare soil around the site will be reseeded to limit the risk of silt laden run-off.

8.7. I note the appellant's concerns regarding the location of the proposed earthworks up to the western boundary of the site and that there is insufficient space to implement the necessary safeguarding measures. Having reviewed the submitted section drawings as part of the further information response (*section drawing no. 010*), which illustrate the proposed earthworks up to the western boundary of the site, and in the absence of any drawings illustrating the location of the proposed silt control measures, I am in agreement with the appellant and have concerns that there is insufficient space for the applicant to implement such silt control measures within the site boundary that would ensure their efficacy. Additionally, I am not satisfied that the full impact of the cut and fill groundworks have been fully assessed within the submitted NIS, notwithstanding the close proximity of the works to the Lisronagh stream.

8.8. Furthermore, due to the proximity of the proposed septic tank, percolation area and associated piping to the Lisronagh stream and to its location under an area which is also proposed to be used as an access road/turning area for HGVs, I have significant concerns that this conflict could result in damage to the wastewater treatment system and associated piping which could result in an adverse impact on the water quality of the adjoining stream. I am not satisfied that there are any suitable mitigation measures that can alleviate this concern other than a redesign of this element of the development.

(e) In-combination Impact

- 8.9. With regard to potential in-combination effects, having reviewed the Department of Housing, Local Government and Heritage's National Planning Application database and EIA Portal and Tipperary County Council's planning register, I note that there are no other plans or projects for potential in-combination effects.
- 8.10. Following the appropriate assessment and the consideration of mitigation measures (which are outlined under Appendix 3) and to the ambiguity in relation to the intended lands for spreading of poultry manure and soiled water (as outlined within Appendix 2), I am unable to ascertain with confidence that the project would not adversely affect the integrity of the Lower River Suir SAC, in view of the site's Conservation Objectives. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

Appropriate Assessment Determination

- 8.11. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000, as amended. On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in-combination with other plans or projects would not adversely affect the integrity of the Lower River Suir SAC, in view of the site's conservation objectives.
- 8.12. The Board should note that this conclusion is based on the ambiguity regarding the intended lands for land spreading, the proximity of the proposed septic tank, percolation area and associated piping to the Lisronagh stream and to its location under an area which is also proposed to be used as an access road/turning area for HGVs. I have significant concerns that this conflict could result in damage to the wastewater treatment system and piping which could result in an adverse impact on the water quality of the adjoining stream. I am not satisfied that there are any suitable mitigation measures that can alleviate this concern other than a redesign of this element of the development.
- 8.13. Additionally, having regard to the extent of the proposed earthworks and proximity to the Lisronagh stream, in the absence of any drawings illustrating the location of the proposed silt control measures and to the submitted section drawing (dwg. No. 010)

illustrating the proposed earthworks up to the western boundary of the site, I have concerns that there is insufficient space for the applicant to implement such silt control measures within the site boundary that would ensure their efficacy.

9.0 Recommendation

I recommend to the Board that permission is **Refused** for the following reasons and considerations.

10.0 Reasons and Considerations

1. Having regard to the nature and scale of the proposed development, to its location and proximity to a dwelling to the southwest of the proposed poultry units and to the methodology of the submitted odour emissions assessment, the Board is not satisfied on the basis of the information on the file that odour resulting from the proposed development would not seriously injure the amenities of property in the vicinity. It is, therefore, considered, that the proposed development would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the siting of the proposed wastewater treatment system, percolation area and associated piping, below an area also proposed to be used as a vehicular access road and turning area, which is considered contrary to sections 11.5.1 and 12.2.5 of the Environmental Protection Agency's 2021 Code of Practice for Domestic Waste Water Treatment Systems, the Board considers that the proposed development would pose an unacceptable risk to public health due to potential damage of said treatment system and would contravene policy 15-2 of the Tipperary County Development Plan 2022-2028 in this regard. It is, therefore, considered, that the proposed development would be contrary to the proper planning and sustainable development of the area.
3. Having regard to the design and siting of the wastewater treatment system below an area also proposed to be used as a vehicular access road and turning

area, to the proximity of said treatment system to the Lisronagh stream, which is hydrologically connected to the Lower River Suir Special Area of Conservation (Site Code 002137), to the ambiguity of the application in relation to the intended lands for spreading of poultry manure and soiled water and to the extent of the proposed earthworks up to the western boundary of the site which compromises the efficacy of silt fencing, which is intended as a mitigation measure to protect the Lisronagh stream from pollutants and sediment laden run-off, the Board is not satisfied that the proposed development individually, or in-combination with other plans or projects, would not adversely affect the integrity of the Lower River Suir Special Area of Conservation, in view of the site's conservation objectives. It is, therefore, considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Gary Farrelly
Planning Inspector

