



An
Bord
Pleanála

Inspector's Report ABP-318154-23

Development	Erection of 2 no. poultry sheds with meal silos, effluent tanks and all associated site development works including the upgrading of existing access road. A Natura Impact Statement (NIS) accompanies this application.
Location	Rann, Letterkenny, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2350608
Applicant(s)	Rodney Black
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party
Appellant(s)	Andrew Cassidy and others
Observer(s)	Department of Housing, Local Government and Heritage (DAU)

Date of Site Inspection

July 9th 2024

Inspector

Ronan O'Connor

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1.0 Site Location and Description

- 1.1.1. The application site comprises a rectangular low-lying plot of land, measuring 2ha site in the rural area of Rann, approximately 3km south-west of Letterkenny. The site is accessed via an existing lane, which in turn is accessed via the local county road, L-1044-1. The site is bounded by agricultural land. The closest residential dwellings are located approximately 160m to the south/south-east of the site. The area is generally characterised by large low lying agricultural holdings. A recorded monument (Ringfort) is located directly south of the location of the proposed sheds, immediately east of the access road. (DG061003).

2.0 Proposed Development

- 2.1.1. Planning permission is sought for erection of 2 no. poultry sheds with meal silos, effluent tanks and all associated site development works including the upgrading of existing access road.
- 2.1.2. The proposal provides a floor area of 3,337sqm in the form of two long narrow single storey structures, with a max ridge height of 5.6m and a minimum (eaves) height of 2.6m. The sheds have a proposed FFL of 119.750m and extend to 91m in length and 18m in width.
- 2.1.3. The application documentation sets out that the 2 no. turkey sheds will accommodate a maximum of 19,860 birds (capacity is stated as ranging between 10,000 to 19,860 birds, with an average of 15,000 birds).

2.2. Decision

- 2.2.1. Grant permission subject to 23 no. conditions [decision date 7th September 2023].

2.3. Planning Authority Reports

Planning Report [dated 19/06/2023]

- 2.3.1. I would note that the application was considered under the previous Donegal Development Plan 2018-2024 and the Planner's report references same.

Principle of Development

- Principle of an agricultural activity in a rural area is supported.
- Documentation confirms the applicant has valid agricultural ties
- Reference is made to the supporting Environmental Report
- Key issue is whether the 3 no. previous reasons for refusal have been overcome. [1) the sustainable management, collection and disposal of waste 2) impact on the adjacent Ringfort/Recorded Monument and 3) impact on Natura 2000 sites.]
- No concerns in relation to the impact on visual amenity or visual impact of the proposed development
- Noted that nearest dwelling is approximately 175m from the proposed poultry sheds
- Minimum separation distances of 400m are considered to be outdated/stem from a 1990s EPA guidance note/ understood that the BATNEEC Guidance note has been superseded by Commission Implementing Decision (EU) 2017/302 of 15th February 2017 establishing best available techniques (BAT) conclusions under Directive 2010/75/EU relating to the intensive rearing of poultry or pigs.
- FI requested for clarification on the scale of development
- Proposal will not give rise to detrimental impacts in terms of odour/noise.
- Reference is made to the submitted archaeological report and recommendations therein/archaeological monitoring to be conditioned

Transport

- Noted significant road widening required
- FI required in relation to adjoining landowner permission
- Roads Engineer confirms satisfaction with the proposed junction improvement works
- Subject to conditions, no significant traffic safety concerns arise.

Public Health

- No impact on existing wells
- Details of wastewater and disposal of same on site required by way of FI

Flooding

- No evidence to suggest the site is subject to flooding.

AA

NIS makes reference to outdated EU regulations/updated NIS requested

2.3.2. Further Information was requested on 22nd June 2023 in relation to the following items:

1. Third party consent required to achieve visibility splays
2. Details wastewater effluent arrangements
3. Details of washbasins/hygiene stations/WCs and onsite wastewater treatment if applicable.
4. Confirmation of scale of development (i.e. if it is below the threshold for the requirement of an EPA Industrial Emissions Licence.
5. Revised NIS
6. Added to the revised NIS which reflects all revised plans and proposals.

2.3.3. Further Information was submitted on 24th July 2023.

Planner's Report [dated 05th September 2023]

- Further Information considered satisfactory
- Recommendation was to Grant permission subject to conditions.

2.3.4. Other Technical Reports

Building Control: No objection subject to standard conditions

Roads – no report received (I note the Planner's report has referred to a previous roads report for similar application on this site – application PA Reg Ref 20/51889).

EHO no report received (I note the Planner's report has referred to previous EHO report for similar application on this site/ PA Reg Ref 20/51889)

County Lab – SEC Comments –Questions the inclusion of the EPA Guidance

Documentation given the previous scale of development proposed was below that which would require an Industrial Emissions Licence/Scale of development needs

clarification/Revised NIS required/Planner's report has referred to previous SEC report for similar application on this site.

Fire Officer – No objections

2.3.5. Conditions

Conditions of note are as follows:

- Condition 1(b): Development shall provide no more than 20,000 places for poultry.
- Condition 2: All mitigation measures contained in the NIS to be implemented in full.
- Condition 3: No change in poultry type and no increase in the numbers of poultry being accommodated within a separate permission.
- Condition 4: Best practice measures in relation to Noise Impact Assessment shall be implemented in full.
- Condition 5: Maintenance of visibility splays.
- Condition 13: Archaeological monitoring.
- Condition 14: Exclusion zone with recorded to the recorded monument.
- Condition 20. Detailed odour/waste management plan to be submitted.
- Condition 21. Operation of the facility so as to minimise impacts on air emissions/odours/amenities.

2.4. Prescribed Bodies

Department of Housing, Local Government and Heritage (DAU) – No submission at application stage on current application/ Planner's report has referred to previous submission on a similar application on this site/ PA Reg Ref 20/51889

Irish Water - As there are storage issues in the Rann Area where the existing service reservoir is at maximum capacity and struggling to serve the demand.

2.5. Third Party Observations

- 2.5.1. 3. no. submissions (including 1 no. petition signed by 20 individual parties). The issues raised therein are summarised in the Planner's Report [dated 19/06/2023].

2.6. Planning History

PA Reg Ref. 20/51889: Planning permission refused for the 'erection of 2 no. poultry sheds with meal silos, effluent tanks and all associated site development works' in Dec 2021 for the following reasons:

1. Based on the information submitted the Planning Authority is not satisfied that the applicant has made sufficient provision for the sustainable management, collection and disposal of waste on and off-site and as such the proposal would have an unacceptably detrimental impact on the residential amenity of third parties by way of odour nuisance associated with the proposed poultry production and management of associated organic waste. Accordingly, it is considered that to permit the development proposed would seriously injure the residential amenities of the nearby properties, and would therefore be contrary to Policies ED-P-9 and ED-P-14(c) of the County Donegal Development Plan (2018-2024) as varied and contrary to the proper planning and sustainable development of the area.
2. Having regard to (a) the proximity of the proposed road widening works to the adjacent Ringfort, which is a Recorded Monument and is subject to statutory protection under the National Monuments Act 1994 (as amended) and to (b) the lack of considered information submitted by the applicant, the proposed development, if permitted, would give rise to further irreversible damage to the adjoining Ringfort and would therefore fail to conserve and protect the County's archaeological heritage, contrary to policies AH-P-1, AH-P-3, AH-P-4, & AH-P-5 of the County Donegal Development Plan (2018-2024) as varied.
3. The subject site is located 4.5km from the Swilly SPA & SAC which is a designated Natura 2000 sites. It is an objective of the Planning Authority (Objective NH-O-2, County Development Plan 2018-2024) 'to comply with Article 6 of the Habitats Directive (92/43/EEC) and have regard to the relevant conservation objectives, management plans, qualifying interests and threats to

the integrity of Natura 2000 sites’ and (Objective NH-O-3,) ‘to maintain the conservation value of all existing and/or proposed SAC’s, SPA’s and NHA’s and RAMSAR sites including those plant and animal species that have been identified for protection’, whereas it is a policy of said Plan (Policy NH-P-1) ‘to ensure development proposals do not damage or destroy any sites of international or national importance, designated for their wildlife/habitat significance...including SAC’s, SPA’s, NHA’s, Ramsar Sites and Statutory Nature Reserves’. On the basis of the information submitted in support of the planning application, and in particular the lack of adequate consideration of specific mitigation measures to minimise the impact of ammonia (arising from the management of poultry manure), the Planning Authority is not satisfied that the proposed development would not have a significant effect on the integrity of these Natura 2000 sites. Accordingly to permit the proposed development would materially contravene the aforementioned objectives and policies of the County Development Plan 2018-2024 (as varied) and would thereby be contrary to the proper planning and sustainable development of the area.

