



An
Bord
Pleanála

Inspector's Report

ABP-319798-24

Development	Retention of 2 cattle sheds and associated works and construction of a cattle shed with all associated works.
Location	Balisland, Shillelagh, Co. Wicklow
Planning Authority	Wicklow County Council
Planning Authority Reg. Ref.	2430
Applicant(s)	Alan & Steven Kidd
Type of Application	Permission & Retention
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant	Peter Sweetman
Observer	None
Date of Site Inspection	4 th February 2025
Inspector	Matthew O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is 2.274 hectares and located in the rural townland of Balisland approximately 5.2km to the southwest of Shillelagh, Co. Wicklow. The area of the subject development forms part of an established farmyard which includes a farmhouse and a number of associated sheds/outbuildings in agricultural use. The topography of the area is lightly undulating and the surrounding area is characterised by agricultural land (arable/tillage/grazing), planted mixed forest, farm holdings, a dispersed mix of one-off rural dwellings. There is a ringfort/rath (WI047-001) approximately 85 metres to the southwest of the subject development in a neighbouring field. The site of the proposed development is not located within a Flood Zone.

2.0 Proposed Development

- 2.1. The development subject to this appeal comprises:
- Retention of 2 no. cattle sheds and associated works.
 - Permission to construct a slatted cattle shed and concrete aprons.
 - Associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Wicklow County Council granted planning permission and retention, subject to 7 no. conditions. The following conditions are of particular note:

Condition 2: No foul effluent shall be allowed to discharge to or run off in such a manner as to result in pollution of any stream/river/watercourse in the locality.

Condition 3: All uncontaminated water, including roof water, shall be separately collected and discharged to existing drains or soakpits and shall not be allowed to discharge to foul storage facilities.

Condition 4: Adequate channels with proper gradients shall be provided to convey all effluent to storage facilities and in no circumstances shall any effluent be allowed to discharge to the ground.

Condition 5: Land spreading shall be carried out in accordance with S.I No. 605 OF 2017 European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2017.

Condition 6: The proposed slatted slurry tank shall be of suitable design and construction and shall be properly sealed to prevent any loss of leachate into the ground under of adjacent to it. This tank should have a min. gross capacity of 406 cubic metres unless otherwise agreed in writing to the Planning Authority.

Condition 7: A channel shall be constructed along the open sides of the existing cattle sheds as per Section 2.10 of S123 Minimum Specification for Bovine Livestock Units and Reinforced Tanks.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The first Planner's Report had regard to the submitted documentation, locational context of the site, planning history, policy framework of the Development Plan and inter departmental/referral reports.
- The assessment noted the design and layout of the sheds and that the site could accommodate such development without impacting on the amenities of the surrounding area.
- The comments from the Environment Section were noted regarding effluent seepage collection and the construction of agriculture sheds in accordance with legislation.
- The comments from the M.D Engineer also noted that no details were submitted on available sightlines from the site entrances or details on how soiled water is to be collected/treated.
- In relation of AA, it was considered that the only discharge from the existing/proposed development is that of uncontaminated water from the roofs and given the distance to the nearest Natura 2000 stie that it is unlikely the development would give rise to impacts.

- In respect of EIA, it was considered that the need for an Environmental Impact Assessment could be excluded at preliminary examination and that a screening report is not required.

Further Information was requested in relation to 2 no. items and are summarised as follows:

- Item 1: Submission of revised floor plans/site layout drawings detailing proposals to collect any effluent seepage from the sheds to be retained.
- Item 2: Confirmation from suitably qualified person that the 2 no. sheds to be retained were constructed in accordance with Dept. of Agriculture, Food and Marine specifications.
- The second Planner's Report provides an analysis of the applicant's Further Information response and forms the basis to grant permission and retention with conditions.
- With respect to Item 1 of the Further Information Request, the Planning Authority noted the submitted Site Layout drawing showing effluent from the 2 no. cattle sheds being piped to the proposed slatted tank. The applicant stated that with high straw usage it is unlikely there will be effluent seeping from the sheds but if any seepage occurs that effluent will flow through the proposed channel to the slatted tank. The Environmental Technician indicates that it is unclear if piping referred is a channel to collect effluent but can be dealt with by condition.
- In terms of Item 2 of the Further Information Request, the Planning Authority noted a letter from an Consulting Engineer including calculation confirming the existing cattle sheds have been constructed in accordance with Dept. of Agriculture, Food and Marine specifications and that the response is deemed acceptable.