17th October 2024

Appendix 1: EIA Preliminary Examination

(a) Form 1: EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-317623-23		
Proposed Development Summary	Construction of 2 no. poultry units, access road and associated works		
Development Address	Caherclogh, Lisronagh, Clonmel, County Tipperary		
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			EIA Mandatory EIAR required
No	X	<u>Part 1</u> Class 17: Installations for the intensive rearing of poultry or pigs with more than (a) 85,000 places for broilers, 60,000 places for hens. - The development is for 17,500 places for hens. <u>Part 2</u> Class 1(a) Projects for the restructuring of rural land holdings, undertaken as part of a wider proposed development, and not as an agricultural activity that must comply with the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011, where the length of field boundary to be removed is above 4 kilometres, or where re-contouring is above 5 hectares, or where the area of lands to be restructured by removal of field boundaries is above 50 hectares. - The area of the site measures 1.3 hectares. Hedgerow to be removed and repositioned either side of the entrance will total approximately 176 metres.	Proceed to Q.3

		<p>Class 1(e)(i) Installations for intensive rearing of poultry not included in Part 1 of this Schedule which would have more than 40,000 places for poultry.</p> <p>- The development is for 17,500 places for hens.</p> <p>Class 10(dd) All private roads which would exceed 2,000 metres in length</p> <p>- The access roadway measures approximately 450 metres in length.</p>	
<p>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]?</p>			
		Threshold	Comment (if relevant)
No			No EIAR or Preliminary Examination required
Yes	X	<p>Class 1(a) – <i>described above.</i></p> <p>Class 1(e)(i) – <i>described above.</i></p> <p>Class 10(dd) – <i>described above.</i></p>	<p>The area of recontouring and length of hedgerow to be removed are well below the Class 1(a) thresholds.</p> <p>The proposal is for 17,500 places for hens and is therefore subthreshold development under Class 1(e)(i).</p> <p>The access roadway measures approximately 450 metres in length and therefore is well below the 2km threshold under Class 10(dd).</p>
<p>4. Has Schedule 7A information been submitted?</p>			
No	<p>X</p> <p><i>An 'EIAR Screening Report' has been submitted by the applicant, however, it has not been prepared in accordance with Schedule 7a.</i></p>		Preliminary Examination required
Yes			Screening Determination required

(b) Form 2: EIA Preliminary Examination

The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The existing environment comprises of a rural agricultural area. A range of agricultural activities occur within the immediate area. The development of 2 no. poultry units to accommodate 17,500 hens represents less than 50% of the appropriate threshold under Part 2, Class 1(e)(i), and is not considered exceptional in nature in the context of the existing environment. Whilst I have raised concerns within this report in terms of residential amenity, these are localised concerns and not considered significant in terms of the EIA directive.</p> <p>There will be production of typical construction waste which will be segregated onsite and stored in accordance with a waste removal plan.</p> <p>Waste generated by the poultry will be transported off-site once annually to a biogas plant/ via land spreading in accordance with the Nitrates regulations.</p> <p>Wastewater treatment system is to accommodate 2 full time staff members and whilst I have raised concerns with regards to the public health implications of its location and its impact on the Habitats directive, in terms of the EIA directive no significant waste pollutants will be created.</p> <p>With regards to noise emissions, a submitted noise monitoring report indicates that the development would not generate any additional noise at the distance to sensitive receptors.</p> <p>With regards to air quality, the SCAIL model found that the nitrogen concentration would be far below the critical load which results in eutrophication and acidification. Furthermore, whilst I have residential amenity concerns regarding the methodology of the odour emissions assessment, these concerns are in relation to localised effects. I consider that there are no significant air quality/odour emission concerns in terms of the EIA directive.</p>	No