3.0 Policy Context

3.1. National Planning Framework

NPO 21 Enhance the competitiveness of rural areas by supporting innovation in rural economic development and enterprise through the diversification of the rural economy into new sectors and services, including ICT-based industries and those addressing climate change and sustainability.

3.2. Regional Spatial and Economic Strategy (RSES) for the Northern and Western Region 2020-2032

RPO 4.24 To support the growth of the region’s agrifood industry, and its SME’s. This includes the expansion of the sector where already established in rural areas, as well as in small towns, and villages, where expansion should be supported

RPO 8.18 - Ensure the protection and improvement of all waters – rivers, lakes, groundwater, estuaries (transitional waters), coastal waters and their associated habitats and species throughout the region and implement measures to achieve at least Good Status in all water surface bodies.

3.3. Development Plan

The current Development Plan is **County Donegal Development Plan 2024-2030** which was adopted on 16th May 2024 and came into effect on 26th June 2024¹.

Relevant Provisions are set out below:

Policy ED-P-4 Consider proposals for the businesses in rural areas of the nature identified in 'a.', 'b.' and 'c.' below, where such uses would comply with the terms of 'c.' below: a. Valuable additions to the local economy and/or tourism offering in an area, such as those relating to food (particularly value-added products such as artisan food), forestry (e.g. wood products), crafts, creative industries, ecotourism and agritourism (e.g. farmhouse accommodation, pet farms, farm holidays, health farms, equestrian activities, bird-watching holidays, painting and photography tuition, angling tourism, field studies cycling and hill-walking); and

b. Genuine Farm Diversification Schemes where the diversification scheme is to be run in conjunction with the agricultural operations of the farm. The provision of associated short-term let rental accommodation purposes (up to a maximum of five units) may be considered.

c. i. As far as possible, proposed developments should reuse or adapt existing redundant farm buildings. ii. Any new proposed building must be of a scale, form and design appropriate to the rural area. iii. Compliance with all the relevant criteria of Policy ED-P-10. iv. Where there are deficiencies in water infrastructure and/or where it is not possible to connect to the public systems, the developer will be required to demonstrate that bespoke development-led solutions can be identified, agreed in writing, implemented, and maintained

Policy ED-P-9 - It is a policy of the Council that any proposal for economic development use, in addition to other policy provisions of this Plan, will be required to meet all the following criteria; a. It is compatible with surrounding land uses existing or approved; b. It would not be detrimental to the character of any area designated as being of Especially High Scenic Amenity (EHSA); c. It does not harm the amenities of nearby residents d. There is existing or programmed capacity in the water infrastructure (supply and/or effluent disposal) or suitable developer-led improvements can be identified and delivered; e. The existing road network can

¹ Save for those provisions of the Plan which are subject to a Draft Ministerial Direction.

safely handle any extra vehicular traffic generated by the proposed development or suitable developer-led improvements are identified and delivered to overcome any road problems; f. Adequate access arrangements, parking, manoeuvring and servicing areas are provided in line with the development and technical standards set out in this plan or as otherwise agreed in writing with the planning authority; g. It does not create a noise nuisance; h. It is capable of dealing satisfactorily with any emission(s); i. It does not adversely affect important features of the built heritage or natural heritage including natura 2000 sites; j. It is not located in an area at flood risk and/or will not cause or exacerbate flooding; k. The site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity; l. Appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view; m. In the case of proposals in the countryside, there are satisfactory measures to assist integration into the landscape; n. It does not compromise water quality nor conflict with the programme of measures contained within the current north western river basin management plan.

The site lies within an area of High Scenic Amenity as defined in Map 11.1 Scenic Amenity

Policy L-P-2 - To protect areas identified as 'High Scenic Amenity' and 'Moderate Scenic Amenity' on Map 11.1 'Scenic Amenity'. Within these areas, only development of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape may be considered, subject to compliance with other relevant policies of the Plan

Policy AYH-P-1 as relates to the conservation and protection of archaeological heritage

Chapter 16 Technical Standards including Table 16.5 Vision Lines at accesses to Non-National Rural Roads, outside 60kph speed limit zone

3.4. Natural Heritage Designations

- 3.4.1. The nearest designated site is River Swilly Valley Woods pNHA (site code 002011) which is located c500m west of the site at the closest point. The closest Natura 2000 sites to the subject site are Lough Swilly SAC (Site Code 002287) and Lough Swilly

SPA (Site Code 004075), which are located c4.2km north-east of the site, and c5.2km north-east of the site, respectively.

3.5. EIA Screening

- 3.5.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

4.0 The Appeal

4.1. Grounds of Appeal

- 4.1.1. One no. appeal has been received from Andrew Cassidy and others [received 3rd October 2023]. The grounds of appeal are summarised below.
- Reference is made to the previously refused application (2051889) and to the previously withdrawn application (2251083).
 - Has not made sufficient provision for the disposal of waste.
 - Contrary to policies of the Development Plan (2018-2024), namely EP-P-14 (c) and ED-P-9.
 - Air pollution/impacts of ammonia/can trigger respiratory problems/soil and water contamination.
 - Has previously spread poultry manure on the farm.
 - Development site is an area of swamp-like wetland which is the source of the Rann Stream that enters the River Swilly at Oldtown.
 - NIS confirms that a drain to the east of the site provides connectivity to the River Swilly.
 - Runoff will enter the River Swilly approximately 3.3km from the site which is contrary to the figure of 4.5km as stated in the Planner's Report.

- Will crease noise pollution from the poultry plant itself and from increased road traffic.
- Access road is a narrow undeveloped laneway unsuitable for heavy duty vehicles.
- Will be increased traffic on the main road raising safety concerns.
- Written consent from all 3rd party landowners has not been attained/cannot achieve required 160m visibility in both directions.
- Insufficient consideration given to monument which is legally protected under the National Monuments Act 1994/previous concerns in relation to the safety of this monument have been raised with the National Monuments Service.
- Has already been partially destroyed by the applicant while erecting a slurry tank (report attached relating to same).
- Adjacent homes are too close to the proposed development site.
- EPA Guidelines stated that it is preferable for units to be site more than 400m from the nearest neighbouring dwelling.
- Closest house is 176m from the site/two houses situated c.200m from the site/these three houses will be downwind of the development site.

Encl: Copy of Archaeological Heritage Impact Assessment Report; Petition.

4.2. Applicant Response

4.2.1. A first-party response to the appeal was received on 1st November 2023. This is summarised as follows:

- Proposal is an agricultural development and is specifically suited to a rural area such as this one.
- Development Plan recognises the importance of agricultural development.
- Activities on the farm will comply with the provisions of S.I. No. 113 of 2022, European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2022 (as amended).
- Reference is made to the characteristics of the Irish Poultry Sector.