3.2.2. Other Technical Reports

- Municipal Engineer – Further information required. No details submitted in relation to available sightlines from the site entrances; and, uncontaminated roof water is to be piped to existing outfalls however no details have been provided as to how soiled water is to be collected/treated to prevent run-off to watercourses. No further comment in relation to the response to Further Information.

- Environmental Technician – Further information required. The applicant shall submit revised drawings showing details for collecting effluent seepage from the existing sheds. Applicant to submit confirmation that the 2 no. existing cattle sheds have been constructed in accordance with Dept. of Agriculture, Food and Marine specification. The response to Further Information was deemed acceptable, subject to conditions.

3.3. Prescribed Bodies

- Arts Council – No response received.
- Heritage Council – No response received.
- Failte Ireland – No response received.
- An Taisce – No response received.

3.4. Third Party Observations

3.4.1 One third party observation was received by the Planning Authority in relation to the subject development. This observation has been reviewed as part of the appeal with the primary issues raised summarised below:

- The Planning Authority has four distinct sets of legal tasks when it deals with an application such as this one.
- It must assess the planning merits of application in accordance with the Planning and Development Act 2000 (as amended) to ensure that the proposed development is in accordance with the proper planning and sustainable development of the area.
- The Planning Authority is required to form and record a view as to the environmental impacts of the development, considering the EIA Report (EIAR) if furnished by the Applicant, the views of the public concerned and applying its own expertise or to screen the development for Environmental Impact Assessment.
- The Planning Authority is the competent authority having responsibilities under the Habitats Directive and reference is made to legal judgements.
- The development must be assessed for compliance with the requirements of the Water Framework Directive.

- Reference made to case ruling about what may be classified as a project.
- Sets out the Site Synopsis of the Slaney River Valley SAC in terms of agricultural land use and threats.
- As the development is in the zone of influence of the Slaney River Valley SAC, an Appropriate Assessment is required.
- The application is for retention and so the Planning Authority must ascertain if there has been compliance with the Nitrates Directive.

4.0 Planning History

4.1.1. The following planning history is associated with the subject development:

- 07152** Permission GRANTED to erect a shed for loose bedded cattle area and also to erect a straw lie back area to existing slatted unit. Applicant: Alan Kidd.
- 928507** Permission GRANTED for a slatted house, sheep house, silage pits & concrete yards. Applicant: Alan Kidd.

5.0 Policy Context

5.1. Development Plan

5.1.1 The Wicklow County Development Plan 2022-2028 is the relevant Development Plan for the appeal site.

5.1.2. Chapter 9 relates to 'Economic Development' with Section 9.6 setting out a number of objectives for Wicklow's Rural Economy. Having regard to the subject development, I consider the following objectives to be relevant in relation to Agriculture:

Strategic Objective: To encourage the continued operation of farming and its associated uses where it already exists, and to facilitate the diversification of the agricultural economy through the support of appropriate alternative farm enterprise sources.

CPO 9.37 To facilitate the development of environmentally sustainable agricultural activities, whereby watercourses, wildlife habitats, areas of ecological importance and other environmental assets are protected from the threat of pollution, and where development does not impinge on the visual

amenity of the countryside. Developments shall not be detrimental to archaeological and heritage features of importance.

CPO 9.40 To ensure that agricultural developments do not cause increased pollution to watercourses. Developments will be required to adhere to the Nitrates Directive (91/676/EC), the Nitrates National Action Programme and the EC (Good Agricultural Practice for Protection of Waters) Regulations 2009 (as amended), with regard to storage facilities, concerning the protection of waters against pollution caused or induced by nitrates from agricultural sources. Developments will be required to comply with relevant measures, which operate to protect water quality from pollution by agricultural sources. The disposal and storage of agricultural waste shall comply with the standards required by Council.

CPO 9.41 To permit the development of new, appropriately located and designed agricultural buildings, which are necessary for the efficient and environmentally sound use of the agricultural practice. New buildings will generally only be permitted in cases where there are no suitable redundant buildings on the farm holding which would accommodate the development and where the Council is satisfied that the proposal is necessary for the efficient operation of the farm. Developments shall be compatible with the protection of rural amenities, and should not create a visual intrusion in the landscape or be the cause of an environmental nuisance.