<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>The subject site measures 1.3 hectares and the proposed development is for 2 no. poultry units to house 17,500 hens which is not considered exceptional within this rural area.</p> <p>Having reviewed the Department of Housing, Local Government and Heritage's National Planning Application database and EIA Portal and Tipperary County Council's planning register, I note that there are no other plans or projects for a potential significant cumulative effect on the environment.</p>	<p>No</p>
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The subject site is an agricultural field.</p> <p>The subject site is not located within any designated ecological sensitive site, however, is indirectly hydrologically connected to the Lower River Suir SAC approximately 6km downstream. My appropriate assessment has raised doubt in relation to potential adverse effects on the site integrity of this European site. I consider that these issues can be adequately dealt with under the Habitats Directive as there is no likelihood of other significant effects on the environment.</p> <p>The site (including access road) is located outside the zone of notification of any recorded monument site, however, is located approximately 50 metres from a Holy well ritual site (ref. TS077-032----) and 90 metres from an enclosure (Ref. TS077-031----). It is recommended that archaeological test trenching is carried out as recommended by the DAU of the Department.</p> <p>According to the OPW flood maps, the subject site is located outside Flood Zones A and B for coastal or fluvial flooding.</p>	<p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p> <p>X</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>

Appendix 2: Appropriate Assessment Screening Determination

Stage 1, Article 6(3) of the Habitats Directive: Screening Determination

I have considered the proposed development in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. A screening report has been prepared by Flynn Furney Environmental Consultants on behalf of the applicant and the objective information presented in that report informs this screening determination.

Description of the proposed development

It is proposed to construct 2 no. poultry houses that will accommodate 17,500 hens. Manure will be stored onsite on the floor of the houses where it will then be transported offsite once annually to biogas plants or alternatively to lands which have capacity to spread under the Nitrates Regulations. Washwater is to be diverted to underground storage for land spreading which will occur once annually during the cleaning out and replacing of the flock. Earthworks are also proposed as part of the proposed development and an access road and turning area are proposed along the western side of the proposed poultry units. A detailed description of the development is provided under Section 2 of this report.

Consultations and submissions

I note that the Development Applications Unit of the Department of Housing, Local Government and Heritage submitted an observation as part of the planning application, however, did not raise any issues in terms of AA.

European sites

I have identified one European site, the Lower River Suir Special Area of Conservation (SAC) (Site Code 002137), within a potential zone of influence of the proposed development. This designated site is located approximately 4km east of the subject site, however, is hydrologically connected via the Lisronagh stream which adjoins the western boundary of the site.

Field surveys were undertaken by the applicant on 17th February 2021 in which baseline ecological conditions were assessed and habitat types and species usage were recorded. No habitats or species of relevance to the European Site were

recorded within the development site. A number of site photographs are provided under appendix 4 of the screening report showing the Lisronagh stream on the opposite side of the hedgerow/earth bank that adjoins the western site boundary.

Likely impacts of the project

I am satisfied that the proposed development will not result in any direct effects on the Lower River Suir SAC. However, due to the size and scale and proximity of the proposed development to the Lisronagh stream which hydrologically connects to the SAC approximately 6km downstream, impacts generated by the construction and operation of the development require consideration. Additionally, as assessed under paragraph 7.13 above, the Board should note that I have concerns with the potential impact of the wastewater treatment system on the water quality of the Lisronagh stream. In summary, I consider that the sources of impact include:

- Release of silt and sediment to surface water during the construction phase.
- Release of construction related compounds including hydrocarbons to surface water during the construction phase.
- Escapement of effluent from the wastewater treatment system during the operational phase.
- Release of atmospheric emissions (ammonia and nitrogen) during the operational phase

With regards to land spreading, the Board should note that this is regulated under the European Union (Good Agricultural Practice for Protection of Waters) Regulations, as amended (i.e. GAP regulations). Notwithstanding this, it is my view that there is ambiguity regarding this element of the development. I note that within the applicant's 'Development Description' report it is stated that the manure will be spread on the 560ha of family managed lands within the open period or sent to a biogas plant within the closed period. I note that drawings illustrating the family landholding are provided, as well as a letter from Timoleague AgriGen Ltd confirming that it would accept the poultry litter.