- Poultry Sector is an important sector in the Irish Economy accounting for c2% of agricultural output/5,000 jobs.
- Poultry production has the lowest carbon footprint of all meats.
- Donegal Co. Co have considered the proposed development and have concluded it is in accordance with the proper planning and sustainable development of the area.
- Existing farm comprises c24.7 ha and is currently farmed and managed by the applicant.
- Existing farming activities involve bovine livestock and associated activities such as fertilizer spreading, silage harvesting.
- Development of the turkey houses will be completed on a site area of c2 ha.
- Proposed development will be screeded by the existing land topography and hedgerows.
- Cumulative capacity of the proposed development will range from c10,000 to 19,860 birds (average 15,000)/well below the E.I.A. and Licencing thresholds of 40,000 birds.
- Proposed development is in line with the requirements of European Communities (Welfare of Farmed Animals) Regulations 2010 (SI No. 311 of 2010).
- A description of the production process is set out.
- No odour/ammonia associated with manure as it will be moved off site.
- It is considered that shortcomings of the previous applications on site have been considered, reviewed and addressed in order to inform the current application.
- Waste management on site will be carried out in line with DAFM, Bord Bia and Donegal Co. Co. requirements.
- Proposal is not a commercial development as referred to by the appellant
- Ammonia emissions modelling has been completed and results are contained in the submitted NIS/completed in line with EPA Guidance (May 2023).
- Applicant did not spread poultry waste/may have spread poultry manure/organic fertiliser within the confines of S.I. 113 of 2022.

- Application of organic fertiliser to lands is a common practice.
- Once the proposed development is operational, the applicant would no longer transport poultry manure to the lands as this would pose a bio-security risk to the poultry in the houses.
- The site is not at risk of flooding.
- All storm water (roof water and clean yard water) will discharge to the local watercourse.
- The only soiled water that will arise will be associated with the washing down of the house and concrete apron approx. 3 times per annum/measures have been put in place for the collection and management of this soiled water.
- In relation to noise, residential locations are sufficiently set back from the proposed site.
- Details in relation to noise emissions have been submitted with the application.
- Applicants are required to complete the sightline upgrade works in advance of the commencement of the proposed development.
- No supporting information has been submitted with appeal in relation to this issue.
- In relation to cultural heritage, the Department has conformed that they have no issue with the proposed development, subject to conditions.
- The 1998 EPA Guidance is out of date and no longer used by the authority that published same/has in effect by replaced by updated BREF Guidance.
- The stated distance of 400m was recommendation in any case and not a requirement.
- Using EPA odour emissions tool, the relevant odour threshold is achieved at 115m from the centre of the farm/is c200m to the closest 3rd party location.

4.3. Planning Authority Response

- 4.3.1. A response from the Planning Authority was received on 31st October 2023. This is summarised below:

- Consider that all matters raised in the appeal have previously been addressed in the Planner's Reports dated 19/06/2023 and 05/09/2023.

4.4. Observations

- 4.4.1. Department of Housing, Local Government and Heritage (DAU) (Observation received 9th February 2024). – Concurs with the recommendation as outlined in Section 4 of the archaeological testing report.

5.0 Assessment

- 5.1.1. I would firstly draw the Board's attention to the fact that the application was considered by Donegal County Council under the provisions of the previous Development Plan (County Donegal Development Plan 2018-2024). The date of the Planning Authority's decision was 7th September 2023. The current Development Plan is County Donegal Development Plan 2024-2030 which was adopted on 16th May 2024 and came into effect on 26th June 2024². I have thus considered this appeal under the applicable provisions of the current Development Plan.
- 5.1.2. I propose to consider the matters arising in this case under the following headings:
- Principle of Development
 - Impacts on Residential Amenity (including noise and odour impacts)
 - Traffic Impacts
 - Cultural Heritage
 - Impacts on Water and Soil
 - Visual Impact/Visual Amenity/Landscape Impacts

5.2. Principle of Development

- 5.2.1. The development of a poultry operation on an existing farmholding falls within the category of 'farm diversification' which is supported in principle by the County Donegal Development Plan 2024-2030, namely Policy ED-P-4, as relates to Farm Diversification Schemes, subject to compliance with relevant criteria including design and scale of proposed buildings (considered in Section 5.7 below)

² Save for those provisions of the Plan which are subject to a Draft Ministerial Direction.

and subject to compliance with relevant criteria of Policy ED-P-10. I would note that Policy ED-P-10 relates to commercial developments on the periphery of settlements, and I am not of the view the criteria therein would be relevant in the context of this proposed development. Policy ED-P-9 is of relevance however, and this states that any proposal for economic development use will be required meet certain criteria relating to design and landscaping, surrounding land uses, impact on landscape, amenity impacts (including noise), capacity of water and potable water infrastructure, impact on surrounding roads and access arrangements, environmental impacts including impacts of emissions and on water quality, and on designated sites, and impacts on cultural heritage. I have considered each of these criteria in the relevant section of this report.

- 5.2.2. In terms of land use, I would note that the site is an existing farmholding, where the land use in the wider area is in agricultural use. As such, the proposal for a poultry house and associated development is acceptable in principle, subject to those safeguards as set out above, which include, but are not limited to, impacts on public health and the environment, the amenity of the surrounding area, visual impacts and impacts on the landscape and traffic and transport considerations.

5.3. Impacts on Residential Amenity (including noise and odour considerations)

- 5.3.1. The third-party appellants have stated that the proposal will create noise pollution from the plant itself and from increased road traffic. It is further stated that the proposal would result in air pollution, with the impact of ammonia triggering respiratory problems.
- 5.3.2. The applicants have stated that there will be no odour/ammonia associated with manure as it will be moved off site. It is further stated that ammonia emissions modelling has been completed and results are contained in the submitted NIS/completed in line with EPA Guidance (May 2023). In relation to odour from spreading it stated that application of organic fertiliser to lands is a common practice and such spreading carried out in line with S.I. No. 113 of 2022, European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2022 (as amended). In relation to noise it is stated that residential locations are sufficiently set back from the proposed site and that details in relation to noise emissions have been submitted with the application.

- 5.3.3. The Planning Authority are of the view that the proposal will not give rise to detrimental impacts in terms of odour/noise.

Noise

- 5.3.4. In relation to noise, the report entitled 'Description of the Location, Operation and Management of the Proposed Development of 12 no. Turkey Houses (to accommodate an average of c15,000 birds combined)' dated 25/05/2022 refers to 'Noise' (Section 2.4 refers). This sets out that the noise generated by the proposed development will not exceed noise limits in any noise sensitive location. The various noise sources are set out in and these include noise from traffic/feed deliveries, birds and from plant (fans & generator). In relation to noise from birds, it is set out that given the relative inaudibility of livestock noise and the high insulation standards in the construction, noise emissions from livestock is expected to be inaudible at all adjacent Noise Sensitive Locations (NSLs). In relation to same, I would not necessarily concur that livestock noise from such plants would be 'inaudible', and I would expect that there would be some level of noise generated by the birds. Notwithstanding, I note that the nearest dwelling is at least 160m from the proposed shed, with others at a greater distance. I would also note the proposed operation would be required to adhere to BAT (best available techniques) under Directive 2010/75/EU, as relates to the intensive rearing of poultry or pigs, which include best practice measures to reduce noise levels from such plants, which include, but are not limited to, soundproofing of buildings. Given the above considerations, I am of the view that it is unlikely that there will significant noise impacts on adjacent properties resulting from the poultry within the sheds.
- 5.3.5. In relation to deliveries, it is set out that feed trucks will only make deliveries 1-2 times per week, and are typical of any farm activities. Noise from same are stated as being below relevant noise limits. Noise from plant (generator, fans) are also expected to be below relevant noise limits, taking account of attenuation due to distance. While generator may be provided for emergency use only, the use of a low noise generator is recommended. No significant risk of noise impacts are expected, provided feed deliveries are within daytime period and low noise generator is used, if and when necessary. No significant noise impacts from the construction phase are expected.

