An Bord Pleanála

Planning Appeal Form

Your details

1. Appellant's details (person making the appeal)

Your full details:

(a) Name — Country Crest ULC

(b) Address — Rathmoney, Lusk, Co. Dublin

Agent's details

2. Agent's details (if applicable)

If an agent is acting for you, please **also** provide their details below. If you are not using an agent, please write "Not applicable" below.

(a) Agent's name — Geraldine Fahy, Ger Fahy Planning

(b) Agent's address — Mulhussey, Maynooth, Co. Kildare w23x8x5

AN BORD PLEANÁLA
LDG-
ABP-
19 MAR 2025
Fee: € 3,000 Type: CL
Time: 1:42 By: Courier

Postal address for letters

3. During the appeal we will post information and items to you **or** to your agent. For this appeal, who should we write to? (Please tick ✓ one box only.)

You (the appellant) at the address in Part 1	☐	**The agent at the address in Part 2**	✓

Details about the proposed development

4. Please provide details about the planning authority decision you wish to appeal. If you want, you can include a copy of the planning authority's decision as the appeal details.

(a) Planning authority

(for example: Ballytown City Council)

Fingal County Council

(b) Planning authority register reference number

(for example: 18/0123)

F24A/1162E

(c) Location of proposed development

(for example: 1 Main Street, Baile Fearainn, Co Ballytown)

Country Crest, Collinstown, Lusk, Co. Dublin

Appeal details

5. Please describe the grounds of your appeal (planning reasons and arguments). You can type or write them in the space below or you can attach them separately.

See appeal report.

Supporting material

6. If you wish you can include supporting materials with your appeal. Supporting materials include:

- photographs,
- plans,
- surveys,
- drawings,
- digital videos or DVDs,
- technical guidance, or
- other supporting materials.

Acknowledgement from planning authority (third party appeals)

7. If you are making a third party appeal, you **must** include the acknowledgment document that the planning authority gave to you to confirm you made a submission to it.

Fee

8. You **must** make sure that the correct fee is included with your appeal. You can find out the correct fee to include in our Fees and Charges Guide on our website.

Oral hearing request

9. If you wish to request the Board to hold an oral hearing on your appeal, please tick the "yes, I wish to request an oral hearing" box below.

Please note you will have to pay an **additional non-refundable fee** of €50. You can find information on how to make this request on our website or by contacting us.

If you do not wish to request an oral hearing, please tick the "No, I do not wish to request an oral hearing" box.

Yes, I wish to request an oral hearing ☐

No, I do not wish to request an oral hearing ☑

Save as draft Discard changes

Copy of Country Crest - Anaerobic Digestion Facility

If you have any questions, please see our FAQs (https://planning.localgov.ie/sites/default/files/contentPage/attachments/lgma_faqs.pdf) page

This site allows electronic applications to all local authorities apart from Cork and Wexford - see the 'about' page for more info.

1. Application Details (/en/applications/edit/65241d3e-0407-11f0-a325-b5ccdca00e55/application_details)

Application Details

Place | Proposal | People | Supporting documents | Payment

Applicant Name and Contact Address

"The applicant" means the person seeking the planning permission, not an agent acting on his or her behalf. If the applicant is a company (e.g. Chemtech Industrial Products Ltd), please input first part of the company name into the "Applicant Forename" field (e.g. Chemtech Industrial) and second part of the company name into the "Applicant Surname" field (e.g. Products Ltd)

Applicant Forename*

Country Crest

Applicant Surname*

ULC

Applicant Address Line 1*

Rathmooney

Applicant Address Line 2*

Lusk

Applicant Address Line 3*

Co. Dublin

Eircode

Irish Addresses Only. Please input correct format, e.g. D02 A272 or D02A272

Applicant email

michael@countrycrest.ie

Applicant Contact Details

Applicant Phone Number*

01-8437061

Applicant mobile

N/A

Where Applicant is a company (Registered under the Companies Act)

Is the applicant a company?*

(●) Yes ( ) No

Company Name*

Country Crest ULC

Company Address

Company Address Line 1*

Rathmooney

Company Address line 2*

Lusk

Company Address line 3*

Co. Dublin

Company Eircode*

Irish Addresses Only. Please input correct format. e.g. D02 A272 or D02A272

Company Director Name*

Michael & Gabriel Hoey

Company Reg. Number*

203096

Person / Agent acting on behalf of the Applicant (if any)

Agent Name

Agent Forename

DFK Engineers

Agent Surname

DFK Engineers

Agent Address

Agent Address Line 1

Botanic Court

Agent Address Line 2

30-32 Botanic Road

Agent Address Line 3

Glasnevin

Eircode

D09W2V9

✔ Irish Addresses Only. Please input correct format, e.g. D02 A272 or D02A272

Agent Contact Details

Agent email address

mailroom@dfk.ie

Agent Contact number

018301852

☑ I understand/confirm that all email correspondence related to this application will be sent to mailroom@dfk.ie*

Drawing Details

Person Responsible for Drawings and Plans*

Emmet Finegan

Firm/Company*

Doherty Finegan Kelly

Where the plans have been drawn up by a firm/company the name of the person primarily responsible for the preparation of the drawings and plans, on behalf of that firm/company, should be given.

Legal Interest of Applicant in the Land or Structure

What is the Legal Interest in the Land or Structure*

Owner

✔ Save as draft | Discard changes

If you have any questions, please see our FAQs (https://planning.localgov.ie/sites/default/files/content-page/attachments/lgma_faqs.pdf) page

Ger Fahy Planning
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Appeal Re: Fingal County Council Reg. Ref.: F24A/1162E

Development of an Anaerobic Digestion (AD) Facility to produce a renewable biomethane gas for direct injection into the national gas grid on a site of circa 7.28 hectares at the townland of Collinstown, Lusk, Co Dublin. The development comprises of AD tanks and processing equipment, feedstock storage facilities and equipment, silage storage clamps, digestate management and storage facilities. Carbon dioxide from the production of this biomethane will be captured for reuse in the Irish food industry.

Decision Date: 20th February 2025
Final Date to Appeal: 19th March 2025
On behalf of
Country Crest ULC, Rathmoney, Lusk, Co. Dublin

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An Bord Pleanála,
64 Marlborough Street,
Dublin 1

19/03/2025

Re: First Party Appeal against the decision of Fingal County Council to refuse permission for the development of an Anaerobic Digestion (AD) Facility to produce a renewable biomethane gas for direct injection into the national gas grid on a site of circa 7.28 hectares at the townland of Collinstown, Lusk, Co Dublin. The development comprises of AD tanks and processing equipment, feedstock storage facilities and equipment, silage storage clamps, digestate management and storage facilities. Carbon dioxide from the production of this biomethane will be captured for reuse in the Irish food industry.

The proposed supporting infrastructure to be developed includes inter alia, 1 no. 45m diameter combined primary and secondary digestion tank (8.5m high, 7947m³ & 3981m³ respectively) & attached pumping unit, 1 no reception tank (5m high, 250 m³) & attached pumping unit, 1 no. 32m diameter power digest tank & attached gas sphere (12m high, 4.825m³ & 3130 m³ respectively) & attached pumping unit, 1 no. digestate separator building (119.5 m2), 1 no. pasteurization unit & hygenization buffer tank, 1 no. gas upgrading unit, 1 no. gas pre-treatment unit, 1 no. gas valve chamber, 1 no. gas flare (9m high), 1 no. GNI gas injection unit (25.1 m2) with an underground gas pipeline to the gas grid connection adjacent the site to the west, 1 no. combined heat and power unit, 2 no. boiler containers, 1 no. oxygen compound, 1 no. heat distribution container, 1 no. switchboard container, 1 no. carbon dioxide liquefaction unit, 2 no. weighbridges & integrated lever arms & access control & attached bio security units, 1 no. single-storey office and administration building (123 m2), 1 no. ESB sub-station (66 m2), 1 no. enclosed feedstock reception building (1527 m2), 1 no. odour abatement machinery (with 14m high chimney), Silage clamps (8m high), 1 no. machinery shed (309.4 m2), 1 no. services building (288.6 m2), 1 no. solid digestate storage building (484.1 m2), 2 no. covered digestate lagoons, attached pumping building (30 m2) and attached digestate loading-unloading areas, roof mounted solar arrays / photovoltaic panels, all associated car and bicycle parking, internal road layouts, earthen berms, site retaining walls, palisade fencing and boundary treatments, hard surface and bunded areas for housing supporting plant, processing and storage facilities and all associated site works. All accessed

by the existing Country Crest internal road network which uses as public roadway access point to the L1155 Man o War Road.

The facility requires an Industrial Emissions Licence from the EPA and is accompanied by a Natura Impact Statement (NIS) and an Environmental Impact Assessment Report (EIAR).

Fingal County Council Reg. Ref.:	**F24A/1162E**
Decision Date:	20th February 2025
Final Date to Appeal:	19th March 2025

Dear Sir/Madam,

We have been instructed by our client Country Crest ULC, Rathmooney, Lusk, Dublin, K45 NP03, to appeal against the decision of Fingal County Council (FCC) who by order dated 20th February decided to refuse to grant planning permission for the above proposed for the following reasons:

Reason No. 1

The proposed development involves the construction of a commercially operated anaerobic digestion (AD) facility. The proposed development would not be directly connected to the local rural community, nor would it serve the local rural economy, as evidently, the majority of the raw materials required by the AD process would be sourced from outside the local rural area.

The 'Anaerobic Digester' land-use is considered akin an 'Industrial' use of land, either 'General' or 'High Impact' as per Appendix 7 of the development plan. An 'Anaerobic Digester' use could also be characterised as an 'Agribusiness'. The proposed development is therefore considered to be unacceptable in principle as these uses are specifically precluded from areas zoned 'RU' as per the zoning objective, each being listed as a 'Not Permitted' land-use under the 'RU' land-use zoning objective. The proposed development would therefore be a material contravention of the 'RU' land-use zoning 'RU' land-use zoning objective of the Fingal Development Plan 2023-2029, and would be contrary to the proper planning and sustainable development for the area.

Reason No. 2

Having regard to the 'High-Lying Agricultural' landscape character type of the surrounding rural landscape, which is considered to be of 'High' landscape value and also considered to be 'High' in terms of sensitivity; and, having regard to the scale, height, design and layout of the proposed development and the limited visual impact information submitted as part of the applications, it is considered that when viewed collectively, the proposed network of buildings would cumulatively have a profoundly negative impact on the visual amenities of the application site and the

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surrounding area. The proposed development would be visually obtrusive and would seriously injure the amenities of the area and of property in the vicinity. The proposed development would therefore be contrary to the proper planning and sustainable development for the area.

Reason No. 3

The application has not provided a Road Safety Audit within the application submission. Given the proposed intensification of the local road network, the absence of a Road Safety Audit precludes the Local Authority from assessing the potential road safety risks associated with a development prior to the award of planning consent, and prior to the commencement of construction work. The applicant
has failed to demonstrate that the proposed development would adequately protect vulnerable pedestrians in close proximity to articulated vehicles with limited visibility performing difficult manoeuvres. In its current format the proposed development is therefore considered a traffic hazard and proposed development would therefore be contrary to the proper planning and sustainable development for the area.

In accordance with Section 127 of the Planning and Development Act, 2000 (as amended), this appeal is made in writing. The subject matter and grounds for this appeal are discussed below.
This appeal is accompanied by the appropriate fee of €3000.
This appeal is made to the Board within 4 weeks from the date of decision of the Planning Authority – by the 19th of March 2025.

For the purposes of this appeal we have inspected the site, consulted with our clients Country Crest, reviewed the planning history and assessed the proposed development in the context of the National, Regional and County Development Plan policies and objectives.

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1.0 Site Location/Description

The appeal site which has a stated area of 7.3 Hectares is located adjacent to the existing Hoey Farm in Collinstown, Lusk, Co. Dublin.

The overall complex is located c.1.5km north of Lusk town, c. 3.8km south-west of Skerries, c. 3.8km west of Loughshinny, c. 3.8km south of Balrothery, c. 4km north-west of Rush and c. 5.2km south of Balbriggan. The closest dwelling to the site is located approximately 130m to the south of the site.

Fig. 1: Map showing location of application site.