5.1.3. Chapter 17 relates to 'Natural Heritage and Biodiversity' with Section 17.3 having regard to 'Landscape'. In terms of Wicklow's landscape categories, the subject site is located within Hierarchy 5 with a Landscape Category defined as "Lowlands". According to the Development Plan, Rolling Lowlands as defined as the gently rolling and undulating countryside best described as low-lying when compared to the rest of the terrain in Co. Wicklow. These landscape areas are generally located adjacent to the corridor zone or surrounded by more elevated lands within the 'Area of High Amenity'. The Rolling Lowlands are made up of 6 areas in County Wicklow with the following relevant to the subject site - 'south of Shillelagh, surrounding the Carnew area and adjoining the more elevated lands within County Wexford'.

5.1.5. Section 17.4 sets out the Natural Heritage & Biodiversity Objectives and the following are considered to be relevant:

CPO 17.1: To protect, sustainably manage and enhance the natural heritage, biodiversity, geological heritage, landscape and environment of County Wicklow in recognition of its importance for nature conservation and biodiversity and as a non-renewable resource.

CPO 17.2: Ensure the protection of ecosystems and ecosystem services by integrating full consideration of these into all decision making.

CPO 17.3: To support and promote the implementation of the County Wicklow Heritage Plan and the County Wicklow Biodiversity Action Plan.

CPO 17.35: All development proposals shall have regard to the County landscape classification hierarchy in particular the key landscape features and characteristics identified in the Wicklow Landscape Assessment (set in Volume 3 of the 2016 County Development Plan) and the 'Key Development Considerations' set out for each landscape area set out in Section 5 of the Wicklow Landscape Assessment.

5.1.6. Volume 3 of the Development Plan contains Appendix 1: 'Development and Design Standards' and Section 4.3.4 relates to Agriculture.

5.2. Natural Heritage Designations

5.2.1. The appeal site is not located within any designated Natura 2000 sites. The nearest designated site (as the crow flies) is the Slaney River Valley Special Area of Conservation (Site Code: 000781) which is located approximately 0.79km to the east of the site. The Slaney River is also a Proposed Natural Heritage Area which is 6.4km to the southwest of the appeal site. The Valley Blackstairs Mountains Special Area of Conservation (Site Code: 000770) is the next closest designated site and is approximately 14.55km to the southwest of the site and is also indicated as a proposed National Heritage Area (pNHA). The Tomnafinnoge Wood Proposed Natural Heritage Area (Site Code: 001852) is approximately 12.15km to the south of the site. The Slaney River Valley Proposed Natural Heritage Area is approximately 5.9km northeast of the appeal site.

5.3. EIA Screening

5.3.1. The subject development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of this report.

6.0 The Appeal

6.1. Grounds of Appeal

The Third Party appeal has been received in relation to the Planning Authority's decision to grant retention and permission. The grounds of appeal can be summarised as follows:

- The Planner chose to ignore caselaw in relation to the Habitats Directive included with the submission.
- An Bord Pleanála has three distinct set of legal tasks when it deals with an application such as this one.
- It must examine the application to ascertain if the contents of the application comply with the Planning & Development Regulations, in particular Articles 22 and 23 of the Regulations.
- It must assess the planning merits of the application in accordance with the Planning and Development Act 2000 (as amended) to ensure that the proposed development is in accordance with the proper planning and sustainable development of the area.
- It must examine the EIAR to ascertain full compliance with the information referred to in Article 4(4) of the EIA Directive.
- The Board is required to form and record a view as to the environmental impacts of the development, considering the EIA Report (EIAR) if furnished by the Applicant, the views of the public concerned and applying its own expertise or to screen the development for EIA.

- An Bord Pleanála is the competent authority having responsibilities under the Habitats Directive. This responsibility is to screen development under Article 6.3 and to make a decision as required under 6.3.
- Reference made to the legal case for screening found in AG Sharpston in the opinion to 259/11 to Sweetman & Others v An Bord Pleanála stating: *"47. It follows that the possibility of there being a significant effect on the site will generate the need for an appropriate assessment for the purposes of Article 6(3). The requirement at this stage that the plan or project be likely to have a significant effect is thus a trigger for the obligation to carry out an appropriate assessment. There is no need to establish such an effect; it is, as Ireland observes, merely necessary to determine that there may be such an effect."*
- The above is implemented into Irish law by Finlay Geoghegan J. in Kelly -v- An Bord Pleanála [2014] IEHC 400 (25 July 2014) at "26. *There is a dispute between the parties as to the precise obligations imposed on the Board in relation to the stage 1 screening by s. 1777U but its resolution is not strictly necessary in these proceedings. There is agreement on the nature and purpose of the screening process which is well explained by Advocate General Sharpston in Case C-258/11 Sweetman at paras 47-49:*

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

- On the basis of the total lack of certainty in the information submitted it is not possible for An Bord Pleanála to make a decision to grant permission which would comply with - *"So far as concerns the assessment carried out under Article 6(3) of the Habitats Directive, it should be pointed out that it cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned."*
- The Appropriate Assessment threshold that any decision to grant permission must pass as explained in paragraph 44 of CJEU Case 258/11.