- 5.3.6. In relation to noise, I generally concur with the conclusions as set out in the report as described above, noting that Condition 3 as imposed by the Planning Authority, and as recommended in Section 9 below, will require the applicant to adhere to best practice measures as relates to noise, and provides sufficient reassurance that noise impacts from the proposed development will not be significant.

Odour

- 5.3.7. In relation to odour, while I note the NIS sets out details of ammonia and nitrate emissions, it does not however set out potential impacts of ammonia or odour emissions on adjoining residential properties, notwithstanding the submission of the first-party. Nonetheless, I note that odour control measures are incorporated within the proposed development, noting that ridge ventilation will be utilised, which will expel air at a greater height and direct it skywards. Other measures to control any potential odour emissions include adherence to EPA Guidelines (BAT) which include *inter alia* appropriate management of waste and manure, washdown between batches, keeping bedding dry, appropriate stocking measures and the use of low protein diets. I concur with the view of the applicant in that the proposed development is modest in terms of poultry farm development, and is of a scale that is approximately 50% of the EIAR and EPA Licence requirements, with the number of birds limited to c20,000 birds. The first party response to the appeal also contains an assessment of the predicted odour impact from the poultry farm, adapting EPA Guidance (as relates to odour produced by intensive installations) in order to determine the impact of odour from the farm, noting the odour threshold of 3 OUE/m³ (acceptable odour level as per EPA Guidance) is reached at a point 115m from the facility, and noting the nearest dwelling is at a considerable distance beyond this. I am satisfied that, in the absence of specific EPA guidance as relates to odour from poultry farms of a scale proposed here, the conclusions of the appellant are valid and the impacts of odour will be within an acceptable threshold. However, there may well be some odour and in this regard, I also share the view of the Planning Authority that some odour impacts are to be expected in a rural area where agriculture is the predominant land use. I would note also that the Development Plan does not set out any minimum distance that such facilities should be set back from adjoining housing, but rather is reliant on the criteria as set out in Policy ED-P-9 of the Development Plan. Nor is there a specific requirement for particular documentation such as an odour impact assessment for a development of the scale that is proposed here.

Notwithstanding same, the Planning Authority have imposed a condition requesting a detailed Odour Management Plan and I am satisfied that this, in conjunction with those best practice measures as set out above, will ensure that there will be no significant impact on residential amenity, as a result of odours.

5.4. Traffic Impacts

- 5.4.1. The third-party appellants have set out that the access road is a narrow undeveloped laneway that is unsuitable for heavy duty vehicles. It is further set out that there will be increased traffic on the main road raising safety concerns. It is also contended that written consent from all 3rd party landowners has not been attained and that the proposed development cannot achieve required 160m visibility in both directions.
- 5.4.2. The first-party response has set out that the applicants are required to complete the sightline upgrade works in advance of the commencement of the proposed development and that no supporting information has been submitted with appeal in relation to the contentions made by the appellants.
- 5.4.3. The Planning Authority, after seeking Further Information in relation to *inter alia* visibility splays, were satisfied in relation to traffic issues, with the Planner's report making reference to a previous roads report on a similar application on this site (PA Ref 20/51889).
- 5.4.4. In relation to the nature of the access road, I would note that at present it would appear unsuitable for the development as proposed, given its narrow width (3m as described in the application). However, it is proposed to widen the width of the road to up to 4.3m to facilitate the proposed development. It is also proposed to reprofile the road near to the junction with the Rann Road (local county road, L-1044-1), in order to improve the gradient and visibility characteristics of same. In relation to visibility splays, the application documentation indicates that 160m sightlines can be achieved in both directions, with a letter of consent submitted from the property owner to the south of the junction, as part of the Further Information submission. It would not appear that any other third-party consent is required to achieve the 160m visibility splays as shown. The previous Roads & Transportation report (as relates to PA Reg Ref 20/51889) refers to the steep incline at the junction with Rann Road, with the need for localised widening of the road to allow safe two-way traffic flow as well as turning into and out of the facility. I would note that, while no Roads & Transportation report was produced in response to this current application, the

nature of this application is similar to that previously proposed, and therefore I would accept that the previous Roads & Transportation comments remain valid. I would also expect that if the Roads & Transportation Division had any additional concerns with the development as proposed here, such concerns would have been allayed by way of an updated report, and this is not the case. It is clear that in granting permission for the development as proposed, subject to conditions, that the Planning Authority are satisfied that any previous concerns in relation to the access road and sightlines have been addressed. I am also satisfied that the works to the road, including reprofiling and widening of same, will be adequate to serve the development as proposed. Autotrack drawings indicate that the traffic associated with the proposed development can exit onto the Rann Road in a safe manner. I am satisfied too that sufficient visibility can be achieved from the site as detailed in the application drawings, and with the reprofiling of the road completed, as per Table 16.5 of the County Donegal Development Plan 2024-2030.

- 5.4.5. In relation to the volume of traffic generated by the development, as noted above, it is set out that feed trucks will make deliveries 1-2 times per week. It is also set out that there would be c3 batches per year, so one would expect traffic would be generated at these times. Waste collection would also be expected to occur. However, I am not of the view, that such traffic generation would be significant, having regard to the scale of the proposed development, which is approximately 50% below the EIA threshold for such developments. I am satisfied that there is no evidence that any additional traffic volumes would have a significant impact on the carrying capacity of surrounding road, or that the additional traffic would result in a traffic hazard. Furthermore, I am of the view that is unlikely that such additional traffic volumes result in a significant impact on adjoining residential amenity having regard to noise.

5.5. Cultural Heritage

- 5.5.1. The third-party appellants state that insufficient consideration has been given to nearby monument which is legally protected under the National Monuments Act 1994 and that previous concerns in relation to the safety of this monument have been raised with the National Monuments Service.
- 5.5.2. The first-party response states that, the Department has confirmed that they have no issue with the proposed development, subject to conditions.

- 5.5.3. The Planning Authority have not raised any objections in relation to impacts on cultural heritage, subject to conditions, referring to a previous Department Report relating to similar application on this site.
- 5.5.4. I would note that the Development Applications Unit of the Department of Housing, Local Government and Heritage has made a submission on this appeal. This refers to the Archaeological Testing Report submitted at application stage, and concurs with the recommendations as outlined in Section 4 of same.
- 5.5.5. With reference to the above, I note an Archaeological Testing Report (dated April 2023) was submitted at application stage. This notes that the footprint of the proposed sheds is located approximately 80m north of a recorded monument (ráth) DL061-009 and 25m north of the Zone of Notification relating to same. Three additional monuments are also located within a 500m radius of the proposed site, as outlined in Table 1 of the report and illustrated in Figure 3 of same. Reference is made within the report to a previous programme of archaeological testing that has occurred on this site under Planning Application PA Reg Ref 22/51083), noting that no features or deposits of archaeological consequence were observed in any of the trenches excavated. Recommendations are set out in the report including archaeological monitoring of any road widening works that take place within the Zone of Notification of the rath referred to above, with an exclusion zone around this rath set out in advance of any works (which shall follow the Zone of Notification).
- 5.5.6. Notwithstanding the concerns of the appellants, I am satisfied that the works, as proposed, will not result in a significant impact on cultural heritage, having regard to the information submitted with the application, to the submission from the DAU and subject to conditions. Works that may have previously been carried out near to the monument, referred to by the appellant, are not a matter for consideration in the context of this appeal, and are a matter for the Planning Authority and/or the Department, as appropriate.