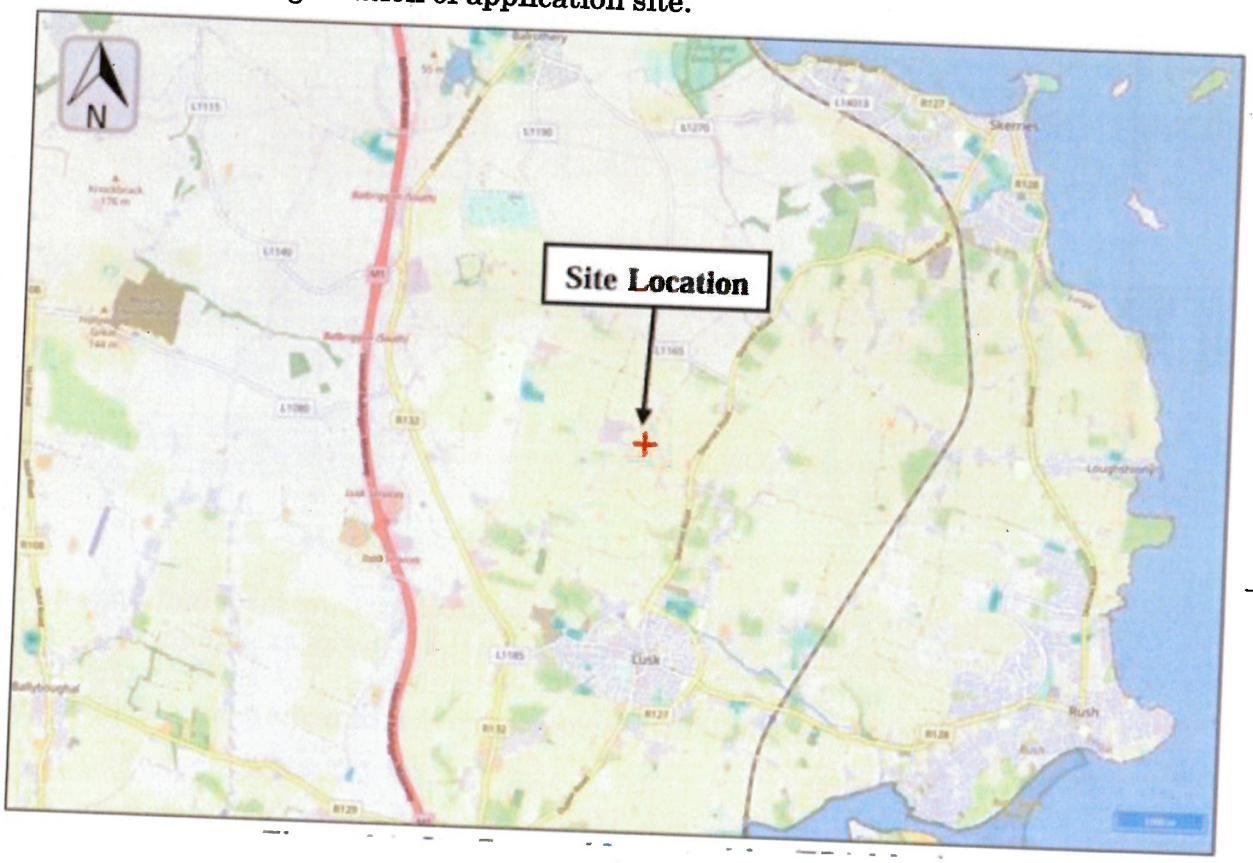

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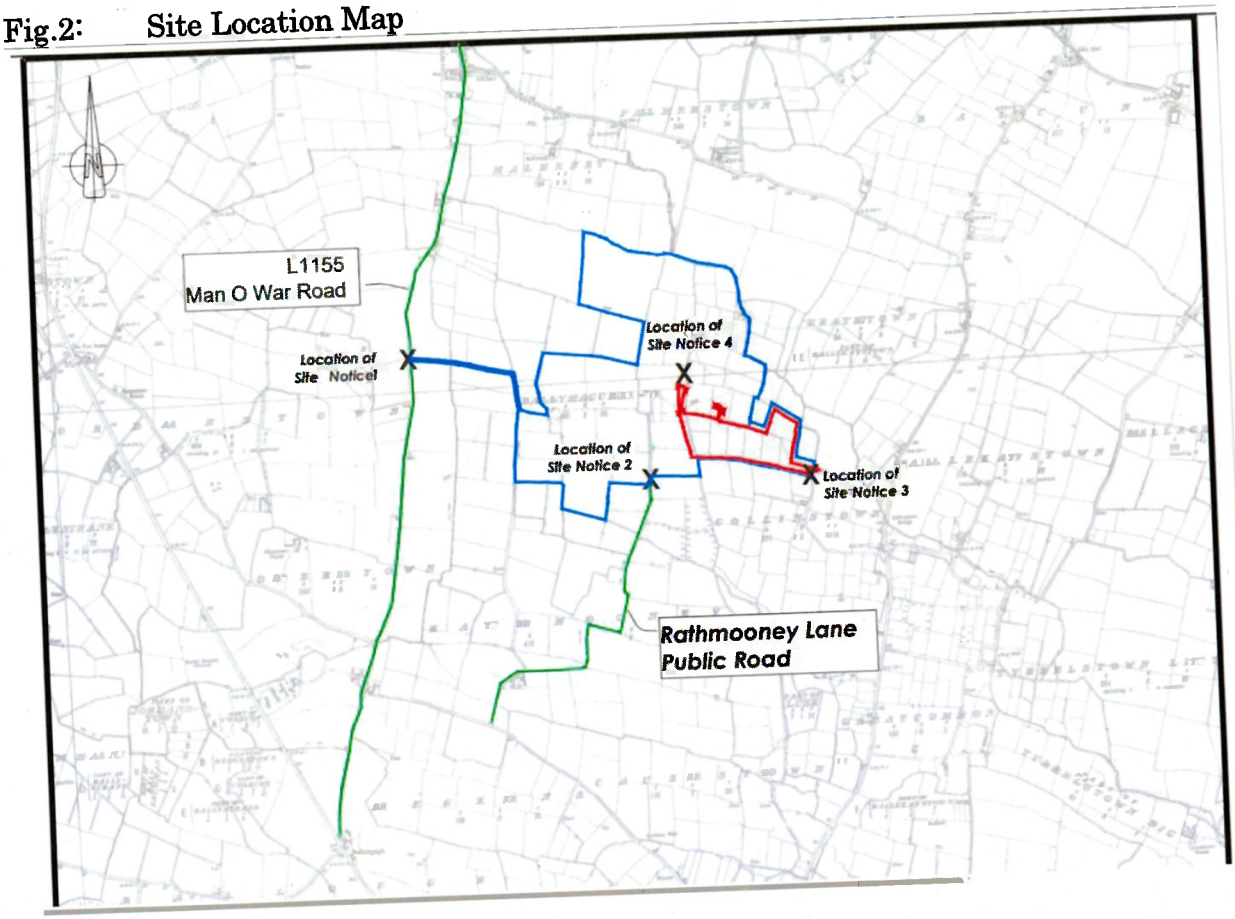
Fig.2: Site Location Map



The appeal site is situated to the east and south of existing farm buildings within the farmyard complex. The buildings to the north of the appeal site include a cattle shed, dungstead building and ancillary farm buildings. The existing onion store building and potato store building are located to the immediate west of the appeal site.

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Photo 1: Showing View of appeal site adjacent to existing farm and food park

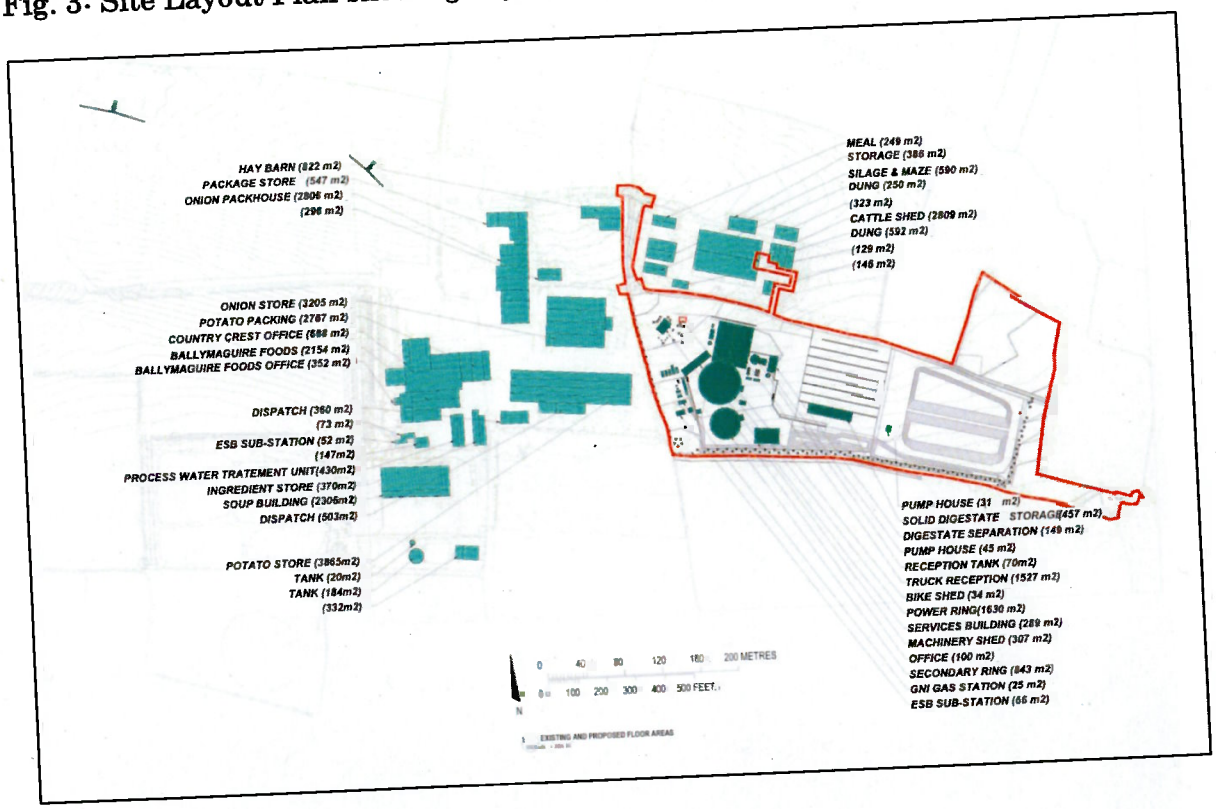
The attached site layout plan shows how existing site is divided into different very specific land uses with farming activities taking place to the east of the original Hoey family home and the food production taking place to the southwest. While the business is wholly integrated, from an operational perspective, food production and farming are quite different activities and both having very different biosecurity requirements in terms of hygiene. Whilst livestock and their associated manures are still a primary farming activity, they must be isolated from food production located on the Food Park zoned lands.

1.1 Access and Road Network

The main entrance to the site is from a c.1km long private access road situated off the L1155 to the west. This local road (L1155) connects to the R132 regional road, to the L1165 local road north of the site and to the R127 regional road to the east. The nearest motorway is the M1, which is accessed by R132. There is also a secondary entrance to the south of the site which provides access to a local road that leads to Quickpenny Road c.1.5km to the south.

The subject site also has a farm vehicle access from Skerries Road to the west via a cul-de-sac local access road which serves a handful of residential dwellings and some agricultural fields.

Fig. 3: Site Layout Plan showing adjoining farm buildings and agri-food park.



2.0 Background

The appeal site is located adjacent to the existing Hoey Farm which has been operating from this location for four generations. There is a saying from little apples orchards grow and similar could be said of the farming success story of the Hoey Brothers. Two brothers Michael and Gabriel Hoey were born and reared on this family farm in the house which is at the heart of the farmyard. They have been farming this land since they left school to farm with their father Michael Hoey. At the time their father owned 50 acres of land growing potatoes, vegetables, cereals and livestock.

Fig. 4: Geohive Map Showing Appeal Site in 1995

Over the years Michael and Gabriel's farm activities expanded, and they commenced renting neighbour's lands. From this expansion Country Crest Ltd was formed in 1993. In 1997 Tesco re-entered the Irish market. Michael and Gabriel successfully secured a tender to supply 50% of the potatoes sold by Tesco in 1998. They developed a potato pack house which included a washing and cold storage facility. Pre 2008 they held 50% of the Tesco Potato business, since 2008 they have held 100% of the potato business.

Fig. 5: Geohive Map showing appeal site in 1996

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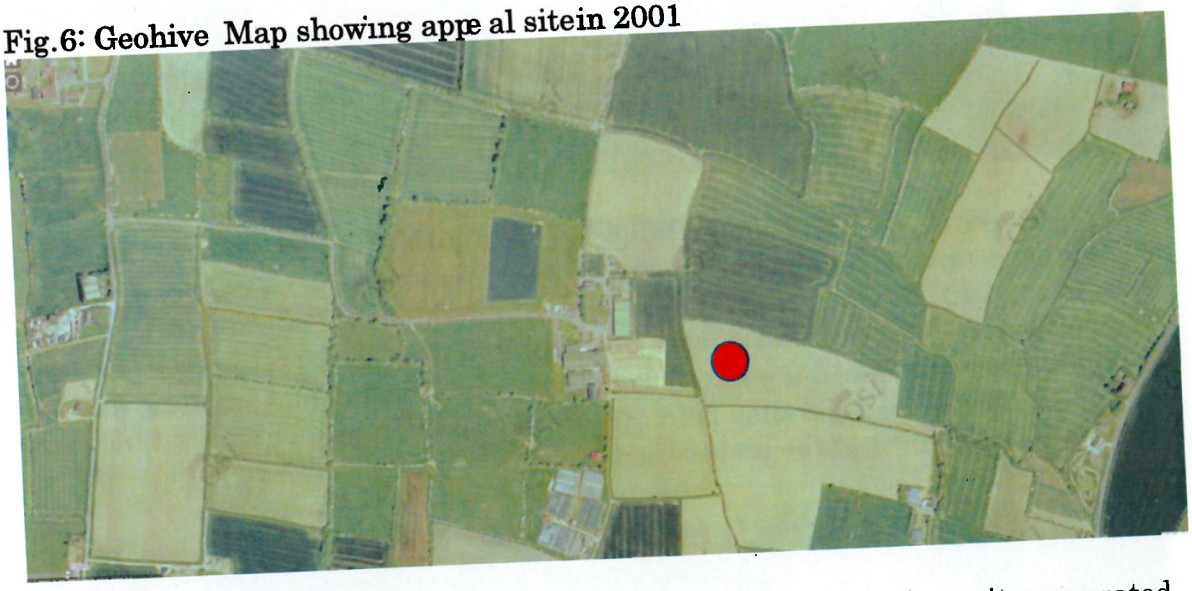
As part of the growth of the business of the farm they established Balcunnin Transport Ltd to manage product deliveries in house.
With their expansion of farming activities, they approached Tesco in 2005 to grow Irish onions. Since then, their onion business has grown, and they now supply 100% of all onions sold in Tesco in ROI. During out of season for Irish produce they import and pack onions for sale in store.

In 2008, the brothers developed Ballymaguire Foods to target the prepared foods growth in Ireland in line with changing customer demands. This value-added enterprise integrates seamlessly into the site where primary farming produce is diversified into precooked meal solutions.

Farming operations continued to expand to 3000 acres of farming production in any one year, concentrating on potatoes, onions, cereals and beef.

Fig.6: Geohive Map showing appe al sitein 2001



In 2009 Country Crest erected an 800KW wind turbine to supply onsite generated electricity.

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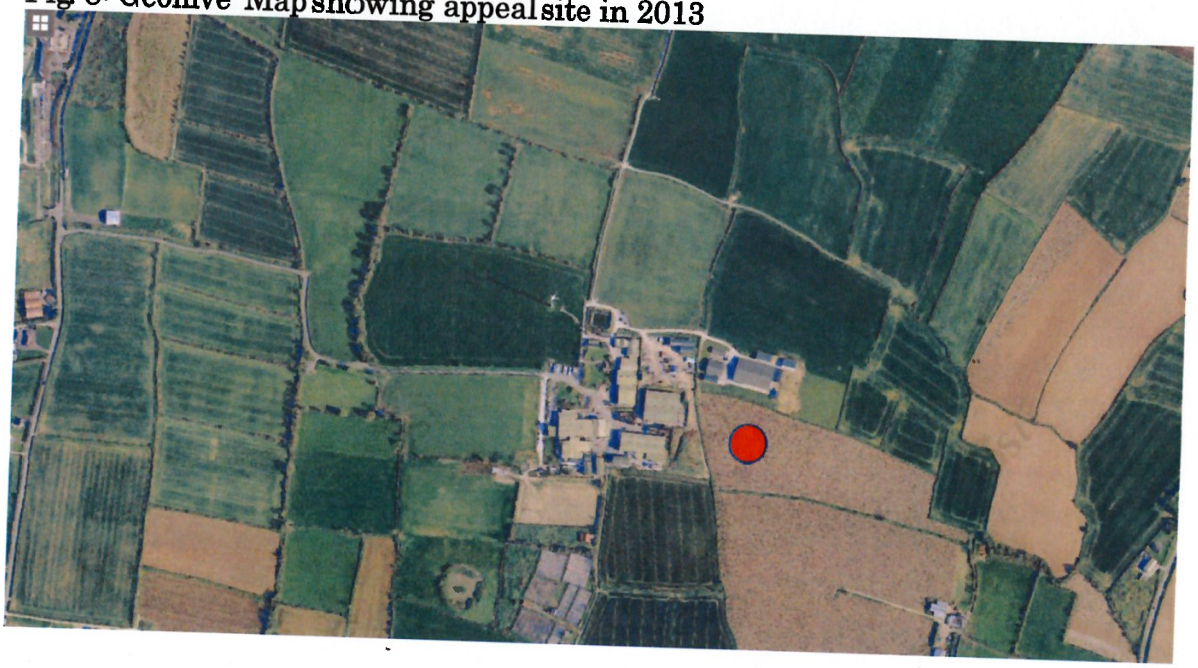
Fig. 7: Geohive Map showing appeal site in 2009

Subsequently Country Crest were invited to become one of the first members of Origin Green (national food and drink sustainability program) by Bord Bia.

In 2013 the farm developed an 18000m2 beef production yard to house 400 head of cattle.

Fig. 8: Geohive Map showing appeal site in 2013



In 2017 the business expanded into packing sweet potatoes for supply to Tesco.