- This is a strict standard and An Bord Pleanála does not have legal jurisdiction to give permission if it is not met.

6.2. Applicant Response

6.2.1. A response has been received from the applicant which is summarised as follows:

- The appellant is a well-known serial objector and has submitted observations to several different planning applications throughout Ireland and objected to An Bord Pleanála on several occasions.
- The Planners Report considered the development in relation to AA and EIA.
- The farm is compliant with the Nitrates Directive and has adequate storage facilities on site and there is sufficient lands on the applicant's landholding for spreading of slurry and dung produced on the farm.
- A revised Site Layout Plan submitted in response to the Request for Further Information showed a channel to the proposed slatted tank for collecting seepage and the shed was verified as being constructed in accordance with Departmental specifications.

6.3. Planning Authority Response

- None.

6.4. Observations

- None.

7.0 Assessment

Having examined the application details, the appeal and all other documentation on file, the report(s) of the Planning Authority, having conducted an inspection of the site, and having reviewed relevant planning policies and guidance, I am satisfied that the main issues to be considered are those raised by the Third Party. I consider that no other substantive issues arise. This appeal can be addressed under the following relevant headings:

- Principle of Development
- Water Quality
- Appropriate Assessment (Screening)

7.1. Principle of Development

7.1.1. The appeal site is located in a rural area of County Wicklow where the prevailing land use is agriculture. The subject development is located within an established farmyard which contains a number of agricultural buildings. It is my opinion that the principle of agricultural structures in rural locations is generally acknowledged. I am therefore satisfied, having regard to the scale and the intended use of the proposed development for agricultural purposes, that the subject is consistent with use of the immediate context and would be acceptable.

7.1.2. In addition, from a design and visual impact perspective, I consider that the proposed shed (318sq.m) and the 2 no. conjoined sheds (1,104sq.m) to be retained present a conventional agricultural design and external materials which are in keeping with farm buildings. I am of the view that the subject development would read as a limited extension to the existing farm complex. To this end, I am satisfied that the site and surrounding area can absorb the scale, form and massing of the subject development and the buildings will integrate into the receiving environment without detrimental or adverse impact to the visual or scenic amenity of the area.

7.2. Water Quality

7.2.1. The subject development indicates an existing water connection to a well. The 2 no. sheds to be retained are loose houses and the proposed shed will provide an effluent storage tank beneath a slatted floor which will capture effluent generated by livestock when housed in the shed. The particulars submitted with the appeal file indicate that current livestock numbers will not be increased as a result of the development and that new tank will give increased slurry storage capacity which will allow for great flexibility at the end of the closed period if weather conditions are not suitable for spreading.

7.2.2. Rainwater from the roofs of the subject development is indicated as being captured in the existing surface water management system which is detailed as being piped to a natural outfall to the south of the farmyard. The soiled water drainage from the proposed shed will be directed into the proposed effluent tank beneath and the soiled water from the sheds to be retained will be conveyed through a channel to the proposed effluent tank. This channel has been conditioned by the Planning Authority to be constructed as per Section 2.10 of S123 Minimum Specification for Bovine

Livestock Units and Reinforced Tanks. I consider that the channel would be appropriate for ensuring that any seepage from the loose cattle sheds to be retained will be captured and directed to the new tank. Based on the information submitted with the appeal file, I consider that the effluent treatment/collection proposed would be appropriate for the collection of soiled water and would mitigate against pollution threats to the ground water.

7.2.3. As noted, livestock numbers are not to be increased as a result of this development and the carrying out of land spreading does not form a specified part of this application. In this regard, I note that any subsequent, land spreading would be regulated by the provisions of S.I. No. 113/2022 entitled “European Union (Good Practice for Protection of Waters) Regulations 2022” (as amended). The regulations contain specific measures to protect surface waters and groundwater from nutrient pollution arising from agricultural sources.