5.6. Impacts on Water and Soil

- 5.6.1. The third-party appellants have stated that the proposal site is an area of swamp-like wetland which is the source of the Rann Stream. It is stated that the proposed development will result in soil and water contamination.
- 5.6.2. The Planning Authority appear to be satisfied that there would be no significant impacts on water or groundwater, subject to conditions.

- 5.6.3. The first party response has stated that Activities on the farm will comply with the provisions of S.I. No. 113 of 2022, European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2022 (as amended). It is set out that the only soiled water that will arise will be associated with the washing down of the house and concrete apron approx. 3 times per annum/measures have been put in place for the collection and management of this soiled water. It is further stated that all storm water (roof water and clean yard water) will discharge to the local watercourse via a silt trap.
- 5.6.4. In relation to land spreading of manure, I would note that would firstly note that such land spreading is controlled by other regulations, namely of S.I. No. 113 of 2022, European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2022 (as amended). and such practices, as well as other relevant farming practices, are required to comply with same.
- 5.6.5. The application is accompanied by a report entitled 'Description of the Location, Operation and Management of the Proposed Development of 2 no. Turkey Houses (to accommodate an average of c15,000 birds combined)' dated 25/05/2022. In relation to storm water, within this report it stated that storm water from roofs and paved yards is not permitted to flow over soiled areas and will be discharged via land drainage to the adjoining drainage ditch as detailed in the plans and drawings submitted with the application. There will be no process effluent discharge from the site. Poultry manure will be removed from the site by an authorised contractor. The soiled waste will be collected in a dedicated soiled water collection tanks, which will then be applied to the adjacent farmland, in line with S.I. 113 of 2022.
- 5.6.6. There is no evidence that the proposal would result in soil contamination. As noted above, I note that the landspreading of the soiled water is controlled by other statutory provisions, namely the GAP regulations, as described above, and the application has stated that landspreading of the soiled water will be compliant with same. In relation to the other aspects of the proposal that could have an impact on soil quality I note that the soiled water that is to be spread, will be stored in a watertight concrete underground tank and that the only discharge from the site to surface waters will be the discharge of rainwater from roofs and clean yards to the field drain to the east, via a silt trap, as described above.

5.6.7. Having regard to the considerations above, I am satisfied that the proposed development will not result in a deterioration in surface water quality, nor would it result in soil contamination.

5.7. Visual Impact/Visual Amenity/Landscape Impacts

- 5.7.1. Policy ED-P-9 requires a consideration of design, visual impact and impact on landscape. In relation to same I would note that the proposed sheds (2 no. in total) are relatively low rise and sit on a relatively low point within the landscape. The shed have a max ridge height of 5.6m and a minimum (eaves) height of 2.6m. The sheds have a proposed FFL of 119.750m and extend to 91m in length and 18m in width. I note also that the applicant has proposed screening of the site.
- 5.7.2. Having regard to same, I am satisfied that there will not be a significant visual impact resulting from the proposals, and noting the distance to the nearest residential property, I am satisfied that there will be no significant impact on the visual amenity of surrounding properties.
- 5.7.3. In relation to impacts on landscape, Policy ED-P-9 requires consideration of any impact on landscapes of Especially High Scenic Amenity (EHSA). I would note the application site lies within an area of High Scenic Amenity as defined in Map 11.1 Scenic Amenity. Within these areas, only development of a nature, location and scale that integrates with, and reflects the character and amenity of the landscape may be considered, subject to compliance with other relevant policies of the Plan and Policy L-P-2 seeks to protect such areas. I am satisfied that, given the considerations in relation to visual impact above, there will be no negative impact on the character of the surrounding landscape and the proposal will appear part of the wider agricultural landscape.

6.0 AA Screening

- 6.1. Please refer to Appendix 3 (AA Screening) of this report which contains an AA Screening Report where I have concluded the following:
- 6.2. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended), and on the basis of objective information, I conclude that, notwithstanding the submission of an NIS, the proposed development would not have a likely significant effect on any European Site either alone or in combination with other

plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

6.3. This conclusion is based on:

- Standard pollution controls that would be employed regardless of proximity to a European site, and effectiveness of same (at construction and operational phases).
- Best available techniques (BAT) for such facilities that would be employed regardless of proximity to a European site, and effectiveness of same (at operational phase).
- Distance from European Sites.

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

7.0 Recommendation

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

8.0 Reasons and Considerations

Having regard to the size, scale and agricultural nature of the proposed development in an established farming area in a rural location, and to the policies and objectives of the County Donegal Development Plan 2024-2030, it is considered that, subject to compliance with the conditions set out below, the proposed development would not have an adverse visual impact, would not seriously injure the amenities of the area or of property in the vicinity by way of odour or noise nuisance, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further

plans and particulars received by the planning authority on the 24th day of July 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The development shall provide no more than 20,000 places for poultry. There shall be no change in poultry type and no increase in the numbers of poultry being accommodated at the proposed development without a separate permission first having been obtained.

Reason: In the interests of orderly development.

3. The best practice methods identified in the Noise Impact Assessment, and other plans and particulars submitted with the planning application shall be implemented in full by the developer, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interests of clarity and protection of the environment.

4. Prior to commencement of development, permanent visibility splays of 160 metres shall be provided in each direction to the nearside road edge at a point 2.4 metres back from road edge at location of vehicular entrance. Visibility in the vertical plane shall be measured from a driver's eye- height of 1.05 metres and 2 metres positioned at the setback distance in the direct access to an object height of between 0.26 metres and 1.05 metres. Vision Splays to be calculated and provided as per Figure 16.2 of Chapter 16 County Donegal Development Plan 2024-2030.

Reason: In the interests of traffic safety

5. Prior to commencement of development the existing roadside boundary shall incorporate an entrance with a minimum width at road fence to line of gates of 9.15m minimum depth from road fence to line of gates of 2.45m and a minimum width on line of gates of 4.9m.

Reason: In the interests of traffic safety.

6. All overhead and underground poles and lines shall be set back to line of new fenceline at developer's expense and no obstructing pole(s) shall be left on layby.

Reason: In the interests of traffic safety.

7. Full frontage or roadside drain (whichever is appropriate) shall be piped with concrete pipes of adequate size in accordance with details to be agreed with the Executive Engineer for the area unless otherwise agreed in writing with the Planning Authority.

Reason: To preserve road drainage.

8. Entrance shall incorporate an acco channel or other similar drainage trap, together with suitable drainage pipework in order to prevent discharge of surface water onto public road. Said works shall be carried out prior to first occupation of the dwelling hereby permitted.

Reason: To prevent flooding.

9. During construction the developer shall be responsible for ensuring that no structural damage occurs to the public road network as a consequent of plan and machinery using the local road system and any damage shall be repaired to the satisfaction of the Area Roads Office at the cost of the developer.

Reason: In the interest of traffic safety.

10. Construction works shall be carried out between the hour of 8am and 6pm, Monday to Saturday only, unless by exception alternative times are agreed in writing with the Planning Authority in advance of works.

Reason: In the interest of public health and residential amenity.

11. Under normal operating conditions, truck movements to and from the site shall not commence before 08.00 hours or after 18.00 hours.

Reason: In the interest of residential amenity.