Ballymaguire Foods began to develop further with an expansion of food production facilities on site.

Brexit and COVID drove supermarket trade for Irish sourced product which in turn boosts business onsite. New contracts are developed and signed with retailers and Ballymaguire Foods 2022 saw the third expansion of Ballymaguire Foods production Facilities including a roof mounted 234kw solar PV installation.

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In 2024, with a core emphasis on sustainability and sustainable practices a four-acre wetland was developed on site. In addition, planning permission for a 2.3 MW wind turbine was granted on RU zoned lands adjacent to the existing site which will be installed in July 2025.

The Ballymaguire Foods phase 3 production expansion will commence in 2025.

Fig. 9: Google Maps current view of Country Crest site and proposed AD site

The concept of "Farm to Fork" is clear in Country Crest Group, which is the largest employer in the Lusk area, employing 500 staff, supplying all major retailers in Ireland. Their farming and food production activities are operated by Country Crest, Ballymaguire Foods, Country Crest Arable, Country Crest Livestock and Balcunnin Transport. They supply approximately 30,000 tonnes of fresh produce in the form of potatoes, onions and sweet potatoes. They supply 500,000 fresh chilled meals and soups per week to the Irish market. Their long term established farming networks extend across the country from Cork to Donegal.

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Photo 2: Showing appeal site adjacent to existing farm buildings

Photo 3: Showing appeal site to the rear of the foodpark and farm

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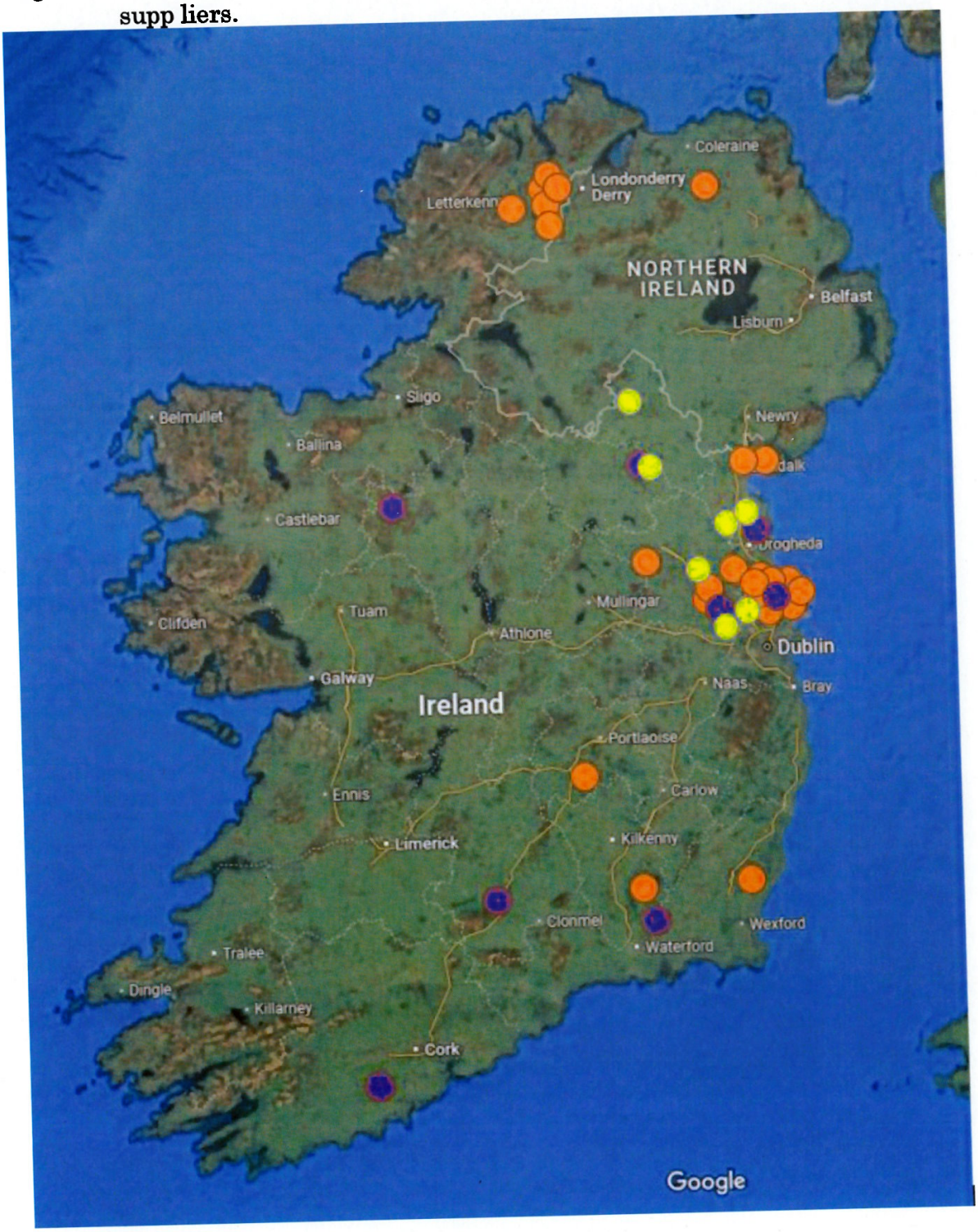
The map below shows the extent of farm produce networks which supply the site.

Location of Onion and Potato Growers:
Top 8 Ballymaguire Foods Fresh Foodingredient suppliers
Proposed AD Supplier s:

Fig. 10: Map of Ireland showing existing farming partnerships and proposed AD suppliers.



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From the foregoing it is clear that the Hoey brothers have over the past 40 years grown from a simple farming model to a state-of-the-art integrated Agri food production model where they farm potatoes, onions and cereals in combination with cattle rearing in Dublin, Kildare, Meath, Louth.

They have expanded from primary production to value added storage, grading and packing of fresh produce to supply retail multiples across Ireland and have expanded into the prepared meal business on lands zoned Food Park.

Country Crest Farming operations
2024 Production

Country Crest Arable

	Cereals	**Potatoes**	**Onions**
Tonnes	5700	8200	1800

Country Crest Livestock - existing cattle unit
1500 head of beef cattle finished

Feedstock ensiled and stored on existing cattle unit farm

Grass silage	3000t
Maize silage	1250t

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3.0 Relevant Planning History

FCC Reg.Ref.:	F06A/1167
Decision:	Grant
Decision Date:	05 Oct 2006
ABP Reg Ref:	PL 06F.220291
ABP Decision:	To Remove Condition(s)
ABP Decision Date:	12 Mar 2007
Description:	New Onion storage facility within a new 3,000 sq.m. single storey agricultural building with a 100 sq.m. adjoining plant room and all associated site works.

FCC Reg Ref.:	F06A/1198
Decision:	Grant
Decision Date:	11 Oct 2006
Description:	New single storey extension (27.5 sq.m.) to side of existing premises, consisting of new staff canteen kitchen, changing room and cleaners store and all associated site works.

FCC Reg Ref.:	F08A/0036
Decision:	Grant
Decision Date:	04 Apr 2008
Description:	The erection of ESB Substation, with adjoining switch room and associated site works to include new hard standing access road.

FCC Reg Ref.:	F08A/1140 (Not commenced)
Decision:	Grant
Decision Date	23 Apr 2009
Description:	Construct a single storey Agri-Business Facility (2191sqm), incorporating two storey internal ancillary office/staff accommodation (573 sqm), plant/switch/tool rooms (54sqm), (total floor area 2819 sqm), with all associated site works to include new access road, visitor/staff car parking, truck parking, marshalling area, covered loading bay, and new biocycle waste water treatment plant.

FCC Reg Ref:	F12A/0119 (F12A/0119/E1 ^ F12A/0119/E2)
Decision:	Grant
Decision Date:	12th April 2012
Description:	Anaerobic Digestion/Combined Heat and Power Facility (consisting of a) anaerobic digestion/combined heat and power plant 1,400sqm) containing two 10m high tanks, b) 7m high covered silage clamps (1,500sq.m) c) single storey office/laboratory unit (78sq.m) and d) all associated site development works.

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	(This was never developed due as the scale was deemed unviable for the investment required.

FCC Reg. Ref.:	F12A/0119/E2.
Decision:	Refused EOD
Description:	Extension of Duration of Permission for New Anaerobic Digestion/Combined Heat & Power facility as originally granted in F12A/0119.

FCC Reg. Ref.:	F12A/0119/E1.
Decision:	Granted EOD
Description:	Permission Granted for Extension of Duration of Permission for New Anaerobic Digestion/Combined Heat & Power facility as originally granted in F12A/0119.

FCC Reg. Ref.:	F14A/0072.
Decision:	Granted
Description:	Permission for a) 1,272sq.m grain store, b) 1,157sq.m combined machinery shed and workshop, c) 110sq.m single storey office and new wastewater treatment system and percolation area and all associated site works. Applicant – Gabriel Hoey.

FCC Reg. Ref.:	F14A/0413.
Decision:	Granted
Description:	New agri-business facility (4867sq.m) incorporating two storey internal ancillary office/staff accommodation (346sq.m) and ancillary plant/switch/storage rooms (128 sqm), for a total floor area of 5,341sq.m, including new access road within the site, new waste water treatment system and associated site works. This facility was not built at the time. Applicant - Gabriel Hoey.

FCC Reg. Ref.:	F14A/0413/E1
Decision:	EOD Refused: Appropriate Assessment (Stage 2)/Natura Impact Assessment is required
Description:	New agri-business facility (4867sq.m) incorporating two storey internal ancillary office/staff accommodation (346sq.m) and ancillary plant/switch/storage rooms (128 sqm), for a total floor area of 5,341sq.m, including new access road within the site, new waste water treatment system and associated site

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	works. This facility was not built at the time. Applicant - Gabriel Hoey.
FCC Reg Ref.:	F16A/0240
Decision:	Permission Granted
Description:	a) 779sq.m two-storey west and south (front and side) extension, b) 137sq.m single-storey west and south (front and side) extension and c) 56m single-storey south (side) extension to existing Agri-Business Facility to provide offices, staff amenities and storage space Including all associated site works. Applicant - Country Crest ULC.

FCC Reg Ref.:	F16A/0453
Decision:	Granted
Description:	Retention Permission Granted for a0 393 sq.m Cold Storage Shed and b) 406sq.m Dispatch Shed. Applicant – Country Crest ULC.

FCC Reg.Ref.:	F18A/0210
Decision:	Granted
Description:	a 386.4sq.m side extension to existing Dispatch Shed including all associated site works. Applicant – Country Crest ULC.

FCC Reg Ref.:	F18A/0211
Decision:	Granted
Description:	An 84.8sq.m extension side extension to existing Cook Plant for packing and storage space including all associated site works. Applicant – Country Crest ULC.

FCC Reg Ref.:	F19A/0365 & ABP-305771-19
Decision:	Granted
Description:	The development comprised a 1.4.14sq.m. side extension to the Potato Storage Shed including all associated site works. Applicant – Country Crest ULC.

FCC Reg. Ref:	F20A/0188
Decision:	Granted
Description:	new 145.7sq.m boiler shed ancillary to existing Argi-Food facility and all associated site works. Applicant – Country Crest ULC.

FCC Reg Ref:	F20A/0631
De cision:	Granted
Description:	a new side extension to existing Agri-Food Business including: (a) 490.6sqm ground floor extension to production area, (b) 130.9sqm first floor extension to existing offices, (c) New access road around development for site traffic management,

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	(d) Stormwater attenuation system, (e) All associated site works. Applicant – Country Crest ULC.

FCC Reg. Ref.:	F21A/0148.
Decision:	Granted
Description:	the continuation of use previously granted under Planning Reference number F07A/0929 of 1 no. existing 1MW Wind Turbine, Service Road and associated ancillary works and services. Applicant – Country Crest ULC.

FCC Reg. Ref.:	F22A/0077.
Decision:	Granted
Description:	2520sqm part single storey, part two storey argi business facility including 2160sqm ground floor works area, staff amenities and storage 3. 360sqm f irst floor offices and associated amenities, the enlarged percolation area serving the existing WWTU and a new internal roadway with car parking, service yard, roof mounted PV panels and all associated works. Applicant – Ballymaguire Food Ltd.

FCC Reg. Ref.:	F22A/0625.
Decision:	Granted
Description:	Granted for integrated constructed wetland ICW providing tertiary treatment to wastewater generated on site and all associated site works. Applicant – Country Crest ULC.

FCC Reg. Ref.:	F23A/0326.
Decision:	Granted
Description:	1 no. 2.3MW Wind Turbine, Service Road, and associated ancillary works and services. 8 Applicant – Country Crest ULC.

FCC Reg. Ref.:	F24A/0896E
Decision:	Granted
Description:	permission for 2727sq.m part single storey, part two storey agri business facility including: 2,312sq.m ground floor agri-business facility, staff amenities and storage, 260sq.m first floor offices and associated amenities, proposed change of use from attic storage to f irst floor office (155sq.m) in the existing phase one facility, roof mounted solar pv panels, amendments to service yard and all associated site works. Applicant - Ballymaguire Foods Ltd.

FCC Reg. Ref.:	F24A/0797
Decision:	Granted

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Des cription.	. Retention Planning Permission amendments to planning ref F22A/0077. This includes retention of front porch, retention of Compressor room, retention of charger shed, retention of external canopies to loading bays, retention of extension to client electrical switchroom, retention of amendments to car parking layout & all associated site works. Applicant - Ballymaguire Foods Ltd.

Enforcement:

The Planner's report refers to an enforcement file "open" against part of the overall "Country Crest/Ballymaguire Foods" site under Ref: 23/119A.

Whilst it is noted that An Bord Pleanala have no role in Enforcement, in the interests of clarity the attached letter confirms that this case is closed.

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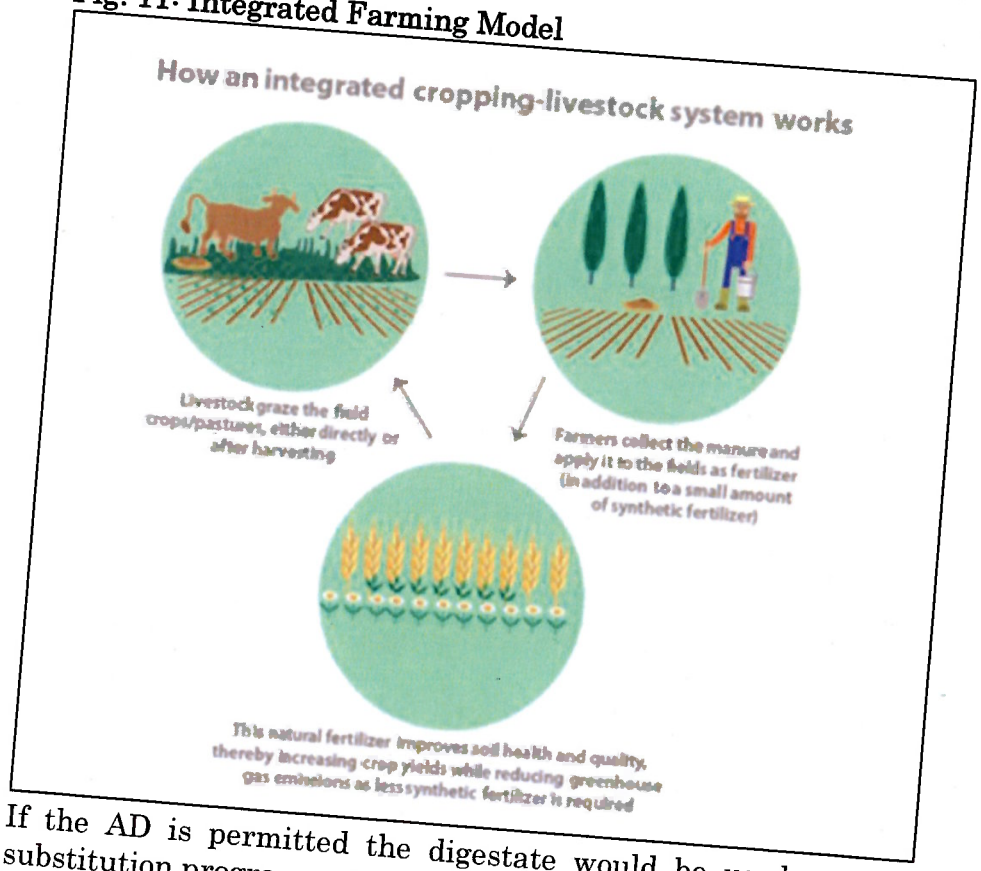
4.0 Sustainable Farming

Sustainable agricultural practices are at the heart of the farming activities in Country Crest. They have been operating in what is an integrated farming model for decades. In its simplest form farming practices require fertilisers for growth of produce, grass and cereals which are required to feed animals and humans.