However, within the submitted screening report it is stated that manure will be offloaded offsite to "*farmers who have the capacity to spread it on their lands under the Nitrate regulations*". I note that no details of these farmers lands are provided,

and the Board should note that although the activity is regulated under the GAP regulations, due to the intensive nature of the farming activity, it is my view that the application should clearly identify the location of all lands that are intended for land spreading. Therefore, I consider that there is insufficient information provided in order for the Board to be satisfied that there would be no conceivable risk to the European site.

With regards to spreading of soiled water, I note that the screening report states that this will be diverted to underground storage for land spreading. Again, I consider that the intended lands for spreading are not clear.

With regards to atmospheric emissions, the screening report states that a SCAIL (Simple Calculation of Atmospheric Impact Limits) model was utilised, however, the results are described within the NIS. The model found that the nitrogen concentration would be far below the critical load which results in eutrophication and acidification within the Lower River Suir SAC. Having regard to this and to the distance via air to the SAC, I am satisfied that no likely significant effects will occur as a result of atmospheric emissions. The Board should note that I have taken no mitigation measures into account regarding this element of the development.

Likely significant effects on the European sites in view of the conservation objectives

Based on the information provided in the screening report, site visit, review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result in the following impacts:

- Potential damage associated with escapement of silt during the construction phase; with many of the habitats and freshwater qualifying interest species dependent on water quality, an impact of sufficient magnitude could undermine the site's conservation objectives.
- Potential damage to riparian and river habitats and species associated with inadvertent spillages of hydrocarbons and/or other chemicals during the construction phase.

- Potential damage to riparian and river habitats and species associated with water pollution from wastewater treatment discharging to Lisronagh stream due to proximity and location under an access road which could result in compaction of soil and ponding. Groundwater is similarly likely to be connected to the Lisronagh stream having regard to the topography.

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 provided by the applicant, I conclude that the proposed development could result in significant effects on the Lower River Suir SAC, in view of the conservation objectives of a number of qualifying interest features of this European site.

It is therefore determined that Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000, as amended, of the proposed development is required.

Appendix 3: Appropriate Assessment Summary

Lower River Suir SAC (Site Code 002137)					
Qualifying Interest	Conservation Objective	Potential Adverse Effect	Mitigation Measures	In-Combination Effect	Can Adverse Effect on Integrity be excluded
Atlantic salt meadows (1330)	To restore its favourable conservation condition.	Having regard to the main pressures and threats associated with this QI (as outlined within the 2019 NPWS' Article 17 Habitats Assessment), to the distance to the QI from the subject site and level of dilution available (shown on Map 3 of the NPWS' conservation objectives supporting document within the River Suir at Waterford City, approximately 56km downstream from the subject site), no likely significant effects are anticipated.	N/A	None	Yes
Mediterranean salt meadows (1410)	To restore its favourable conservation condition.	This was not recorded within the Lower River Suir SAC and therefore the total area of this QI is unknown. However, having regard to the pressures and threats associated with this QI (as outlined within the 2019 NPWS' Article 17 Habitats Assessment) and distance to any likely habitat within the River Suir, no likely significant effects are anticipated.	N/A	None	Yes

Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachium vegetation (3260)	To maintain its favourable conservation condition.	The NPWS' Conservation Objectives document (2017) states that little is known of its distribution or its subtype, however its description covers lowland depositing rivers with pondweeds. Groenlandia densa pondweed is recorded between Clonmel and Carrick-on-Suir which is approximately 12km downstream of the subject site. Having regard to this distance no likely significant effects are anticipated.	N/A	None	Yes
Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels (6430)	To maintain its favourable conservation condition.	This is not mapped but is known to occur in association with 91E0 and other woodland types and within areas of open marsh or wet grassland, at Fiddown and at Tibberaghny marshes. No likely significant effects are anticipated having regard to the main pressures and threats associated with this QI (As outlined within the 2019 NPWS' Article 17 Habitats Assessment).	N/A	None	Yes
Old sessile oak woods with Ilex and Blechnum in the British Isles (91A0)	To restore its favourable conservation condition.	Having regard to the main pressures and threats associated with this QI (As outlined within the 2019 NPWS' Article 17 Habitats Assessment) and to the location of the QI upstream from the subject site (shown on Map 4 of the NPWS' conservation objectives supporting document), no likely significant effects are anticipated.	N/A	None	Yes
Alluvial forests with Alnus glutinosa and	To restore its favourable	Having regard to the main pressures and threats associated with this QI (as	N/A	None	Yes