7.2.4. In addition, the potential risks to water quality arising from either the construction and/or operational phases of the proposed shed and the 2 no. sheds to be retained is considered in the Screening for Appropriate Assessment Determination (see Appendix 2). To this end, I recommend that the Board’s standard conditions for agricultural structures, which are more succinct, be included should the Board be minded to grant permission for the subject development.

8.0 Water Framework Directive

8.1. The subject site is located within an existing farmyard in the townland of Balisland in a rural area of Co. Wicklow. The works for permission and retention is located approximately 325 metres to the east of a water course, indicated as the “Drummin 12” and “Derry_050” on respective data, which enters the River Derry roughly 970 metres to the south of the site (as the crow flies). The River Derry, in turn joins the River Slaney some 9.7km to the southwest. According to available information, the Derry_050 was in ‘Good Status’ and that its current Water Framework Directive is under review. In addition, the Groundwater Body is indicated as the Ballyglass which is stated as being ‘At Risk’ of not meeting their Water Framework Directive objectives.

8.2. I have assessed the subject development comprising the retention of 2 no. cattle sheds and permission to construct a slatted cattle shed and concrete aprons and all associated site works in an existing farmyard at Balisland, Co. Wicklow and have

considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively. The reason for this conclusion is as follows:

- Nature of works subject to the subject development and its setting within an established farmyard complex; and,
- The location and distance of the development from nearest water bodies.

Conclusion

- 8.3. I therefore conclude that on the basis of objective information, the subject development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

9.0 Appropriate Assessment (Screening)

- 9.1. Please refer to Appendix 2 of this report which contains a Screening for Appropriate Assessment Determination where I have concluded the following:
- 9.2. 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:
- 9.3. The subject 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:

- The nature and extent of the subject development;
- The distance from European Sites;
- The weakness of connectivity between the development and European Sites; and,

- Standard pollution controls that would be employed regardless of proximity to a European site and effectiveness of same.

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

10.0 Recommendation

- 10.1. I recommend that planning permission and retention for the subject development be GRANTED for the reasons and considerations set out below.

11.0 Reasons and Considerations

- 11.1. Having regard to the location of the subject development within an established farmyard complex and the scale of the sheds to be retained and the shed proposed, it is considered that, subject to compliance with the conditions as set out below, the subject development would be an appropriate land use in this predominantly agricultural rural area and would not seriously injure the visual or scenic amenity of the area and would be acceptable in terms of public health and environmental sustainability. The subject development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be carried out and retained 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 22nd April 2024, 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 use of the proposed shed and the sheds to be retained shall be for agricultural purposes only. The buildings shall not be used for human habitation or any commercial purpose other than a purpose incidental to farming, whether or not such use might otherwise constitute exempted development.

Reason: In the interest of orderly development.

3. All storage facilities for farmyard effluent shall:

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

b) designed and constructed in accordance with the Department of Agriculture, Food, and the Marine specifications as per the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2022 (S.I 113 of 2022).

Reason: In the interest of environmental protection, pollution control and in the interest of public health and residential amenity.

- 4. All soiled waters and slurry generated by the subject development shall be conveyed through properly constructed channels to the to the slatted effluent tank. No soiled waters or slurry shall discharge or be allowed to discharge to any drainage channel, stream, watercourse or to the public road. Drainage channel details shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.**

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

- 5. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains or to appropriately sized soakaways. Uncontaminated waters shall not be allowed to discharge to soiled water and/or slurry tanks or to the public road.**

Reason: In order to ensure that the capacity of soiled water tanks are reserved for their specific purposes.

- 6. The spreading of slurry or manure from this facility shall comply with the Requirements of the European Union (Good Agricultural Practices for the Protection of Waters) Regulations 2022, or as otherwise updated.**

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

- 7. Details of the materials, colours and textures of all the external finishes for the proposed shed shall be as submitted with the application, unless otherwise agreed**

in writing with, the Planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

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.

Matthew O Connor

Planning Inspector

29th May 2025

Appendix 1

Form 1 - EIA Pre-Screening

Case Reference	ABP-319798-24
Proposed Development Summary	Retention of 2 cattle sheds and associated works and construction of a cattle shed with all associated works.
Development Address	Balisland, Shillelagh, Co. Wicklow
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in <u>Part 1</u>, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1 .	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1 Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Appendix 2

AA Screening Determination (Appendix to Main Report)

Screening for Appropriate Assessment Screening Determination

Step 1: Description of the project

I have considered the subject development comprising the retention of 2 no. cattle sheds and permission to construct a slatted cattle shed and concrete aprons and all associated site works in an existing farmyard in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The subject site is on agricultural lands in a rural area. The bedrock aquifer type is indicated as 'Locally Important' with bedrock which is moderately productive only in local zones. It is indicated as having between a 'High' and 'Extreme' vulnerability whereby groundwater has natural characteristic that make it highly/extremely vulnerable to contamination by human activities. The Groundwater Body is indicated as the Ballyglass which is stated as being 'At Risk'.