Fig. 11: Integrated Farming Model



If the AD is permitted the digestate would be used as part of the fertiliser substitution programme to replace imported chemical fertiliser.

In this sustainable integrated farming model Country Crest needs fertiliser to grow their crops on their 3000 acres of land. The animal manure that is generated from their 400 head of cattle is not sufficient to supply all of the fertiliser for their tillage activities, so they have been purchasing chemical fertiliser for their nutrient needs.

One of the benefits of this proposed AD project is the direct substitution of bought in chemical fertilisers with onsite generated organic fertiliser in the of form digestate in both solid and liquid forms. In turn they grow food and energy crops, the food crops are processed through their production facilities, the energy crops will be diverted to the AD plant as feedstock.

The use of organic fertiliser is essential as part of the reduction in the amount of chemical fertiliser to the land.

Country Crest's commitment to improving the sustainability of their business and farming activities is reflected in their investment in wind energy, solar

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installations and the wetlands on their landholding. We enclose a list of awards received by Country Crest and Ballymaguire Foods.

Country Crest see the adoption of AD technology onsite as a driver of sustainability environmental credentials, while also aligning with Government strategy on agriculture and climate change.

The existing GNI gas grid pipeline currently supplying the onion drying facility will be accessible to allow the AD project to inject biomethane into the national grid within the site boundary.

The Hoey Family through their integrated agri-food business Country Crest, (one of the largest food suppliers in the country) want to play their part in addressing the climate change crisis and they see the proposed Anaerobic Digester as being an important strategic step in their farming and food business.

5.0 What is Anaerobic Digestion?

Anaerobic Digestion is a natural process driven by microorganisms which produce biogas and through gas upgrading, biomethane.
Biomethane is a versatile renewable energy source.

The process of anaerobic digestion creates a by-product called "Digestate" which is nutrient rich and has a high organic matter content that can be applied to land as an organic fertiliser.

What is Biomethane?

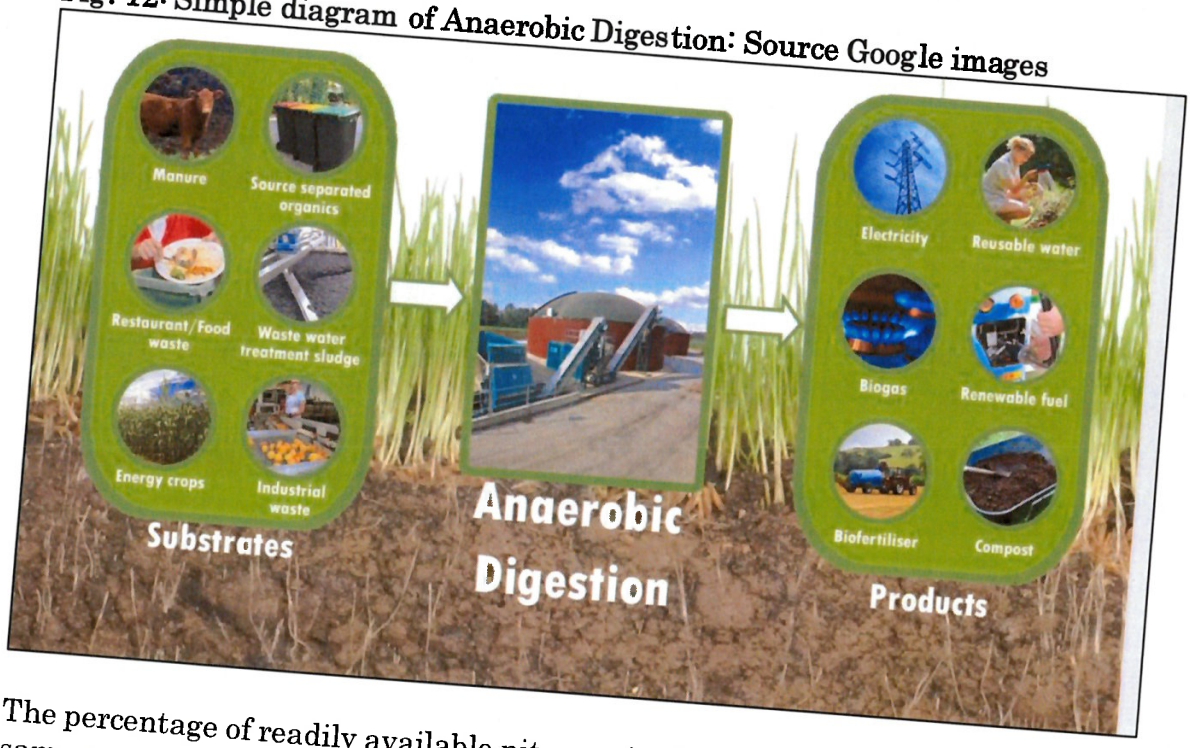
The National Biomethane Strategy describes Biogas and Biomethane as follows:

> *"Biogas is produced as the main product of the Anaerobic Digestion (AD) of biological feedstocks including food waste, sewage sludge and agricultural feedstocks. Agricultural feedstocks include but are not limited to materials such as animal manures and grass silage. The AD process produces biogas from feedstocks through decomposing of organic material by micro-organisms in large oxygen-free tanks. Biogas is typically comprised of 60% methane and 40% CO2. It can be used locally for heat purposes or for combined heat and power production. Biogas can also be upgraded to sustainable biomethane to replace fossil gas. When biogas is upgraded to methane with greater than 97% purity, it is termed biomethane. Biomethane is fully compatible with the national gas network and existing appliances, technologies, and vehicles. It can seamlessly replace fossil gas to reduce emissions in heating, transport, and power generation. Biomethane that satisfies the Renewable Energy Directive's life cycle sustainability criteria can be classified as "a zero-carbon rated fuel". Biomethane can therefore directly contribute to meeting Ireland's decarbonisation targets. Biomethane is already firmly established and available on the European market, with circa. 37 TWh produced in 2022. Biomethane has the potential to progressively replace fossil gas supplies at a national level as we substantially reduce our use of gas over the next 15 to 20 years"*

Agricultural Benefits

Digestate has the ability to transform the agricultural sector by providing an attractive alternative to the artificial chemical fertilisers. Digestate is an excellent fertiliser containing all nutrients and micronutrients necessary for modern farming, including nitrogen, phosphorus and potassium. Since no nutrients are lost during the AD process, farmers can close the nutrient cycle and reuse these vital nutrients. Additionally, organic matter in digestate can build up the humus content in the soil; this is a benefit unique to organic fertilisers.

Fig. 12: Simple diagram of Anaerobic Digestion: Source Google images

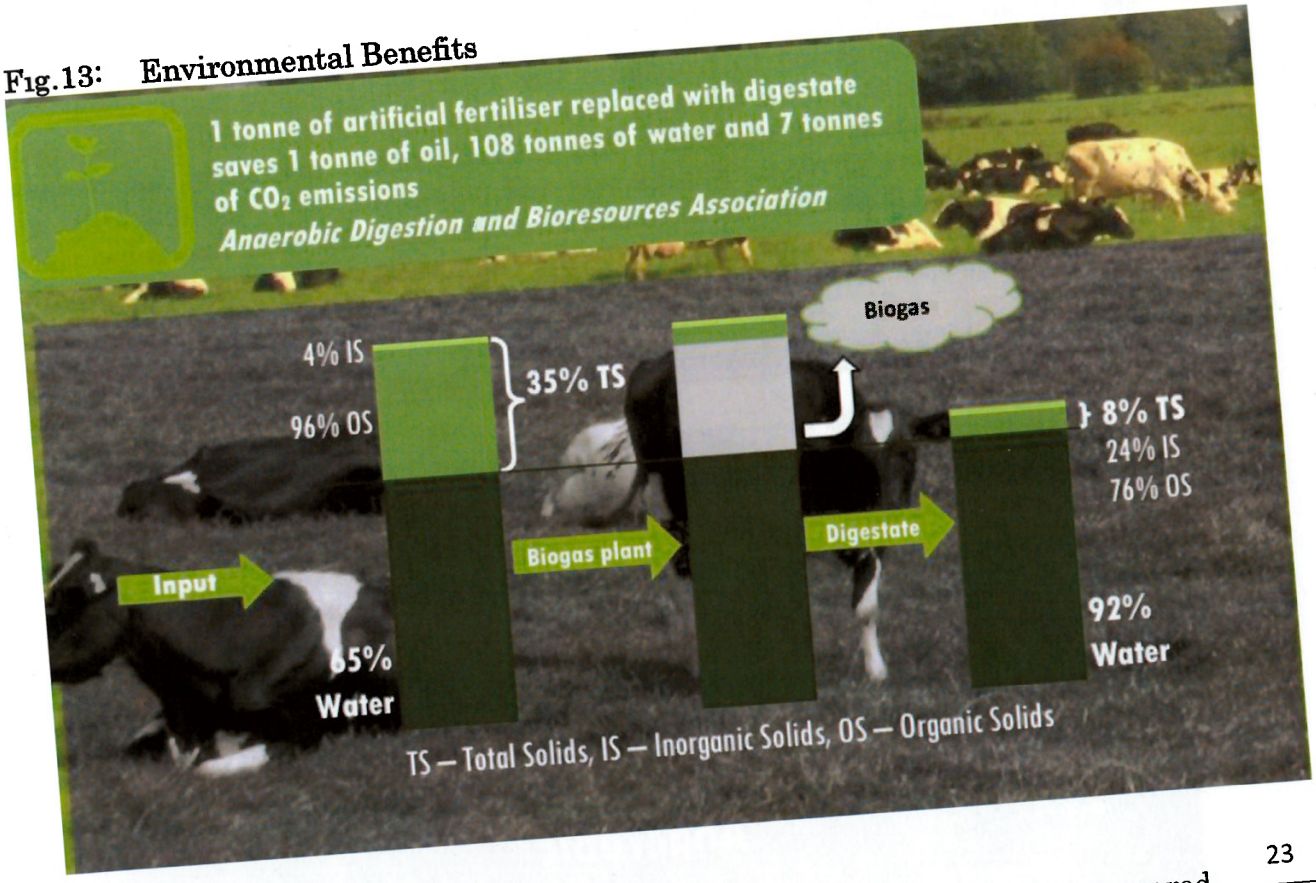


The percentage of readily available nitrogen is higher in digestate compared to the same organic material in its raw form, thereby increasing its nutrient value. In addition, organic fertilisers have a "softer" impact than chemical fertilisers which have high levels of available nitrogen, where the latter poses a higher risk of nitrogen leaching into water, while the former takes effect slowly providing nutrients steadily to plants for up to three years.

Nutrients from digestate which is landspread are deemed to be more readily available for plant uptake and less likely to be leached from soil compared to landspread slurry and manure in its raw form.

- Animal and plant pathogens are eradicated, due to the pasteurisation of digestate and the microbial conditions inside the digester;
- AD greatly reduces the spread of invasive weeds, by neutralising seeds that may be present in the feedstock;
- The presence of odours is minimised by AD when compared with raw organic manures;

Fig.13: Environmental Benefits



Reduction in Greenhouse Gases

Organic fertilisers in the form of digestate offer an excellent alternative compared with energy-intensive chemical fertilisers, as they release very low (or even neutral) GHG emission values throughout their full production cycle. This is due to the following:

Avoiding GHG emissions from open decomposition of organic matter.

All organic materials can release powerful GHGs such as methane and nitrous oxide if they are left in contact with the atmosphere; this includes household waste, agricultural byproducts such manure and slurry, as well as byproducts from food and beverage processing. Methane is 21 times stronger than carbon dioxide and nitrous oxide is 310 times more damaging than carbon dioxide. Anaerobic Digestion of organic materials limits these emissions.

Replacing energy intensive chemical fertilisers.

Modern food production is heavily dependent on industrially manufactured chemical fertilisers. The Haber-Bosch process fixes most of the nitrogen used in agriculture and accounts for 1-2% of the world's total energy consumption and 3-5% of the world's natural gas consumption. In Europe, every tonne of chemical fertiliser produced by this process emits an average of 9.7 tonnes of CO2 equivalent, which not only harms the environment but also perpetuates energy dependence from imported natural gas. By replacing chemical fertilisers with organic ones, digestate can drastically reduce emissions in Europe's energy-intensive agricultural sector.

Digestate's transport routes are usually short resulting in lower GHG emissions.

This is due to the decentralised nature of AD, which makes it viable across most rural regions in Europe. Additionally, farmers have an interest in minimising transport costs and enabling owners and co-owners of biogas plants to produce their own fertilisers at competitive costs.

Biogas and biomethane are low GHG renewable energy sources which replace fossil energy.
Biomethane coming from AD have a very low carbon emissions when compared with their fossil fuel comparators. This is the case for all commercially used feedstock. Digestion captures powerful GHGs that would otherwise be released during decomposition; these avoided emissions often outweigh those which are released during biogas/ biomethane production, transport and combustion. Manure digestion is a good example of this, as it can save up to 2.5 times the GHGs than emits from manure, making manure digestion carbon negative. Dedicated energy crops such as maize make GHG savings of over 50% compared with Natural gas fossil fuel. Digesting various mixtures of crops, food byproducts and manure can reach any desired reduction level depending on the feedstock mix. .