12. Archaeological monitoring shall be carried out during excavation works. Said monitoring shall be carried out by an archaeologist approved by the Department of Housing, Local Government and Heritage and paid for by the developer. If archaeological monitoring of the site reveals deposit(s) of archaeological potential then excavation and construction works shall cease until permission is obtained from the Planning Authority for recommencement of works. The Planning

Authority shall be empowered to require the carrying out of an archaeological assessment report of the site including resiting, excavation or preservation in situ. Where archaeological material is shown to be present, a detailed Archaeological Impact Statement shall be included within the report. The potential impact of the proposed development on the archaeology within the site shall be described in details. The Impact Statement shall give specific information on the external levels (corrected to Ordnance Datum) and location of all proposed foundations, service trenches and all other subsurface works associated with the development. The levels of the archaeology within the site shall also be detailed within the report.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may existing within the site.

13. An exclusion zone shall be set and submitted to the Planning Authority prior to the commencement of development with regard to the recorded monument DG061-000. The exclusion zone shall be set in advance of any machinery tracking on site and shall remain intact during the entirety of the construction phase. The exclusion zone shall follow the Zone of Notification and restrict access to any machinery, vehicles as well as the use of this area for storage of material or dumping of spoil.

Reason: In order to conserve the archaeological heritage of the site.

14. Poultry manure generated by the proposed development shall be removed from the poultry sheds and disposed of offsite at the end of each batch (at least 3 times/annum) or by other means acceptable in writing to the planning authority,

Reason: To ensure the satisfactory disposal of waste material, in the interests of amenity, public health and to prevent pollution of watercourses.

15. (a) Soiled water arising from the development shall be directed to and collected in the proposed soiled water storage tanks in accordance with the Department of Agriculture and Food Specifications S 123 and S129 and shall not discharge or be allowed to discharge to the foul effluent tanks or to the public road
- (b) Uncontaminated surface run-off from roofs and clean paved areas shall be collected separately from effluent in rainwater harvesting tanks and all excess

uncontaminated surface run off shall discharge to the detailed land drain as per the submitted site layout plan.

(c) No surface water from site shall be permitted to discharge to public road and applicant shall take steps to ensure that no public road water discharges onto site.

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

16. (a) Soiled water from washing of the poultry sheds shall be disposed of by spreading on land, or by other means acceptable in writing to the Planning Authority. The location, rate and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in accordance with the requirements of the European Union (Good Agricultural Practice for the Protection of Waters)(Amendment) Regulations 2022.

(b) Soiled water shall not be spread on or applied to land where there is a risk that the effluent will run from the land into any river, ditch, stream or other watercourse.

(c) Effluent, manure or soiled water shall not be caused or permitted to flow onto adjoining property or to enter any stream, ditch, drain or other watercourse or to overflow the effluent storage tank.

Reason: To ensure the satisfactory disposal of waste materials, in the interest of amenity, public health and to prevent pollution of watercourses.

17. Detailed records shall be maintained in regard to soiled water disposal which shall include such matters as dates, volumes disposed of and outlet locations. The records shall be kept up-to-date and shall be available at all reasonable times for inspection by an authorised person of the planning authority and be provided to the planning authority on request in writing.

Reason: In the interest of public health and environmental sustainability.

18. (a) The temporary on-site storage of carcasses shall be in sealed containers

(b) Containers shall be washed and disinfected at the end of each cycle

(c) Any carcasses of birds shall be disposed of by an approved waste contractor and shall be removed from site fortnightly

(d) Any alteration to the disposal method for slurry, manure, soiled water and disposal of carcasses shall only be implemented with the prior written approval of the Planning Authority.

Reason: In the interests of orderly development and public health.

19. Prior to commencement of development a detailed odour/waste management plan for the operational development shall be submitted for the written agreement of the Planning Authority which makes particular reference to odour and control of pests.

Reason: In the interests of orderly development and public health.

20. The applicant shall operate the facility in a manner such that air emissions and/or odours do not result in significant impairment of, or significant interference with amenities of the environment beyond the site boundary. Removal or disposal of effluent and cleaning of poultry houses shall be undertaken in such a manner to reduce impacts from odour or noise to prevent nuisance to premises in the surrounding area.

Reason: In the interest of public health and environmental sustainability.

21. Prior to commencement of development a detailed landscaping scheme shall be submitted to the Planning Authority for written agreement and thereafter any such scheme as may be considered acceptable shall be implemented within first planting season following commencement of development. Said scheme shall include substantial semi-mature broadleafed trees native to the area. Any trees dying within subsequent three years shall be replaced.

Reason: To preserve the amenities of the area.

22. 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

Rónán O'Connor
Senior Planning Inspector

3rd September 2024

Appendix 1 - Form 1 EIA Pre-Screening

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	318154-23		
Proposed Development Summary	Erection of 2 no. poultry sheds with meal silos, effluent tanks and all associated site development works including the upgrading of existing access road. A Natura Impact Statement (NIS) accompanies this application.		
Development Address	Rann, Letterkenny, Co. Donegal		
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	
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		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)
No		N/A	
Yes	X	Schedule 5, Part 2, 1e) Installations for intensive rearing of poultry not	Max 20,000 bird spaces proposed.
			Conclusion
			No EIAR or Preliminary Examination required
			Proceed to Q.4

		included in Part 1 of this schedule, which would have more than 40,000 places for poultry.		
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Appendix 2 - Form 2 EIA Preliminary Examination

EIA Preliminary Examination

An Bord Pleanála Case Reference	318154-23	
Proposed Development Summary	Erection of 2 no. poultry sheds with meal silos, effluent tanks and all associated site development works including the upgrading of existing access road. A Natura Impact Statement (NIS) accompanies this application.	
Development Address	Rann, Letterkenny, Co. Donegal	
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
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	<p>The site is located in an area where agriculture is the predominant land use. The proposed development would not be exceptional having regard to this existing context.</p> <p>Localised construction impacts will be temporary. The proposed development would not give rise to waste, pollution or nuisances beyond what would normally be deemed acceptable.</p>	<p>No</p> <p>No</p>
Size of the Development Is the size of the proposed development exceptional in the	<p>The size of the development is not exceptional in the context of the existing environment.</p>	<p>No</p>

<p>context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>There would be no significant cumulative considerations with regards to existing and permitted projects/developments.</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 development would not have the potential to significantly impact on an ecologically sensitive site or location. There is no hydrological connection present such as would give rise to significant impact on any European site or other sensitive receptors, noting that the indirect hydrological link that does exist to Lough Swilly SPA and Lough Swilly SAC is at least 5.5km downstream distance.</p> <p>Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area. It is noted that the site is not designated for the protection of the landscape or natural heritage and is not within an Architectural Conservation Area.</p>	<p>No</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>		
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Inspector: _____

Date: _____

Appendix 3 – AA Screening

Screening for Appropriate Assessment Screening Determination

Description of the project

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 of the erection of 2 no. poultry sheds with meal silos, effluent tanks and all associated site development works including the upgrading of existing access road. The proposal provides a floor area of 3,337sqm in the form of two long narrow single storey structures, with a max ridge height of 5.6m and a minimum (eaves) height of 2.6m. The sheds have a proposed FFL of 119.750m and extend to 91m in length and 18m in width.

The closest Natura 2000 sites to the subject site are Lough Swilly SAC (Site Code 002287) and Lough Swilly SPA (Site Code 004075), which are located c4.2km north-east of the site, and c5.2km north-east of the site, respectively. With reference to the submitted Natura Impact Statement (NIS), there is evidence of a hydrological link to these sites via the drainage ditch along the eastern site boundary. Water in this ditch flows north-east towards the Letterkenny Stream. This stream flows north until it reaches the River Swilly which in turn flows into the Lough Swilly SAC (Site Code 002287) and Lough Swilly SPA (Site Code 004075), a downstream distance of 5.5km from the site (as described in the applicant's NIS).