The nearest watercourse indicated on EPA mapping to the subject lands is identified as being approximately 325 metres to the west of the site and is listed as the "Drummin 12" by the EPA. However, as a point of note, this watercourse is also indicated as the "Derry_050" for other records/values. The River Derry ("Derry_050") is approximately 650 metres, at its closest point, to the east of the appeal site and flows in a southwestern direction where it is roughly 900 metres to the south of the site before flowing for a further 9.7km where it joins the River Slaney.

The River Derry forms part of the Slaney River Valley Special Area of Conservation (Site Code: 000781) and therefore, at its closest point, this Natura 2000 site located approximately 800 metres to the east of the appeal site but flows in a southwestern direction where it lies generally 970 metres to the south of the appeal site.

I note that the grounds of the Third Party state that An Bord Pleanála has a set of distinct tasks when considering the subject development. The development must comply with the Planning & Development Regulations 2001 (as amended); the application must be assessed in accordance with the Planning & Development Act 2000 (as amended); examine the Environmental Impact Assessment Directive; and is the competent authority having responsibilities under the Habitats Directive and is therefore required to screen developments under Article 6(3) so as to make a decision under this provision. I note that it was indicated in the Third Party observation submitted at application stage that the subject development is within the Zone of Influence of the Slaney River Valley SAC (Site Code: 000781) and that Appropriate Assessment is required. Furthermore, as the application is for retention, it must be ascertained if there is compliance with the Nitrates Directive.

I have taken the contents of the Third Party appeal into account in the following AA Screening Assessment.

Step 2: Potential impact mechanisms from the project

Having regard to the subject development in terms of the characteristics of its location and the extent/scale of works, I consider that the following impact mechanisms would be potentially generated on the European Site:

- Uncontrolled release of pollutants to ground water (e.g. run-off bearing silt, fuel/ oils and concretes) during the construction of the shed(s), the slatted tank and concrete apron area to water quality sensitive habitats of the Slaney River Valley SAC (Site Code: 000781).
- Potential for the release of effluent (e.g. stray fodder and spilt slurry) generated by the development at operational stage via surface water and ground water and subsequent impacts on water quality sensitive habitats of the Slaney River Valley SAC (Site Code: 000781).

As referred to above, the Slaney River Valley SAC is approximately 650 metres, at its closest point, to the east of the appeal site and approximately 900 (as the crow flies) to the south of the appeal site. There are no drainage ditches on the appeal site however, it is likely that there are drainage ditches in the vicinity of the appeal site which would drain to other surrounding surface water bodies, which connect to the River Derry (forming part of the River Slaney Valley SAC). As such, potential impact mechanisms include those from surface water pollution from any construction works (silt/ hydrocarbon/construction-related), resulting in a deterioration of water quality. In addition, spillage of effluent from the sheds and/or the associated effluent tank could impact on surface water bodies, as could additional contaminated surface water run-off from additional hardsurfaced areas.

Additionally, the underlying bedrock aquifer type is indicated as 'Locally Important' with a 'high' to 'extreme' vulnerability. With reference to EPA mapping, the appeal site is within the same groundwater body (Ballyglass) as parts of the River Slaney Valley SAC, and therefore groundwater pollution as a result of construction activity and operational activity may also be a potential pathway between the appeal site and the River Slaney Valley SAC and thus represents a potential impact mechanism.