6.0 Description of the Proposed Development:

The proposed development involves the following:

1 no enclosed feedstock reception building (1527 m2),1 no odour abatement machinery (with 14m high chimney),
Silage clamps (8m high), 1 no machinery shed (309.4 m2),
1 no solid digestate storage building (484.1 m2),
1 no. 45m diameter combined primary and secondary digestion tank (8.5m high, 7,947m3 & 3,981m3 respectively) & attached pumping unit,
1 no reception tank (5m high, 250 m3) & attached pumping unit,
1 no. 32m diameter power digest tank & attached gas sphere (12m high, 4.825m3 & 3130 m3 respectively) & attached pumping unit,
1 no digestate separator building (119.5 m2), 1 no. pasteurization unit & hygenization buffer tank,
1 no. gas upgrading unit, 1 no. gas pre-treatment unit,
1 no. gas valve chamber, 1 no. gas flare (9m high),
1 no. GNI gas injection unit (25.1 m2) with an underground gas pipeline to the gas grid connection adjacent the site to the west,
1 no. combined heat and power unit, 2 no. boiler containers, 1 no oxygen compound,
1 no heat distribution container,
1 no switchboard container, 1 no carbon dioxide liquefaction unit,
2 no weighbridges & integrated lever arms & access control & attached bio security units,
1 no single-storey office and administration building (123 m2),
1 no ESB sub-station (66 m2),
1 no services building (288.6 m2),
2 no covered digestate lagoons, attached pumping building (30 m2) and attached digestate loading-unloading areas, roof mounted solar arrays / photovoltaic panels, all associated car and bicycle parking, internal road layouts, earthen berms, site

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retaining walls, palisade fencing and boundary treatments, hard surface and bunded areas for housing supporting plant, processing and storage facilities and all associated site works. All accessed by the existing Country Crest internal road network which uses as public roadway access point to the L1155 Man o War Road.

7.0 Description of Process

The following is a non-technical summary of the process intended to take place on the site:

1) A truck arrives on site carrying either solid feedstock or liquid feedstock and enters weighbridge located near the feedstock reception building. The truck will be weighted upon entry and exit.
2) Wheelwash will commence immediately after weighbridge.
3) Solid feedstock trucks will be directed to the feedstock reception building (Building 1) located to the north of the Digester Power Ring (Building 2). The truck will enter the feedstock reception building (Building 1) via a high-speed roller shutter door which is closed immediately upon entry.
4) The feedstock reception building is a sealed building operated under negative air pressure to avoid any odours being released. An odour control system is installed within the odour treatment pad that services the reception building.
5) Liquid feedstock trucks will be directed to the slurry feeding line (liquid feedstock line) and will be pumped into the 500m3 bunded tank identified as (3) on the site layout plan.
6) To start the AD Process, all feedstocks will be stored and mixed before being fed into the sealed digester tank (called the Digester Power Ring) where primary digestion and secondary digestion takes place. Digestion is the breakdown of biodegradable materials in the absence of oxygen, which results in the formation of biogas, a liquid digestate and a solid digestate.
7) Feedstock from the Digester Power Ring will be fed into a second AD Tank (called Power Digest) for further secondary digestion.
8) Biogas is extracted from the AD tanks and processed to remove gaseous contaminants. Biogas is a mixture of methane, carbon dioxide and traces of sulphides, amines, ammonia and mercaptans.
9) A portion of the biogas will be fed to the onsite combustion units including a combined heat and power (CHP) plan and two dual fuel boilers.
10) The heat and electrical energy generated from these installations will be used to meet part of the energy requirements of the anaerobic digestion process.
11) The remainder of the biogas will be fed to a gas upgrade unit (GUU) that will:
    - Separate the biogas into pure methane and carbon dioxide gas streams. Admix gas are captured via a carbon filter in this process.
    - Process the methane gas stream to a sufficient standard for injection into Ireland's gas network grid via GNI onsite station

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The following is a diagram of the anaerobic digestion process proposed.

Fig. 13: Proposed anaerobic digestion Process at Country Crest site

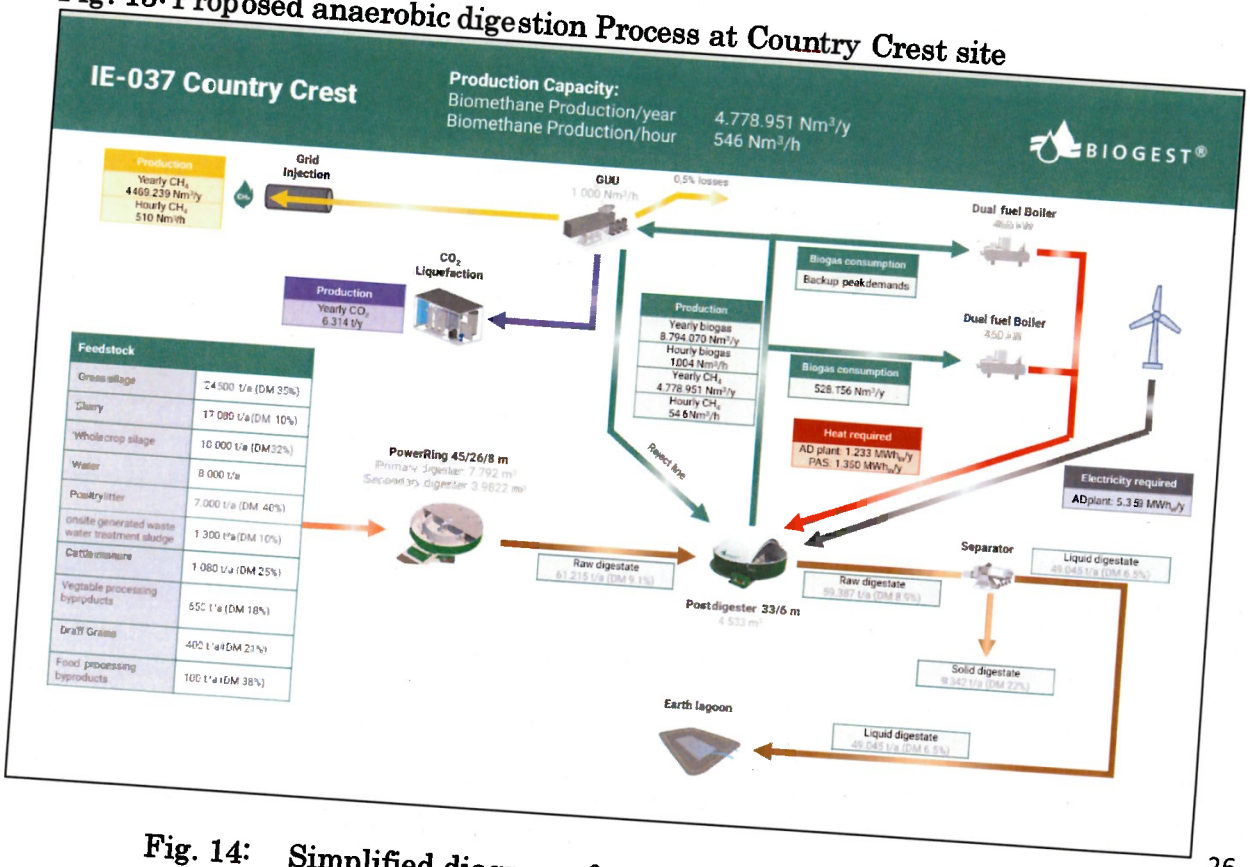
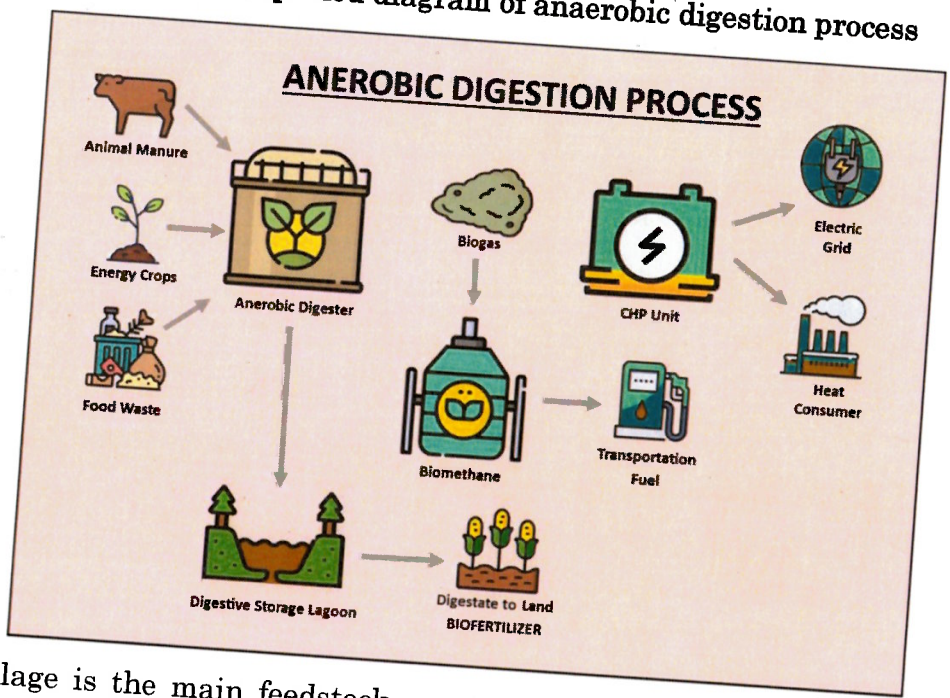


Fig. 14: Simplified diagram of anaerobic digestion process



Grass silage is the main feedstock component of the proposed AD Plant with 24,500 tonnes of grass silage being utilised in the process. Slurry is the second major input into the process with 17080 tonnes of slurry being required each year.

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The inputs into this proposed Anaerobic Digester are broken down below (fig 15 and 16) below:

Fig. 15: Breakdown of feedstocks into the proposed AD

Feedstock	Tonnes Per annum
Grass silage	24500
Slurry	17080
Whole crop silage	10000
Water	8000
Poultry Litter	7000
Onsite WWTP(waste water treatment plant)process from Ballymaguire Foods	1300
Cattle manure	1080
Veg byproducts	650
Food byproduct	100
Draff grains	400

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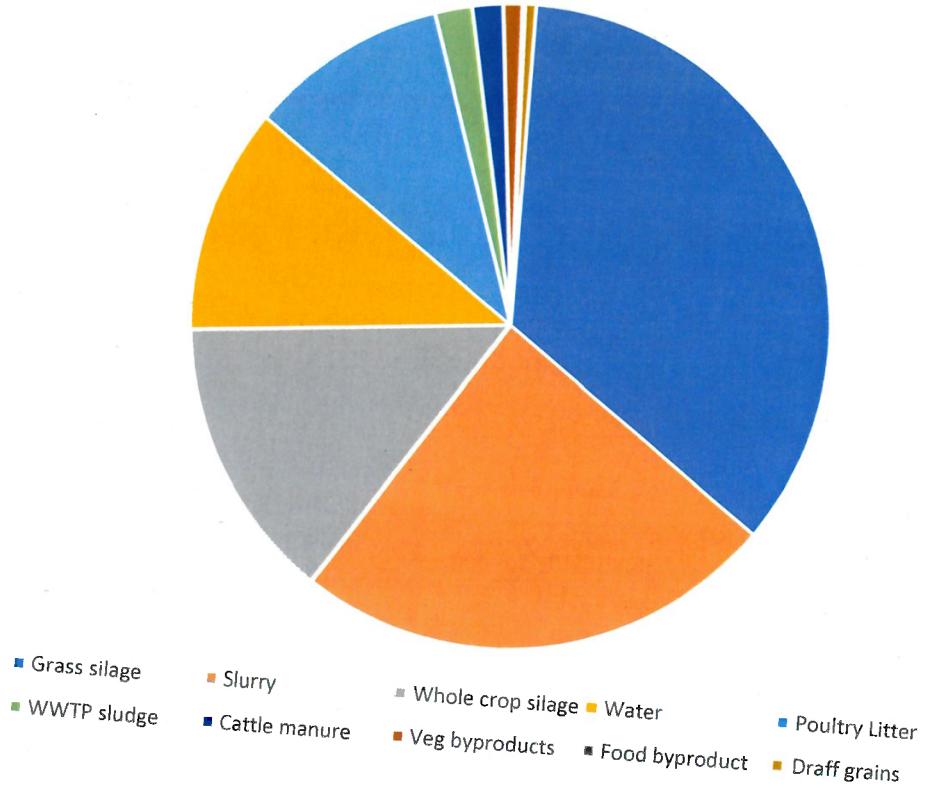
Fig. 16: Breakdown of Feedstocks into proposed AD



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8.0 Legislative Framework

The determination of this appeal must have due regard for the extensive legislation surrounding the development of agricultural structures and also surrounding farm management.

The following legislation and case law is relevant to confirm that animal manure is defined in law as an Animal By-Product and is not classified as a waste.

Two relevant European Case Law judgements (Copies attached): Case C-416/02 Commission v Spain and ECLI:EU:C:2013:627 Donal Brady v Environmental Protection Agency. are appended to this appeal which took place prior to the coming into force of the 2005 Good Practice Regulations which have been replaced by SI 113 of 2022. Those cases and the established the legal definition of animal manure as organic fertiliser and not as a waste.

According to Case C-121/03 Commission v. Spain, pig slurry provided by the farmer to local farms for fertiliser was not waste. The pig farmer did not intend to discard it. But there are significant differences between the National Courts and the ECJ definition of waste, the High Court of Ireland had taken a more conservative view of the definition of waste compared to their ECJ counterparts.

In case ECLI:EU:C:2013:627, Donal Brady was the owner of an intensive pig farm in Edgeworthstown, Co. Longford. The farm contained approximately 10,000 pigs and obviously, the disposal of the resultant 30,000m3 of effluent each year was a major cause of concern for the Environmental Protection Agency (EPA). Brady had agreed with neighbouring farms to allow the local farmers to use the pig slurry as a fertiliser on their lands. He received a licence in March 1998 from the EPA which required him to monitor and control the use of pig slurry on these neighbouring farms. In appealing the licence to the Irish High Court, one of his arguments was that the pig slurry should be deemed to be a form of organic fertiliser and not, in fact, waste.

The Court found that the slurry was indeed waste and stated that it is impossible to hold that the pig slurry being produced by the applicant in industrial quantities is not waste within the meaning of Article 1 of Council Directive 75/442/EEC as amended by Council Directive 91/156/EEC. It ruled that the sale or gift to other farmers of this material constitutes the disposal of waste within the meaning of s. 3 of the Environmental Protection Agency Act, 1992 as amended and that it is an emission. The applicant thus requires a licence from the respondent Justice Charleton held that; 1) The fact that special precautions have to be taken when pig slurry is used as a fertiliser. This should mean that the substance requires to be discarded 2) The reuse was not certain or lawful 3) That regulations (for good agricultural practice) are required for it to be reused.

That decision was subsequently appealed to the Supreme Court and the ECJ ECLI:EU:C: 2013:627 (copy attached) who made the following ruling:

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"In light of all the foregoing, the answer to the first part of Question 1 is that the first subparagraph of Article 1(a) of Directive 75/442 must be interpreted as meaning that slurry produced in an intensive pig farm and stored pending delivery to farmers in order to be used by them as fertiliser on their land constitutes not 'waste' within the meaning of that provision but a by-product when that producer intends to market the slurry on terms economically advantageous to himself in a subsequent process, provided that such reuse is not a mere possibility but a certainty, without any further processing prior to reuse and as part of the continuing process of production. It is for the national courts to determine, taking account of all the relevant circumstances obtaining in the situations before them, whether those various criteria are satisfied".

1. The first subparagraph of Article 1(a) of Council Directive 75/442/EEC of 15 July 1975 on waste, as amended by Commission Decision 96/350/EC of 24 May 1996, must be interpreted as meaning that slurry produced in an intensive pig farm and stored pending delivery to farmers in order to be used by them as fertiliser on their land constitutes not 'waste' within the meaning of that provision but a by-product when that producer intends to market the slurry on terms economically advantageous to himself in a subsequent process, provided that such reuse is not a mere possibility but a certainty, without any further processing prior to reuse and as part of the continuing process of production. It is for the national courts to determine, taking account of all the relevant circumstances obtaining in the situations before them, whether those various criteria are satisfied.