I note the grounds of the third-party appeal which notes the existing of the drain to the east of the site which provides connectivity to the River Swilly (and therefore to Lough Swilly). General concerns are raised in relation to soil and water contamination, and in relation to air pollution arising from ammonia.

As referred to above, the application is accompanied by a Natura Impact Statement (NIS) prepared by Whitehall Environmental (dated October 2021, updated July 2023). I note an updated NIS was submitted at FI stage. It is noted therein that the application site does not lie within or adjacent to any area that has been designated for nature conservation purposes. The main habitat within the site is wet grassland and marsh, with the site boundaries consisting of hedgerows. There is a drainage

ditch along the eastern site boundary. Water in this ditch flows north-east towards the Letterkenny Stream. This stream flows north until it reaches the River Swilly, 3.1km downstream of the application site. The site lies within the Lough Swilly Hydrometric Area and Catchment and the Swilly Sub-Catchment and Sub-Basin. The River Swilly is classed as a transitional water body and its ecological status is classed as 'moderate'. Under the requirements of the Water Framework Directive, all watercourses are obliged to achieve 'good' agricultural status within a specified timeframe. Section 3.3 of the NIS identifies 9 no. Natura 2000 sites within 15km of the application site and these are detailed in Table 2 of the NIS (and set out in Appendix 5 of this report). The closest of these 9 no. sites are Lough Swilly SAC (site code 002287) and Lough Swilly SPA (004075). It is stated within the report that, given the hydrological connection between the application site and the SPA/SAC, potential significant effects on Lough Swilly SAC and Lough Swilly SPA, arising from the construction and operation of the proposed development cannot be ruled out. No other hydrological connectivity to any other Natura Site is identified. It is further concluded in the report that there was potential significant effects arising on the above 2 no. sites as a result of atmospheric emissions.

Section 4 of the report is the Stage 2 – Appropriate Assessment. This sets out in detail the site characteristics and conservation objectives of those sites that have been 'screened-in' i.e. Lough Swilly SAC and Lough Swilly SPA. Section 4.4 contains a summary of potential impacts including impacts on water quality during the construction and operation, impacts from atmospheric emissions and cumulative impacts. During construction stage it is set out that processes will include the excavation of soil and the pouring of concrete and in the absence of mitigation it is stated that a large-scale pollution event could result in the possibility that water quality in the River Swilly and subsequently on downstream ecological receptors of Lough Swilly SAC/SPA may be negatively impacted upon. At operational stage, it is stated that the most likely source of pollution during the operation of development is slurry, oil or contaminated surface water run-off from the site entering the drain on the eastern site boundary, which may subsequently lead to a deterioration in water quality and pollution in Lough Swilly SAC/SPA.

This section of the report also includes a consideration of atmospheric emissions, namely a SCAIL model (Simple Calculation of Atmospheric Impact Limits).

Reference is made to recent EPA Guidance in relation to same.³ In relation this to this guidance document, I am of the view this is only applicable to those Intensive Agriculture Installations that are subject to an EPA licence, whereas this current application falls below the EPA licence threshold.

With reference to the results of the SCAIL model, the NIS concludes that the contribution of the proposed development to the total concentration of ammonia and nitrogen is *de-minimus* and, as such, the emissions from the operation of the farm will have no significant effects upon the Natura 2000 sites identified (Lough Swilly SAC, Lough Swilly SPA, Leannan River SAC & River Finn SAC). I would note that the NIS has considered impacts on Leannan River SAC & River Finn SAC, notwithstanding that they did not appear to be 'screened-in' in the applicant's AA Screening. In relation to Ammonia levels, I would also note that the tabled results for Lough Swilly SPA would appear to contain an error, with the % of Critical Load (or Critical Level utilising the EPA terms) of same reported as 4.7%, whereas this should be reported as 1.6% (Process Contribution as a percentage of Critical Level).

Cumulative impacts are ruled out in Section 4.4 of the report, noting an examination was made of other planning applications granted in the Rann/Letterkenny area for the past 3 years.

With mitigation in place, it is concluded within the NIS that the proposed works do not have the potential to significantly affect the conservation objectives or qualifying interests of the Natura 2000 sites.

Potential impact mechanisms from the project

The elements of the proposed development that would potentially generate a source of impact are:

Construction Stage

- The construction of the built structures and hardstanding on site

Operational Stage

- Run-off and surface water and general yard management

³ The assessment of the Impact of Ammonia and Nitrogen on Natura 2000 Sites from Intensive Agriculture Installations, EPA (2021).

- Soiled water generated on the site
- Ammonia and Nitrogen emissions

I note the indirect surface water connection to Lough Swilly SPA/SAC as described in the NIS. As such, potential impact mechanisms include those from surface water pollution from construction works (silt/ hydrocarbon/ construction related), resulting in a deterioration of water quality. At operational stage, contaminated surface water runoff from additional hard standing could enter the surface water network, as well as possible contaminants from the soiled water handled on the site. Emissions to air resulting from the production and release of ammonia and nitrogen is a further potential impact mechanism. In relation to emissions, I would consider it reasonable to assume that, if likely significant impacts are ruled out for those Natura 2000 sites closest to the site (Lough Swilly SPA/SAC), they can also be ruled out for those Natura 2000 sites at a greater distance from the application site.

As noted in the applicant's AA Screening Report, the main habitat within the site is wet grassland and marsh, with the site boundaries consisting of hedgerows. There is no evidence on file that the site supports significant populations of any species or habitat of qualifying interest for any Natura 2000 sites, including otter (a qualifying interest of Lough Swilly SAC, Leannan River SAC, the River Finn SAC and the Cloghernagore Bog and Glenveagh National Park SAC) nor is there evidence that the drainage ditch supports significant populations of salmon (a qualifying interest of the Leannan River SAC, the River Finn SAC and Cloghernagore Bog and Glenveagh National Park SAC).

There are no other readily apparent impact mechanisms that could arise as a result of this project.

European Sites at risk

Table 1 European Sites at risk from impacts of the proposed project

Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk

Indirect surface water pollution	Drainage ditch on the boundary which provides an indirect hydrological connection to Lough Swilly SAC/Lough Swilly SPA via surrounding surface water bodies.	Lough Swilly SAC (site code 002287) Lough Swilly SPA (site code 004075)	<u>Lough Swilly SAC</u> Estuaries [1130] Coastal lagoons [1150] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Phocoena phocoena (Harbour Porpoise) [1351] Lutra lutra (Otter) [1355] <u>Lough Swilly SPA</u> Bird species that are qualifying interests of Lough Swilly SPA (please refer to Appendix 4 for list of same)
Ammonia and Nitrogen Emissions	The operation of the facility could give rise to ammonia and nitrogen emissions with potential impacts on Lough Swilly SAC/Lough Swilly SPA.		