Fraxinus excelsior (91E0)	conservation condition.	outlined within the 2019 NPWS' Article 17 Habitats Assessment) and to the distance to the QI from the subject site (shown on Map 5 of the NPWS' conservation objectives supporting document), no likely significant effects are anticipated.			
Taxus baccata woods of the British Isles (91J0)	To restore its favourable conservation condition.	Not mapped in detail and habitat is unknown. Yew habitat is known to occur in an area at Cahir Park. This is located upstream of the Anner River, therefore no significant effects are likely.	N/A	None	Yes
Freshwater pearl mussel (1029)	To restore its favourable conservation condition.	The distribution and catchment is indicated within the Clodiagh River which is located upstream of the River Suir to the west of Waterford City. The mouth of the Clodiagh river to the River Suir is located approximately 41km downstream of the subject site. Therefore, no significant effects are likely.	N/A	None	Yes
White-clawed crayfish (1092)	To maintain its favourable conservation condition.	Map 7 of the NPWS' conservation objectives supporting document shows this QI within the Anner River, approximately 6km downstream of the subject site. Therefore, there is potential for an adverse impact on this QI in terms of changes in water quality.	<ul style="list-style-type: none"> Erection of silt fencing on the western and southwestern sides of the site. Spill kit kept onsite Covering of stockpiles 	Having reviewed the Department of Housing, Local Government and Heritage's National Planning Application database and EIA Portal and Tipperary County Council's	No

Sea lamprey (1095)	To restore its favourable conservation condition.	<p>Changes in water quality due to the release of silt and sediment to the Lisronagh stream during site works.</p> <ul style="list-style-type: none"> • Changes in water quality as a result of hydrocarbons and pollutants entering Lisronagh stream. • Changes in water quality as a result of pollutant run-off from the wastewater treatment plant due to its vulnerable location under an access road and proximity to Lisronagh stream. 	<ul style="list-style-type: none"> • Refuelling of machinery in designated areas <p>Notwithstanding these mitigation measures, having regard to the extent of the proposed earthworks and to submitted section drawings (dwg. No. 010) showing the proposed fill area right up to the western site boundary and in the absence of any maps showing the location of silt fencing, I have concerns with regards to the efficacy of such silt fencing. Furthermore, due to the design and siting of the wastewater treatment system under an access road and turning area for vehicles and proximity to Lisronagh stream, adverse effects cannot be excluded. No mitigation measures are identified within</p>	planning register, I note that there are no other plans or projects for potential in-combination effects.	No
Brook lamprey (1096)	To restore its favourable conservation condition.				No
River lamprey (1099)	To restore its favourable conservation condition.				No
Twaite shad (1103)	To restore its favourable conservation condition.				No
Salmon (1106)	To restore its favourable conservation condition.				No
Otter (1355)	To maintain its favourable conservation condition.				No

			the NIS and I consider that the only measure that could mitigate such an impact would be the redesign of the development to avoid such a conflict.		
--	--	--	--	--	--

Overall Conclusion: Integrity

Having regard to the proximity of the proposed septic tank, percolation area and associated piping to the Lisronagh stream and to its location under an area which is also proposed to be used as an access road/turning area for HGVs, I have significant concerns that this conflict could result in damage to the wastewater treatment system and piping which could result in an adverse impact on the water quality of the adjoining stream. I am not satisfied that there are any suitable mitigation measures that can alleviate this concern other than a redesign of this element of the development.

Additionally, having regard to the extent of the proposed earthworks and in the absence of any drawings illustrating the location of the proposed silt control measures and to the submitted section drawing (dwg. No. 010) illustrating the proposed earthworks up to the western boundary of the site, I have concerns that there is insufficient space for the applicant to implement such silt control measures within the site boundary that would ensure their efficacy.

Therefore, there is reasonable doubt that the proposed development will not adversely affect the integrity of the Lower River Suir SAC.

Additionally, as determined under Appendix 2 of this report, there is ambiguity with the application with regards to the intended lands for spreading of poultry manure and soiled water.