Those judgements were then superseded by important EU legislation which was transposed into Irish legislation for the purposes of regulating the management and handling of animal manure as an Animal By-Product namely:

1. **European Union (Animal By-Products Regulations 2014** (SI No 187 of 2014)
2. **S.I. No 113 of 2022, European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2022, (as amended) also known collectively as the "Nitrates Regulations".**

European Union (Animal By-Products Regulations 2014 (SI No 187 of 2014)

The Animal By-Products Regulations strictly control the Transport of Manure under Article 4(2):

"Transport of manure 4. (1) The Minister may authorise the transport of manure between two points located on the same farm or between farms in accordance with the second paragraph of Article 21(2) of the Council Regulation and Section 4, Chapter I of Annex VIII and point 6(b) of Chapter II of Annex VIII to the Commission Regulation. (2) A person who transports manure in the circumstances referred to in paragraph (1) without authorisation under this Regulation commits an offence and is liable on summary conviction to a class A fine".

S.I. No 113 of 2022, European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2022, (as amended) also known collectively as the "Nitrates Regulations".

This is the Fifth Nitrates Regulations to be enacted in Ireland the purpose of which is to

"*to give effect to Ireland's Nitrates Action Programme pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural source*".

A copy of these Regulations is attached to this appeal for convenience.

The definitions in these Regulations are critically important in the determination of this appeal particularly regarding the management of animal manure as an organic fertiliser.

"agriculture" includes the breeding, keeping and sale of livestock (including cattle, horses, pigs, poultry, sheep and any creature kept for the production of food, wool, skins or fur), the making and storage of silage, the cultivation of land, and the growing of crops (including forestry and horticultural crops);

"application to land", in relation to fertiliser, means the addition of fertiliser to land whether by spreading on the surface of the land, injection into the land, 6 [113] placing below the surface of the land or mixing with the surface layers of the land but does not include the direct deposition of manure to land by animals;

"chemical fertiliser" means any fertiliser that is manufactured by an industrial process;

"livestock manure" means waste products excreted by livestock or a mixture of litter and waste products excreted by livestock, even in processed form;

"organic fertiliser" means any fertiliser other than that manufactured by an industrial process and includes livestock manure, dungstead manure, farmyard manure, slurry, soiled water, silage effluent, spent mushroom compost, nonfarm organic substances such as sewage sludge, industrial by-products and sludges and residues from fish farms;

"slurry" includes— (a) excreta produced by livestock while in a building or yard, and (b) a mixture of such excreta with rainwater, washings or other extraneous material or any combination of these, of a consistency that allows it to be pumped or discharged by gravity at any stage in the handling process but does not include soiled water;

"soiled water" has the meaning assigned by sub-article (2);

PART 2 FARMYARD MANAGEMENT

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"Minimisation of soiled water .
(1) An occupier of a holding shall take all such steps, as far as is practicable for the purposes of minimising the amount of soiled water produced on the holding.
(2) Without prejudice to the generality of sub-article (1), an occupier of a holding shall ensure, as far as is practicable, that—
(a) (b) clean water from roofs and unsoiled paved areas and that flowing from higher ground on to the farmyard is diverted away from soiled yard areas and prevented from entering storage facilities for livestock manure and other organic fertilisers, soiled water, and effluents from dungsteads, farmyard manure pits, silage pits or silage clamps and rainwater gutters and downpipes where required for the purposes of paragraph (a) are maintained in good working condition".

"Provision and management of storage facilities

7. (1) Storage facilities for livestock manure and other organic fertilisers, soiled water and effluents from dungsteads, farmyard manure pits, silage pits or silage clamps shall be maintained free of structural defect and be maintained and managed in such manner as is necessary to prevent run-off or seepage, directly or indirectly, into groundwater or surface water, of such substances".

"General obligations as to capacity of storage facilities
8. (1) The capacity of storage facilities for livestock manure and other organic fertilisers, soiled water and effluents from dungsteads, farmyard manure pits, silage pits or silage clamps on a holding shall be adequate to provide for the storage of all such substances as are likely to require storage on the holding for such period as may be necessary as to ensure compliance with these Regulations and the avoidance of water pollution.
(2) For the purposes of sub-article (1) an occupier shall ensure to have the storage capacity likely to be required during periods of adverse weather conditions when, due to extended periods of wet weather, frozen ground or otherwise, the application to land of livestock manure or soiled water is precluded".

"Capacity of storage facilities for poultry manure
11. (1) Without prejudice to the generality of Article 8, the capacity of facilities for the storage on a holding of livestock manure produced by poultry shall, subject to sub-article (2) and Article 14, equal or exceed the capacity required to store all such livestock manure produced on the holding during a period of 26 weeks.

Article 16 states:

"Duty of occupier in relation to nutrient management 16. (1) An occupier of a holding shall take as far as is practicable all such steps for the purposes of

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preventing the application to land of fertilisers in excess of crop requirement on the holding".

"Requirements as to manner of application of fertilisers, soiled water etc

18. (1) (a) Livestock manure, other organic fertilisers, effluents, soiled water and chemical fertilisers shall be applied to land in as accurate and uniform a manner as is practically possible.

(b) Low emission slurry spreading equipment must be used for the

i. 170 kg nitrogen per hectare from grazing livestock manure or above prior to export of livestock manure from the holding.

ii. 150 kg nitrogen per hectare from grazing livestock manure or above prior to export of livestock manure from the holding from 1st January 2023.

iii. 130 kg nitrogen per hectare from grazing livestock manure or above prior to export of livestock manure from the holding from 1st January 2024.

iv. 100 kg nitrogen per hectare from grazing livestock manure or above prior to export of livestock manure from the holding from 1st January 2025.

v. slurry produced by pigs on any holding from 1st January 2023.

From 1st January 2023, low emission equipment shall be used to apply livestock manure to arable land or the livestock manure shall be incorporated within 24 hours.

(2) Organic and chemical fertilisers or soiled water shall not be applied to land in any of the following circumstances—
(a) the land is waterlogged;
(b) the land is flooded or likely to flood;
(c) the land is snow-covered or frozen;
(d) heavy rain is forecast within 48 hours, or
(e) the ground slopes steeply and there is a risk of water pollution having regard to factors such as surface runoff pathways, the presence of land drains, the absence of hedgerows to mitigate surface flow, soil condition and ground cover.

(3) A person shall, for the purposes of sub-article (2)(d), have regard to weather forecasts issued by Met Éireann.
(4) Organic fertilisers or soiled water shall not be applied to land—
(a) by use of an umbilical system with an upward-facing splashplate, (b) (c) by use of a tanker with an upward-facing splashplate, by use of a sludge irrigator mounted on a tanker, or
(d) (d) from a road or passageway adjacent to the land irrespective of whether or not the road or passageway is within or outside the curtilage of the holding".

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Article 23 sets out the requirements in respect of the Keeping of Records:

"23. (1) Records shall be maintained for each holding which shall indicate—

(a) total area of the holding,
(b) eligible area of the holding,
(c) cropping regimes and their individual areas,
(d) livestock numbers and type,
(e) an estimation of the annual fertiliser requirement for the holding and a copy of any Nutrient Management Plan prepared in relation to the holding,
(f) quantities and types of chemical fertilisers moved on to or off the holding, including opening stock, records of purchase and closing stock,
(g) livestock manure and other organic fertilisers moved on to or off the holding including quantities, type, dates and details of exporters and importers, as the case may be, in a format specified by the Minister for Agriculture, Food and the Marine,
(h) the results of any soil tests carried out in relation to the holding,
(i) the nature and capacity of facilities on the holding for the storage of livestock manure and other organic fertilisers, soiled water and effluents from dungsteads, farmyard manure pits, silage pits or silage clamps, including an assessment of compliance with Articles 9 to 14,
(k) the quantities and types of concentrated feedstuff fed to grazing live-stock on the holding,
(l) and the location of any abstraction point of water used for human consumption from any surface waters, borehole, spring or well.

(2) Where fertiliser is used on a holding and a certificate of the type mentioned in Article 15 or 20 was issued in relation to that fertiliser in accordance with Article 32, a copy of the certificate shall be retained and be available for inspection on the holding for a period of not less than five years from the expiry of validity of the certificate".

Article 26 sets out the Offences and related matters in respect of non-compliance with legislation:

"26. (1) A person who contravenes a provision of Parts 2 to 5 and Schedule 5 of these Regulations, excluding Article 17(5), (6), (7), (10) and (11), is guilty of an offence and shall be liable—
(a) on summary conviction to a Class A fine or to imprisonment for a term not exceeding 3 months or both or,
(b) on conviction on indictment to a fine not exceeding €500,000 or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment.

The responsibility of the Local Authorities is set out below:

"Local authorities

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30. (1) A local authority shall carry out, or cause to be carried out, such monitoring of surface waters and groundwater at selected measuring points within its functional area as makes it possible to establish the extent of pollution in the waters from agricultural sources and to determine trends in the occurrence and extent of such pollution.

(2) A local authority shall carry out or cause to be carried out such inspections of farm holdings as is necessary for the purposes of these Regulations and shall aim to co-ordinate its inspection activities with inspections carried out by other public authorities.

(3) For the purposes of sub-article (2) a local authority shall aim to develop co-ordination arrangements with other public authorities with a view to promoting consistency of approach in inspection procedures and administrative efficiencies between public authorities and to avoid any unnecessary duplication of administrative procedures and shall have regard to any inspection protocol which may be developed by the Minister, following consultation with the Minister for Agriculture, Food and the Marine.

(4) A local authority shall, in the exercise of its functions for the purposes of these Regulations—

(a) consult to such extent as it considers appropriate with the Minister, the Minister for Agriculture, Food and the Marine, the Agency, Irish Water and such other persons as it considers appropriate, and

(b) have full regard to any recommendations made, and comply with any direction given, to the authority by the Agency in accordance with Article 29.

(5) A local authority shall follow any protocol established by the Minister for furnishing a report of an inspection or inspections to the Department of Agriculture, Food and the Marine and such other persons as it considers appropriate for the purposes of these Regulations where non-compliance has been detected.

(6) A local authority shall maintain a register of all prior investigations carried out by the local authority itself or by Irish Water within its jurisdiction, and distances specified, for the purposes of Article 17".

Article 31 is also relevant insofar as the sharing of information by the Local Authority, the EPA and DAFM shall not be a breach of Data Protection:

"31. The provision of information by a local authority, the Agency or the Minister for Agriculture, Food and the Marine in accordance with Article 27, 29 or 30 of these Regulations shall not be a breach of the Data Protection Acts, 1988, 2003 and 2018."

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9.0 National Planning Policy

This section examines the proposed development in the context of the National Planning Policy:

9.1 Ireland's National Biomethane Strategy 2024

This section examines the proposed development in the context of the National Biomethane Strategy 2024 which states inter alia as follows:

Minister's Foreword:

> *"Ireland is recognised as having one of the largest potentials for biomethane production in Europe per capita, due to Ireland's substantial agricultural sector. This strategy is first and foremost an Agri-centric strategy, with the objective of enabling farmers to contribute to the decarbonisation of Ireland's energy system. Farmers are key stakeholders who have a vital role to play in upscaling the biomethane industry in Ireland. Without farmers, the industry will not develop at the required scale. My department and the government want nothing more than to see the industry grow and flourish in the time ahead."*

The foregoing statement clearly aligns agriculture/farming and the production of biomethane. The strategy is defined as "Agri-centric" with Farmers being the key stakeholders, who have a "**key role in upscaling the biomethane industry in Ireland".**

Having regard to the fact that Country Crest is one of the key stakeholders in farming and food production in Ireland it is prudent that they should also be a key stakeholder in this biomethane strategy.

The Minister's Forward also states:

> *"The environmental and economic benefits of AD cannot be overlooked. AD will provide significant opportunities for farmers in the context of income diversification and viable land use alternatives.....*
> *Government has committed to the production of up to 5.7 TWh of indigenous biomethane by 2030"*

The proposed project is of a significant scale that can deliver an AD which would contribute towards this biomethane strategy.

The Strategy outlines a specific section relating to 'Planning permission for AD development.' This section emphasises that *"AD developments can bring significant benefits to the communities and the local environments in which they are located."* The strategy also states that AD and other integrated assets are required to undergo a planning process *"to ensure proper consideration of a range of factors, including location, visual impact, land-zoning plans, and ecology."* However, in relation to the planning process the strategy acknowledges that

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"Increased awareness of AD technology would improve understanding and consistency of approach by planning authorities to assessing proposed AD developments." It is reiterated throughout the strategy that AD is a well-established technology in Europe with over 20,000 plants in operation albeit ***"a relatively new and unknown technology in Ireland."***

The Strategy prioritises agricultural feedstocks, including slurry and silage, to drive sustainable biomethane production. A key objective is to provide land diversification and income opportunities for farmers while contributing to energy system decarbonisation. In relation to this the Strategy states the following:

- *"According to Teagasc "Diversification into organic farming, forestry or particularly feedstock (grass) production for biomethane could reduce emissions in 2030 by between 150 ktCO2 eq year and 417 ktCO2 eq year."*
- *CAP 24 sets a target of reducing emissions by 1,500 ktCO2 eq yearly by 2030 through diversification options for farmers."*

The proposed development aligns with the aim of delivering Ireland's 5.7 TWh biomethane production target by 2030. The facility will contribute to renewable energy production, grid infrastructure expansion, agricultural diversification, emissions reductions, and circular economy initiatives. It also supports the implementation of the National Biomethane Strategy, ensuring long-term sustainability and alignment with national climate targets.

Ireland's National Biomethane Strategy, (May 2024) maps the strategy for the role that AD projects can contribute to addressing climate change and it notes that the strategy "*will be Agri-led and farmer-centric*".

The Biomethane Strategy states inter alia as follows:

> *"The development of a biomethane industry will also provide significant opportunities to reduce emissions in agriculture and improve the likelihood of reaching the sectoral targets. These opportunities with biomethane for agriculture include diversification opportunities for livestock farmers, reduced emissions from animal wastes, biobased fertiliser replacing chemical fertiliser and carbon sequestration on land".*

The applicant's in recognising their role in reducing their emissions have identified this as an opportunity and a further step to move towards more sustainable agriculture and food production methods. To their credit they have been moving in this direction for decades with their development of renewable wind, solar installations and sustainable wetlands on their land. This is simply the next step in the progression of their agricultural and food production operations.

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The Biomethane strategy states:

> *"Stimulation of the rural economy.*
> *Due to the nature of feedstocks required for biomethane production, it is envisaged that most developments will occur in rural Ireland. A Sustainable Energy Authority Ireland (SEAI) report10 identified that in terms of employment, between construction and operation of AD plants in its 'Increased Biomethane' scenario, circa. 2,700 jobs could be created in the rural economy in Ireland".*

The proposed development will support local farmers and help sustain current supply chains with existing farmers by providing an alternative source of income for these farmers in the form of "Green Cover Crops or Catch Crops"

Catch crops or Green cover crops are sown in between conventional farm crops to prevent the ground being left bare. Bare ground is fully exposed to the weather, any existing nutrients are liable to leach away into the ground, heavy rain can wash soil off the fields into the drains, soil structure suffers, soil microbiology suffers as land becomes anaerobic from the lack of roots growing into the soil and keeping the land 'open' as such. Catch Crops prevent all of the afore mentioned from occurring, they hoover up any nutrients left in the soil, they provide a cover to prevent erosion, increase drainage so more water drains into fields instead of running off to the streams, the knock on is better water quality in the drains and streams. With Green Cover Crops nutrients are taken up and stored in the vegetation of the crop. When the farmer wants to sow a conventional crop again, they plough the cover crop back into the land returning the nutrients to the soil where the new growing crop recovers them again and uses them for their own growth. This simple approach works really well, many of the environmental schemes proposed by government for tillage farming over the past 10 years encompass green cover crops as a mandatory element in order to meet the criteria for payments.