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

Step 3: 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	Via drains to ditches which eventually flow to the River Slaney Valley SAC	Slaney River Valley SAC	• Freshwater pearl mussel (<i>Margaritifera margaritifera</i>) [1029]

Indirect groundwater pollution	Infiltration to groundwater via the Ballyglass Groundwater Body	<ul style="list-style-type: none"> • Sea lamprey (<i>Petromyzon marinus</i>) [1095] • Brook lamprey (<i>Lampetra planeri</i>) [1096] • River lamprey (<i>Lampetra fluviatilis</i>) [1099] • Twaité shad (<i>Alosa fallax</i>) [1103] • Atlantic Salmon (<i>Salmo salar</i>) [1106] only in fresh water • Estuaries [1130] • Mudflats and sandflats - not covered by seawater at low tide [1140] • Otter (<i>Lutra lutra</i>) [1355] • Harbour Seal (<i>Phoca vitulina</i>) [1355] • Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260] • Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] • *Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]
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Slaney River Valley SAC (Site Code: 000781)

Having regard to the relevant 'Site Synopsis' on the NPWS website, this site comprises the freshwater stretches of the River Slaney as far as the Wicklow Mountains; a number of tributaries, the larger of which include the Bann, Boro, Glasha, Clody, Derry, Derreen, Douglas and Carrigower Rivers; the estuary at Ferrycarrig; and Wexford Harbour. In the upper and central regions almost as far as the confluence with the Derry River the geology consists of granite. The Derry and Bann Rivers are bounded by a narrow line of uplands which corresponds to schist outcrops.

The site supports populations of several species listed on Annex II of the E.U. Habitats Directive, including Sea Lamprey, River Lamprey and Brook Lamprey,

Otter, Salmon, small numbers of Freshwater Pearl Mussel, and in the tidal stretches, Twaite Shad. The Slaney is primarily a spring salmon fishery and is regarded as one of the top rivers in Ireland for early spring fishing. The upper Slaney and tributary headwaters are very important for spawning.

Agriculture is the main land use. Arable crops are important. Improved grassland and silage account for much of the remainder. The spreading of slurry and fertiliser poses a threat to the water quality of this salmonid river and to the populations of E.U. Habitats Directive Annex II animal species within it. Run-off is undoubtedly occurring, as some of the fields slope steeply directly to the river bank.

Waste water outflows, runoff from intensive agricultural enterprises and other uses such as landfill and industrial development could all have potential adverse impacts on the water quality unless they are carefully managed.

The site supports populations of several species listed on Annex II of the E.U. Habitats Directive, and habitats listed on Annex I of this Directive, as well as important numbers of wintering wildfowl including some species listed on Annex I of the E.U. Birds Directive. The presence of wet and broadleaved woodlands increases the overall habitat diversity and the occurrence of a number of Red Data Book plant and animal species adds further importance to the site.

Overall, it is of considerable conservation significance.

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)	Could the conservation objectives be undermined (Y/N)?	
		Effect A (Indirect ground water pollution)	Effect B (Indirect ground water pollution)
Slaney River Valley SAC			
Freshwater pearl mussel (<i>Margaritifera margaritifera</i>) [1029]	Under Reivew.	No. Please see explanation below	No. Please see explanation below
Sea lamprey (<i>Petromyzon marinus</i>) [1095]	To restore the favourable conservation condition of Sea lamprey in this SAC	No. Please see explanation below	No. Please see explanation below
Brook lamprey (<i>Lampetra planeri</i>) [1096]	To restore the favourable conservation condition of Brook lamprey in this SAC	No. Please see explanation below	No. Please see explanation below
River lamprey (<i>Lampetra fluviatilis</i>) [1099]	To restore the favourable conservation condition of River lamprey in this SAC	No. Please see explanation below	No. Please see explanation below
Twaite shad (<i>Alosa fallax</i>) [1103]	To restore the favourable conservation condition of Twaite shad in this SAC	No. Please see explanation below	No. Please see explanation below
Atlantic Salmon (<i>Salmo salar</i>) [1106] only in fresh water	To restore the favourable conservation condition of Salmon in the River Barrow and River Nore SAC	No. Please see explanation below	No. Please see explanation below

Estuaries [1130]	To maintain the favourable conservation condition of Estuaries in this SAC	No. Please see explanation below	No. Please see explanation below
Mudflats and sandflats - not covered by seawater at low tide [1140]	To maintain the favourable conservation condition of the Mudflats and sandflats not covered by seawater at low tide in this SAC	No. Please see explanation below	No. Please see explanation below
Otter (<i>Lutra lutra</i>) [1355]	To restore the favourable conservation condition of Otter in this SAC	No. Please see explanation below	No. Please see explanation below
Harbour Seal (<i>Phoca vitulina</i>) [1365]	To maintain the favourable conservation condition of Harbour Seal in this SAC	No. Please see explanation below	No. Please see explanation below
Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]	To restore the favourable conservation condition of Atlantic salt meadows in this SAC	No. Please see explanation below	No. Please see explanation below
Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]	To restore the favourable conservation condition of Mediterranean salt meadows in this SAC	No. Please see explanation below	No. Please see explanation below
Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]	To maintain the favourable conservation condition of Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation in this SAC	No. Please see explanation below	No. Please see explanation below
Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	To restore the favourable conservation condition of Old oak woodland with Ilex and Blechnum in this SAC	No. Please see explanation below	No. Please see explanation below
* Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0]	To restore the favourable conservation condition of Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) in this SAC	No. Please see explanation below	No. Please see explanation below