Step 4: Likely significant effects on the European site(s) 'alone'

Table 2: Could the project undermine the conservation objectives ‘alone’			
European Site and qualifying feature	Conservation objective (summary) ⁴	Could the conservation objectives be undermined (Y/N)?	
		Indirect surface water pollution	Ammonia and Nitrogen emissions
Lough Swilly SAC			
Estuaries [1130] Coastal lagoons [1150] Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Phocoena phocoena	To maintain the favourable conservation condition of: <ul style="list-style-type: none">Estuaries [1130] To restore the favourable conservation condition of: <ul style="list-style-type: none">Coastal lagoons [1150]Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]Old sessile oak woods with Ilex and	No. see discussion below	No. see discussion below

⁴ Full versions are available at https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000007.pdf

(Harbour Porpoise) [1351] ⁵ Lutra lutra (Otter) [1355]	Blechnum in the British Isles [91A0] <ul style="list-style-type: none">Lutra lutra (Otter) [1355]		
Lough Swilly SPA (004075)			
Bird species listed as qualifying interests for the Lough Swilly SPA ⁶	To maintain the favourable conservation condition of bird species of special conservation interest	No. See discussion below	No. see discussion below

Water

In relation to surface water quality, I note the drainage ditch to the eastern boundary of the site. Notwithstanding the conclusions as set out in the NIS, I am of the view that, at construction stage, standard best practice construction measures will prevent pollutants entering this watercourse. Even if these standard construction measures should not be implemented or should they fail to work as intended, and pollutants/waste material enter this drainage ditch, the indirect hydrological link represents a weak ecological connection, in my view, given the distance to the Lough Swilly SPA, and to Lough Swilly SAC, which is at least 5.5km downstream distance. As such, any pollutants that should enter the watercourse will be subject to dilution and dispersion, rendering any significant impacts on water quality within these Natura 2000 sites unlikely. I would note that there is no discussion within the NIS in relation to dilution or dispersion, and I am of the view that insufficient consideration has been given to these factors in the applicant's Stage 1 Screening. I

⁵ I note that the Harbour Porpoise was added as a new Qualifying Interest in March 2023 with reference to https://www.npws.ie/sites/default/files/protected-sites/amendment_notifications/AN002287.pdf. I would further note that there is no specific conservation objective relating the harbour porpoise.

⁶ See list in Appendix 4 of this report and at <https://www.npws.ie/protected-sites/spa/004075>

would note that the best practice measures that would be adhered to at construction stage are not mitigation measures intended to reduce or avoid any harmful effect on any Natura 2000 site and would be employed by any competent operator, notwithstanding any proximity to any Natura 2000 site.

At operational stage, storm water from the roofs and hardstanding outside of the sheds will be directed to the proposed drainage network, with uncontaminated surface water discharging to the drainage ditch via a silt trap. The drainage system will be designed so as to prevent contaminated storm water entering the drainage ditch. As such, any significant impacts on water quality within Lough Swilly SPA/SAC, resulting from contaminated surface water run-off are unlikely. The design of this drainage system is a standard pollution control measure and would be included within any development of this nature, notwithstanding any proximity to, or any hydrological connections to, a Natura 2000 site, and is not a mitigation measure that is designed specifically to avoid impacts on any Natura 2000 site.

I would note that soiled water will be stored on the site, which will be spread on the adjacent farmland. I would note that the management of soil water (including storage of same) and land spreading of soiled water is controlled by other regulations, namely, S.I. No. 113 of 2022, European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2022 (as amended). It is stated within the application documentation that landspreading will be carried out in accordance with such regulations.

As such, notwithstanding the conclusions of the applicant's AA Screening, I am of the view that potential likely significant impacts on Lough Swilly SPA, and on Lough Swilly SAC, as a result of a deterioration in water quality, can be ruled out.

Ammonia and Nitrogen Emissions

In relation to ammonia and nitrogen emissions, I am of the view that, within the applicant's AA Screening, insufficient consideration has been given to the overall scale of the proposed development, which is approximately 50% of the minimum scale that would require an EPA licence, and an EIAR (the facility will house a maximum of 20,000 birds). I would also note that reliance has been placed on an EPA Guidance document that is intended to be utilised for facilities of a greater scale

than that proposed here (i.e. Intensive Agriculture Facilities as licenced under 6.1 and 6.2 of the First Schedule of the EPA Act 1992, as amended). The proposed development is not such a facility. In addition, I am of the view that the applicant's AA Screening has not adequately considered the distance of the proposed development from the nearest Natura 2000 sites, which is at least 4.2km (to Lough Swilly SAC). Furthermore, I note that the proposed development will be required to adhere to BAT (best available techniques) under Directive 2010/75/EU, of the European Parliament and of the Council for the intensive rearing of poultry or pigs, which include best practice measures for the reduction of emissions from such plants, which include a low protein diet, removal of manure from the site (no storage or processing of manure is proposed under this application) and the use of a non-leaking drinking system (which reduces ammonia production). Other measures as described in the application documentation include the use of fans and ventilation to ensure dispersal of ammonia and nitrogen that is produced. I am not of the view that the adherence to BAT measures as described above, or the use of fans, or other ventilation measures, are mitigation measures for the purposes of reducing potential impacts on Natura 2000 sites, and these features are standard additions to a facility of this nature.

Given the considerations above, I am of the view that potential likely significant impacts on Lough Swilly SPA, and on Lough Swilly SAC, and on other Natura 2000 site, as a result of ammonia and nitrogen emissions, can be ruled out

Having regard to the discussion above, I conclude that the proposed development would have no likely significant effect 'alone' on any qualifying features of the Lough Swilly SPA or on Lough Swilly SAC. Further AA screening in-combination with other plans and projects is required.

Likely significant effects on the European site(s) 'in-combination with other plans and projects'

There is no evidence on file of any plans or projects that are proposed or permitted that could impact in combination with the proposed development and as such no in-combination issues arise.

I conclude, therefore, that the proposed development would have no likely significant effect in combination with other plans and projects on the qualifying features of any European sites. No further assessment is required for the project.

Overall Conclusion- Screening Determination

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, and notwithstanding the submission of an NIS, I conclude that that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

This conclusion is based on:

- Standard pollution controls that would be employed regardless of proximity to a European site, and effectiveness of same (at construction and operational phases).
- Best available techniques (BAT) for such facilities that would be employed regardless of proximity to a European site, and effectiveness of same (at operational phase).
- Distance from European Sites.

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

Appendix 4 - Qualifying Interests of Lough Swilly SPA

Great Crested Grebe (*Podiceps cristatus*) [A005]
Grey Heron (*Ardea cinerea*) [A028]
Whooper Swan (*Cygnus cygnus*) [A038]
Greylag Goose (*Anser anser*) [A043]
Shelduck (*Tadorna tadorna*) [A048]
Wigeon (*Anas penelope*) [A050]
Teal (*Anas crecca*) [A052]
Mallard (*Anas platyrhynchos*) [A053]
Shoveler (*Anas clypeata*) [A056]
Scaup (*Aythya marila*) [A062]
Goldeneye (*Bucephala clangula*) [A067]
Red-breasted Merganser (*Mergus serrator*) [A069]
Coot (*Fulica atra*) [A125]
Oystercatcher (*Haematopus ostralegus*) [A130]
Knot (*Calidris canutus*) [A143]
Dunlin (*Calidris alpina*) [A149]
Curlew (*Numenius arquata*) [A160]
Redshank (*Tringa totanus*) [A162]
Greenshank (*Tringa nebularia*) [A164]
Black-headed Gull (*Chroicocephalus ridibundus*) [A179]
Common Gull (*Larus canus*) [A182]
Sandwich Tern (*Sterna sandvicensis*) [A191]
Common Tern (*Sterna hirundo*) [A193]
Greenland White-fronted Goose (*Anser albifrons flavirostris*) [A395]
Wetland and Waterbirds [A999]

Appendix 5 – Natura 2000 Sites within 15km of application site

- Lough Swilly SAC (002287) – 4 km north-east
- Lough Swilly SPA (004075) – 5km north-east
- Leannan River SAC (002176) – 7.6km north-west
- River Finn SAC (002301) – 9.5km south-west
- Derryveagh and Glendowan Mountains SPA (004039) – 11km north-west
- Ballyarr Wood SAC (000116) – 11.6km north
- Meentygrannagh Bog SAC (000173) – 12.3km west
- Lough Fern SPA (004060) – 13km north
- Cloghernagore Bog and Glenveigh National Park SAC (002047) – 13.5km north-west