The proposed development would generate an income source to local farmers for these "Green Cover Crops." These Green cover crops will be grown as above but they can be specifically selected so they suit Anaerobic Digestion in particular as a feedstock. Instead of ploughing these crops into the ground, they would be harvested and ensiled (as silage) and used as a feedstock for the AD plant. The biogas potential is extracted through the process and the digestate returned to the fields. This digestate contains the same nutrients as the growing crop had in the first place. It provides the same organic matter as the crop did, only because of the AD process itself, the cell walls of the plants have been broken down, allowing the current growing crop to access the nutrients more readily. The soil will do the same thing over time and release the nutrients, but the Anaerobic Digestion process speeds it up considerably.

The National Biomethane Strategy identifies a number of scenarios for the delivery of these AD Plants. Scenario 1 provides for the development of c250 smaller scale geographically dispersed plants, Scenario 2 provides for c90 medium

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sized plants, Scenario 3 provides for the development ofc1 40larger scale plants similar to that proposed. The NBS envisages that it is unlikely to meet thetarge t with Scenario 1 or 2. In Scenario 3, plants of 40 GWh similar to the EU average gives the Government the best chance of meeting its 2030 biomethane production target. The proposed development can facilitate the implementation of this strategy. The appeal site currently has much of the support infrastructure needed in situ .

> *"Scenario 3: Economic Deployment Scenario 3 focussed on what is seen to be the most economic and cost-efficient pathway for developing a biomethane industry. A smaller number of large plants require less infrastructure. Large plants offer benefits from economies of scale and lower off-take prices than small plants. In this scenario, the average sized plant developed is 40 GWh per annum, very similar to the European average.* ***This scenario gave the Government the best chance of meeting its 2030 biomethane production target".***

The Strategy states:

> *"AD plants are capital intensive projects. Along with operational costs (including feedstock and financing costs) this drives the per unit revenue required by the plant, and in turn the 'green premium' over fossil gas".*

The applicant's existing integrated Agri food business model is of a sufficient scale to deliver a plant of this size in line with scenario 3. From the foregoing it is clear that the proposed development would, if permitted, support and sustain existing local farmers by providing a revenue stream for their "Green Cover Crops".

> ***"Planning permission for AD developments***
>
> *AD developments can bring significant benefits to the communities and the local environments in which they are located. Anaerobic Digestion and biorefinery facilities can be significant constructions, with impacts on the environment, biospheres, and the local communities in the area which they are located. AD and other integrated assets are therefore correctly required to undergo a planning process to ensure proper consideration of a range of factors, including location, visual impact, land-zoning plans, and ecology. Guidelines and requirements for these are set out through several acts, policy documents, spatial strategies, and development plans. Lengthy timelines for decisions were frequently highlighted by stakeholders as impeding the speedy development of AD and other integrated facilities. AD, although a very well-established technology in Europe with over 20,000 plants in operation, is a relatively new and unknown technology in Ireland. Increased awareness of AD technology would improve understanding and consistency of approach by planning authorities to assessing proposed AD developments.*

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Delivering required infrastructure to connect AD plants

Transporting biomethane via gas pipeline is the most efficient, sustainable, and cost effective method of transporting the gas to end users31. Alternative methods such as 'truck and trailer' or 'virtual pipeline' also exist but are generally more expensive, less sustainable, and less economic. However, due to the location of Ireland's gas network and the envisaged location of AD plants, virtual pipeline options will have a key role in the development of a biomethane sector in Ireland".

The fact that there is an existing GNI gas grid connection point immediately adjacent to the appeal site is a critical factor in determining the suitability of the proposed development at this location.

The Strategy states:

"Farmers will play a vital role in the development of biomethane in Ireland and capacity and capability will need to be developed".

The applicant's commitment to the sustainable evolution of their business activities is reflected in their previous developments of wind, solar and wetlands. Having regard to their strong commitment to this renewable sector and to the scale at which they are producing food, we consider that they are best placed to deliver an anaerobic digestor in accordance with the Biomethane Strategy.

From the foregoing we are satisfied that the proposed development accords with the National Biomethane Strategy and would if permitted be one of the 140 plants which are required throughout the country in order to comply with the EU requirements in respect of same. We are also satisfied that the National Biomethane Strategy clearly identifies Rural Ireland as the place for the delivery of this strategy.

The Decision of Fingal County Council is at variance with the Biomethane Strategy in its interpretation of the proposed land-use as "akin to an Industrial" use of land when clearly it is not industrial.

The suggestion that the proposed development be located in industrial zoned land by the Planner's report shows a failure to have regard to any national or regional policy in respect of Biomethane which clearly states they should be "Agri Centric". Planning Authorities are required by law to have regard to the Biomethane Strategy in place at the time of making a decision and in this instance, this has not been adhered to.

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9.1 National PlanningFramework (NPF)

This section examines the proposed development in the context of the National Planning Framework:

Section 5.1 of the NPF states as follows:

> *"5.1 Why Rural Places Matter*
> *Rural areas make a major contribution to Ireland's identity and to overall national development in economic, social, cultural and environmental terms.*
>
> *Rural areas are also a focus for working and for recreational activities. The agri-food and tourism sectors, which are particularly important for rural economies, employ in excess of 363,000 people (18% of the national workforce). Rural Ireland has faced challenges in recent decades, such as the loss of traditional industries and employment, emigration and poor connectivity. The emergence of new technologies and improved infrastructural connectivity provide opportunities for diversification into new employment sectors and to build on the success of many Irish and foreign-owned companies supporting employment in rural areas".*

It is clear that the applicant's agricultural and food production business make a major contribution to the supply of food in this country. Their contribution to the economy of the area shouldn't be understated having regard to the fact that they are significant local employer.

The above Background section has outlined how they have evolved from a primary food producer to adding significant value to their food production over the years whilst embracing more sustainable environmental practices and renewable energies including wind, solar and wetlands. This proposed development is simply the next step in their move towards a sustainable rural enterprise.

The NPF supports the developm ent of new technologies and forms of farm diversification.

The NPF refers to the 2017 Action Plan for Rural Development statingas follows:

- *"Strengthening Ireland's rural fabric and supporting the communities who live there;*
- *Planning for the future growth and development of rural areas, including addressing decline, with a special focus on activating the potential for the renewal and development of smaller towns and villages;*
- *Putting in place planning and investment policies to support job creation in the rural economy;*
- *Addressing connectivity gaps;*
- *Better co-ordination of existing investment programmes dealing with social inclusion, rural development and town and village renewal.*

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The proposed development accords with the foregoing in that it will strengthen the role of local farmers by ensuring a continuity in the market for their crops produced. The proposed development provides for a significant investment in this renewable energy sector and would support job creation as well as sustaining existing farmers by providing a year-round income for their crops. The proposed development seeks to build on existing established relationships with local farmers in the purchase of crops for this proposed development. This will help sustain local farmers' incomes and support their year-round employment.

Section 5.2 of the NPF states as follows:

> *5.2 Strengthening Ireland's Rural Fabric and Supporting Rural Communities*
> *Rural communities, and particularly those engaged in farming, operate as custodians of the landscape by undertaking agricultural land management at varying scales. However, the viability of many landholdings is such that around half of farm families now depend on off-farm employment, much of which is focused on urban settlements. Alternative land uses such as forestry and renewable energy related development are also becoming more prevalent.*

The foregoing acknowledges the challenges being faced by the farming community to remain viable and their dependence on off-farm employment in order to survive. This is true in the tillage sector. The proposed development would provide a viable market for local farmers to supply crops and thereby supplement their income. Many of these local farmers already have relationships built up with the applicants as sources of produce for their food production operations.
The proposed development if permitted would support and complement existing farming interrelationships and help sustain farming as a viable source of employment.
The proposed development also accords with the above policy of developing renewable energy related development.

Section 5.3 of the NPF states as follows:

> *"5.3 Planning for the Future Growth and Development of Rural Areas*
> *The Irish countryside is, and will continue to be, a living and lived-in landscape focusing on the requirements of rural economies and rural communities, based on agriculture, forestry, tourism and rural enterprise, while at the same time avoiding ribbon and over-spill development from urban areas and protecting environmental qualities".*

The proposed development represents the next step in the expansion of this rural business and as such should be supported in accordance with Section 5.3 above.
The proposed development would if permitted help sustain local rural economies and rural communities by supporting local farmers who can supply feedstock for the proposed development.
NPO 21 is relevant:

"National Policy Objective 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".

Whilst AD is relatively new in Ireland it is a well-established energy source in Europe. The proposed development constitutes innovation following best practice European models and should be supported as a form of diversification of the rur al economy which specifically addresses climate change and sustainability.

Section 5.4 of the NPF states:

"5.4 Planning and Investment to Support Rural Job Creation
Agriculture
The agri-food sector continues to play an integral part in Ireland's economy and is our largest indigenous industry, contributing 173,400 direct jobs and generating 10.4% of merchandise exports in 2016. Agriculture has traditionally been the most important contributor to rural economies and it remains important as a significant source of income and both direct and indirect employment. However, it must adapt to the challenges posed by modernisation, restructuring, market development and the increasing importance of environmental issues.

Much of the economic benefits in the agri-food sector are dispersed throughout the country making it particularly vital to rural areas and economic development generally. Continued development of the agri-food sector will be supported through the implementation of Food Wise 2025.

Food Wise 2025 sets out a strategic plan for the development of the agri-food (including seafood) sector over for the period up to 2025 and is the successor to the Food Harvest 2020 strategy. Food Wise 2025 identifies growth projections for the sector including:

85% increase in the value of agri-food exports to €19 billion;
70% increase in value added in the agri-food, fisheries and wood products sector to in excess of €13 billion;
65% increase in the value of Primary Production to almost €10 billion; and
23,000 additional direct jobs in the agri-food sector all along the supply chain from primary production to high valued added product development.

Food Wise 2025 has five cross-cutting themes: sustainability, human capital, market development, competitiveness and innovation. Sustainability is key to the strategy, which states that: "environmental protection and economic competitiveness are equal and complementary – one cannot be achieved at the expense of the other". Food Wise also supports technology and processes that result in a more efficient use of resources".

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The applicant is a major contributor to this rural economy through various inter relationships with local farmers. They are continuously evolving and their move towards sustainability is obvious in line with their recognition of environmental matters.

The proposed development represents the next step in their movement towards more sustainable practices in line with the Biomethane Strategy and are best positioned to deliver this type of infrastructure due to the scale of their existing activities.

"Circular Bioeconomy
While rural and coastal areas have the potential for, and will develop, many types of economic activities, those activities associated with the bio-economy such as development of new bio-refining technologies represent a competitive advantage. The bio-economy comprises "the production of renewable biological resources - such as crops, forests, fish, animals, and micro-organisms and the conversion of these resources and waste stream residues, by-products or municipal solid waste into value added products, such as food, feed, bio-based products and bioenergy" (European Commission, 2012).

The transition to a more circular economy and bioeconomy, where the value of bio-based products, materials and resources is maintained in the economy for as long as possible, and the generation of waste minimised, will provide an essential contribution to our national goal of developing a sustainable, low carbon, resource efficient and competitive economy.

National Policy Objective 23
Facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism".

The above National Policy Statement and European policy clearly supports the production of renewable biological resources such as crops and the conversion of these resources and animal by-products into Bioenergy.

National Strategic Outcome 8
Transition to a Low Carbon and Climate Resilient Society

The proposed AD facility directly contributes to Ireland's climate action targets by reducing reliance on fossil fuels and lowering greenhouse gas emissions. Biomethane production aligns with Ireland's National Energy and Climate Plan

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(NECP) and the Climate Action Plan, both of which emphasise the role of renewable gas in decarbonising Ireland's energy system.

The proposed development supports this Strategic Outcome through the production of biomethane for direct injection into the national gas grid, reducing Ireland's dependence on fossil fuels. The development will also support Ireland's commitment to achieving a net-zero economy by 2050 and aid in the decarbonisation of agriculture by processing organic waste into renewable energy.

Section 9.2 of the NPF states:

> *"9.2 Resource Efficiency and Transition to a Low Carbon Economy*
> *Ireland is advancing its development as a circular economy and bio economy where the value of all products, materials and resources is maintained for as long as possible and waste is significantly reduced or even eliminated.*
>
> *National Policy Objective 53*
> *Support the circular and bio economy including in particular through greater efficiency in land management, greater use of renewable resources and by reducing the rate of land use change from urban sprawl and new development.*

As outlined previously, the applicant in their various partnerships with other farmers and suppliers have been operating in a circular economy for decades now. This application is the next step in the process and represents another cog in the wheel of this transition to a low carbon economy.

The NPF states:

> *"If Ireland is to make up for lost ground in relation to carbon reduction targets and move towards the objective of a low carbon and climate resilient Ireland by 2050, it is necessary to make choices about how we balance growth with more sustainable approaches to development and land use and to examine how planning policy can help shape national infrastructural decisions".*

The decision of the Planning Authority runs contrary to the above National Policy and it beggars' belief that the planner's report which informed the decision of the Planning Authority would suggest that the proposed development is more akin to industrial than agricultural development when clearly all of the inputs into the process are related to agriculture and food processing and not industrial.

The following NPOs are relevant:

> ***"National Policy Objective 54***
> *Reduce our carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and*

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adaptation objectives, as well as targets for greenhouse gas emissions reductions.

National Policy Objective 55
Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050.

National Policy Objective 56
Sustainably manage waste generation, invest in different types of waste treatment and support circular economy principles, prioritising prevention, reuse, recycling and recovery, to support a healthy environment, economy and society".

The proposed AD Facility is fully aligned with the strategic goals of the National Planning Framework, particularly in relation to Objectives 54, 55, and 56. It contributes to Ireland's transition to a low-carbon economy, promotes the use of renewable energy, and supports sustainable waste management through the efficient use of organic waste and the generation of biomethane. The integration of the facility with existing agricultural infrastructure and its contribution to Ireland's climate action goals further strengthens its alignment with national planning objectives. By focusing on resource efficiency, carbon reduction, and sustainable energy production, this development represents a significant contribution to achieving the NPF's vision for a sustainable, low-carbon future.

National Strategic Outcome 9
Sustainable Management of Water and other Environmental Resources

This Strategic Outcome emphasises the efficient and sustainable management of water, waste, and other environmental resources. The AD facility's ability to convert byproduct into energy, capture carbon, and support sustainable farming practices reflects the circular economy principles advocated by the NPF, ensuring that all byproduct is repurposed and transformed into a resource rather than a liability.

The NPF specifically states:
"Planning for waste treatment requirements to 2040 will require:

- *Biological treatment and* ***increased uptake in anaerobic digestion*** *with safe outlets for bio stabilised residual waste; and*
- *Waste to energy facilities which treat the residual waste that cannot be recycled in a sustainable way delivering benefits such as electricity and heat production."*

Conclusion re NPF

The above NPF policies and objectives supports the role of agriculture in delivering the sustainable objectives in terms of climate change and the bio-circular economy.