Surface Water

In terms of surface water, the rain water run-off from the roofs of the sheds to be retained and the proposed shed will be collected into an existing piped network on the farmyard and will outfall from the farmyard. It will therefore be separate to any soiled water.

Soiled water drainage from the proposed shed will be directed into the proposed effluent tank. The soiled water from the sheds to be retained will also be conveyed through a channel to the proposed effluent tank.

I note that standard best practice construction measures would be employed at construction stage to prevent pollutants entering any drains which may eventually

outflow towards watercourses which eventually connect to the European Site. To this end, any significant impacts on water quality within the River Slaney Valley SAC resulting from any potential contaminated surface water run-off are unlikely as it is my consideration that any potential pollutants which may outflow from the subject development to the drains and subsequently entering any watercourses would be subject to various dilution and dispersion.

Furthermore, standard condition(s) will require the surface water system to be designed to the satisfaction of the Planning Authority and this drainage system will be designed so as to prevent contaminated storm/surface water entering the drains and by association any watercourses. The attachment of drainage condition(s), in my view, is a standard pollution control measure and would be included on any development of this nature, notwithstanding any proximity to, or any hydrological connections to, a designated Natura 2000 site. I note that this is not a mitigation measure that is designed specifically to avoid impacts on any designated Natura 2000 site(s).

At operational stage, effluent generated from the subject development would be directed to the proposed effluent tank. This effluent storage tank would be required to be designed and sealed in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations (as amended). I consider that this arrangement for storage would enable water quality within the River Slaney Valley SAC to be protected.

The Board shall note that the carrying out of land spreading does not form a specified part of this application. The particulars submitted with the appeal file indicate that livestock numbers will not be increased as a result of the subject development but that the new tank will give increased slurry storage capacity which will allow for great flexibility at the end of the closed period if weather conditions are not suitable for spreading. In this regard, I note that the application of fertilisers is regulated under the European Union (Good Agricultural Practice for Protection of Waters) Regulations (2022). These regulations contain specific measures to protect surface waters and groundwater from nutrient pollution arising from agricultural sources.

Ground Water

In relation to potential ground water impacts, I note that the subject development would not require significant excavations other than the groundworks associated with the construction effluent storage tank and excavation of the proposed shed and associated concrete apron. Best practice construction measures will serve to protect and prevent pollutants from entering groundwater. Even if these standard construction measures should not be fully implemented or should they fail to work as intended, the potential indirect hydrological link via groundwater represents a weak ecological connection given the distance to the nearest European Site. As such, should any pollutants from the site enter the groundwater via spillage onto the overlying soils or by way of spillage into nearby ditches, it will be subject to dilution and dispersion within the groundwater body, rendering any significant impacts on water quality within the River Barrow and River Nore SAC unlikely.

At operational stage, and as outlined with regard to the surface water impacts, the effluent storage tank is required to be designed and sealed in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations (2022) and in this manner ground water quality will be protected. I note the best practice measures that would be adhered to at construction stage, and the relevant regulations and standard conditions that will be required to be adhered to at operational 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 designated Natura 2000 site.

I further note the Planning Authority carried out an Appropriate Assessment Screening as part of their assessment but have not indicated any adverse effects to the integrity of any Natura 2000 areas.

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

I am satisfied that there are no records on the planning portal of Wicklow County Council which is indicative of any proposed/permitted projects that could result in impacts in combination with the subject development. Furthermore, having regard to the appeal file, I am satisfied that there is no available evidence in respect of any plans or projects that are proposed/permitted which could impact with the proposed development. As such, it is my opinion that no in-combination issues arise.

I conclude that the proposed development would have no likely significant effect in combination with other plans and projects on the qualifying features of any European site(s). 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, I conclude that:

the subject 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:

- The nature and extent of the subject development;
- The distance from European Sites;
- The weakness of connectivity between the development and European Sites; and,
- Standard pollution controls that would be employed regardless of proximity to a European site and effectiveness of same.

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