We are satisfied therefore that the proposed development fully accords with the provisions of the NPF.

9.2 Climate Action Plan 2024

This section examines the proposed development in the context of the National Climate Action Plan 2024:

The Climate Action Plan 2024 outlines a strong commitment to *'Agri-Centric Biomethane Production'* as a key element of Ireland's energy transition strategy. The government has set a target of producing **5.7 TWh** of indigenous biomethane by 2030, requiring a scaled-up Anaerobic Digestion (AD) sector.

Given that biomethane production in Ireland is still at an early stage, a whole-of-government approach is being pursued to achieve this target. As a result of this, The National Biomethane Strategy has been developed to provide actionable recommendations to stimulate the sector, ensuring sustainable biomethane production while balancing economic, social, and environmental considerations. The strategy outlines short, medium, and long-term plans for AD sector development and includes a focus on land diversification and income opportunities for farmers, ensuring the agriculture sector plays a leading role in energy system decarbonisation.

To oversee implementation, a dedicated AD and Biomethane Working Group was established under the Heat and Built Environment Delivery Taskforce. This group, comprising multiple government stakeholders, align policies across planning, regulation, and market incentives. Their goal is to enable the agriculture sector to meet its emissions reduction targets, support businesses in decarbonising industrial processes, and ensure Ireland meets EU renewable heat targets for 2030.

The National Biomethane Strategy provides clear policy direction for Ireland's agri-centric biomethane sector, strengthening farmers' role in renewable energy while contributing to national and EU decarbonisation goals.

The proposed AD facility will play a critical role in supporting Ireland's target of producing 5.7 TWh of indigenous biomethane by 2030 upon a successful grant of planning permission. By integrating sustainable agricultural practices and supporting farmers' land diversification, the development is fully aligned with the government's ambition to establish a thriving biomethane sector, making a tangible contribution toward Ireland's climate and energy security goals.

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9.3 Regional Planning Policy

Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031

The EMRA Regional Spatial and Economic Strategy (RSES) includes several policies and objectives that relate to farming, diversification, and anaerobic digestion. These policies support rural development, sustainable energy, and innovation in agricultural practices. Below are the key relevant outcomes:

Rural Economy

RPO 6.5: Local authorities shall explore projects in LECPs for the enhancement of the competitiveness of their 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. Cross-boundary and inter-regional partnerships are encouraged, and they will be supported.

The applicant through their existing business have established a number of local and inter-regional partnerships. The proposed development aims to utilise and build upon these existing established relationships in their supply chain for this proposed AD. This accords with RPO 6.5 above.

"RPO 6.7: Support local authorities to develop sustainable and economically efficient rural economies through initiatives to enhance sectors such as agricultural and food, forestry, fishing and aquaculture, energy and extractive industries, the bioeconomy, tourism, and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage".

The proposed development constitutes a sustainable addition to the established agricultural and food production uses on the landholding. The proposed development shall be ancillary to the existing operations and represents a positive next step in the enhancement of their business practices in accordance with RPO 6.7.

"Low Carbon and Circular Economy

RPO 6.23: Support enterprise development agencies and LEOs on the development of industries that create and employ green technologies and take measures to accelerate the transition towards a low carbon economy and circular economy".

The applicant is operating in an established circular economy. The proposed development seeks to employ green technologies and represents a positive example of farming and food production taking the lead in the transition towards a low carbon economy. This accords fully with RPO 6.23.

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"Agriculture
RPO 6.24: Support the Departments of Agriculture, Food and the Marine, and Communications, Climate Action and Environment to enhance the competitiveness of the agriculture sector with an urgent need for mitigation as well as real and effective and adaptation mechanisms for the long-term sustainability of the Agri-sector".

The applicant's long commitment towards sustainable farming practices and sustainable food production is reflected in their history of sustainable development of wind, solar and wetlands as well as their many awards received in the area of Sustainable Horticulture, Good Agricultural Practice, Eco-Friendliness Award, Sustainability categories listed on the attached document.
The proposed development constitutes the next step on the part of the business towards enhancing their sustainability.

"Climate Change
RPO 7.34: EMRA supports the National Policy Statement on Bioeconomy (2018) and supports the exploration of opportunities in the circular resource-efficient economy including undertaking a bioeconomy feasibility study for the Region to identify the area of potential growth in the Region to inform investment in line with the national transition objective to a low carbon climate resilient economy".

The applicant's existing operations are an excellent model of the circular resource economy. The proposed development represents an additional spoke in the wheel of this model thereby enhancing its sustainability and highlights their strong commitment towards addressing climate change. Large scale farmers and food producers such as the applicant, need to be the driving force behind the delivery of AD in line with the Biomethane Strategy. They have the capital to do so and the established farming partnerships with smaller farmers thereby aiding the smaller farmers and growers to play their role in tackling climate change. This accords with the above policy of the EMRA.

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9.4 Local Planning Policy

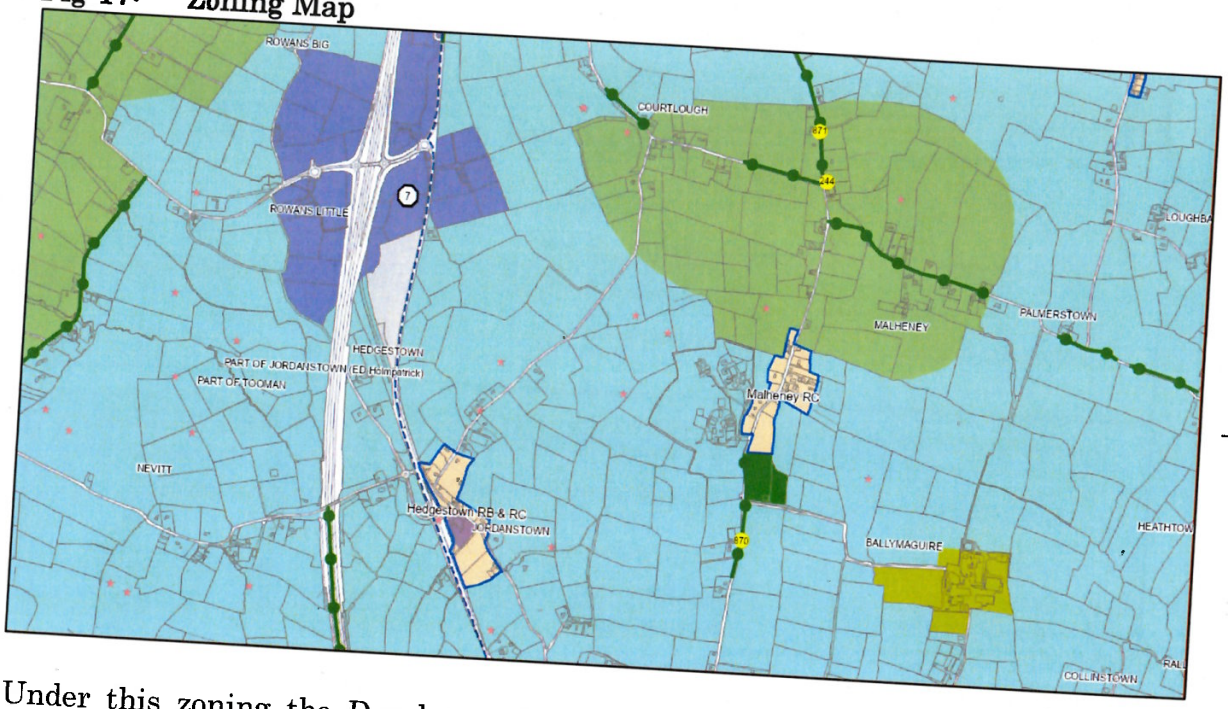
Fingal Development Plan 2023-2029

This section examines the proposed development in the context of the Fingal Development Plan 2023-2029.

Section 13.1 of the Plan sets out the Land Use Zoning for Fingal.

The appeal site is zoned under 'RU' Rural in Section 13.1 of the Development Plan. This zoning has the Objective to *"protect and promote in a balanced way, the development of agriculture and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage."*

Fig 17: Zoning Map



Under this zoning the Development Plan outlines the Vision to *"Protect and promote the value of the rural area of the County. This rural value is based on:*

- *Agricultural and rural economic resources*
- *Visual remoteness from significant and distinctive urban influences,*
- *A high level of natural features.*

Agriculture and rural related resources will be employed for the benefit of the local and wider population. Building upon the rural value will require a balanced approach involving the protection and promotion of rural biodiversity, promotion of the integrity of the landscape, and enhancement of the built and cultural heritage."

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Fig. 18: Zoning Matrix
The following matrix is contained in Section 13.5 of the Plan

USE CLASSES RELATED TO ZONING OBJECTIV E

Permitted in Principle		
Agricultural B uildings[6]	Agri-Tourism	Bed and Br ealfast[3]
Boarding Kennels[3]	Burial Grounds[29]	Campsite[25]
Childcare Facilities[3]	Commu nityFacility[2]	Farm Shop[20]
Golf Course	Guest House[3]	Health Practitioner[3]
Holiday Home/Apartments[7]	Industry – Extract ive/ Qua rrying	Office Ancillary to Permitted Use
Open Space	Research and Development[14]	Recreational/Sports Facility[2]
Reside ntial[4]	Restaurant/Café[13]	Utility Installations
Veterinary Clinic[21]		

Not Permitted		
Agribusiness	Agricultural Farm Supplies	Agricultural Machinery Sales and/or Maintenance
Air Transport Infrastructure	Amusement Arcade	Betting Office
Builders Provider/Yard	Car Hire Holding Area	Caravan Park – Residential
Cargo Yards	Carpark – Non -Ancillary	Conference Centre
Dancehall/Nightclub	Data Centre	Enterprise Centre

Not Permitted contd.		
Exhi bition Centre	Fast Food Ou tlet/Take-Away	Food, Drink and Flower Prepa ration/Proce ssing
Fuel Depot/Fuel Storage	Funeral Home/Mortuary	Health Centre
Heavy Vehicle Park	Hig hT echnology Manufacturin g	Hospital
Ind ustry– General	Industry – Light	Industry – High Impact
Logist ics	Office ≤100 sqm	Office > 100 sqm and < 1,000 sqm
Office ≥1,000 sqm	Public House	Remote Work Hub
Residential CareHome/ Retirement Home[12]	Retail – Local < 150 sqm nfa	Retail – Co nvenience ≤ 50 0 sqmnfa
Retail – Comparison ≤500 sqm nfa	Retail – Comparison > 500 sqm nfa	Retail – Supermarket ≤ 2,500 sqm nfa
Retail – Superstore > 2, 500 sqm nfa	Retail – Hypermarket > 5, 000 sqmnfa	Retail – Factory Outlet Centre
Retail Warehouse	Retail – Warehouse Club	Retirement Village
RoadTr ansportDepot	Shelte red Accommo dation	Taxi Office
Training Centre	Vehicle Sales Outlet – Small Ve hicles	Vehicle Sales Outlet – Large Vehicles
Ve hicleServicing/ Maintenance Garage	Warehousing	Wholesale

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[2] Where it is in proximity to residential settlements and would not generate unacceptable traffic problems
[3] Where the use is ancillary to the use of the dwelling as a main residence
[4] Subject to compliance with the Rural Settlement Strategy
[6] Including buildings to provide for preparation of produce sourced from the site/farm
[7] Only permitted where the development involves conversion of a protected structure
[11] Except where a demonstrated need to locate in a rural environment because of the nature of the care required is established or where immediately contiguous to a zoning where the use is permitted in principle and meets Development Plan standards in relation to access and infrastructure
[13] Ancillary to tourism uses or conversion of protected or vernacular structures where appropriate
[14] Rural related research and development only
[20] Only where the bulk of the produce is produced on the farm
[27] Only where a demonstrated need to locate in a rural environment because of the nature of the clinic required is established
[28] No static mobile homes or permanent structures (unless ancillary to the operation of the campsite) shall be permitted
[29] And appropriately scaled ancillary facilities

Note: Uses which are neither 'Permitted in Principle' nor 'Not Permitted' will be assessed in terms of their contribution towards the achievement of the Zoning Objective and Vision and their compliance and consistency with the policies and objectives of the Development Plan.

The term Anaerobic Digestor is not listed anywhere in the list of uses in the Development Plan, therefore the above "**Note**" applies. "Uses which are neither "Permitted in Principle" nor "Not Permitted" will be assessed in terms of their contribution towards the achievement of the Zoning Objectives and Vision and their compliance and consistency with the policies and objectives of the Development Plan.

We are satisfied from our assessment of proposed development that the structures and the use fall clearly within the category of agricultural buildings and utility installations as well as a small-scale ancillary office. The proposed buildings store animal feedstocks and animal manure and are therefore agricultural building which are permissible in this RU Zoning. The anaerobic digestion power rings constitute utility installations and are therefore permissible in the RU Zoning. The proposed development involves agricultural buildings and utility installations as well as a small-scale admin building which is ancillary to the proposed use, which are all permissible in principle in the RU Zoning.

Section 5.5.3.1 of the Plan states as follows:

"5.5.3.1 Renewable Energy
A renewable energy source means energy that is sustainable, something that can't run out, or is endless, like the sun and is, therefore, a more sustainable alternative to fossil fuels, which are finite. Renewable energy sources includes wind energy, solar energy, water energy (hydro, wave and tidal energy), geothermal energy (from heat below the surface of the earth), ambient energy (from air) and biogas (anaerobic digestion).

Ireland's Climate Action Plan 2023 (CAP23) includes a commitment that 80% of our electricity needs will come from renewable sources by 2030. The plan states that achieving this target will involve phasing out coal and peat-fired electricity generation plants, increasing our renewable electricity, reinforcing our grid (including greater interconnection to allow electricity to flow between Ireland and other countries), and putting systems in place to manage intermittent sources of power, especially from wind.

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Currently within Fingal, the principle renewable energy sources include solar, wind and micro-renewables, but opportunities exist for other renewable energy sources to be provided in the future including green hydrogen and biofuels such as biomethane and this Plan seeks to assist in the diversification of renewable energy provision in the County".

5.5.3.5 Other Sources of Renewable Energy
In addition to the primary sources of renewable energy addressed above, other sources of renewable energy exist, including green hydrogen and biofuels such as biomethane (and associated infrastructure) which have the potential to contribute to the overall goal of decarbonising the energy sector. Another source of renewable energy would be biomass, which is plant or animal material used as fuel to produce electricity or heat and examples include wood, energy crops and waste from forests, yards, or farms".

The only reference to Anaerobic Digestion in the entire Development Plan is in Section 5.5.3 1 which is quite surprising given the National Biomethane Strategy requirement for a minimum of 140 of these types ofinstallations and the scale of farming and horticultural and food production being carried out in Fingal whic h can clearly provide for the majority of feedstock inputs into the process.

Given Ireland's Climate Action Plan commitment that 80% of our electricity needs to come from renewable sources by 2030 the contribution of biomethane to achieving this target must not be ignored.

The decision of the Planning Authority runs in direct con tradiction to the above policy which clearly supports opportunities or other renewable energy sources to be provided in the future such as biomethane.

The decision of the Planning Authority also ignores the factthat the Development Plan identifies that the source of renewable energy from energy crops on farms for the production of energy.

Section 7.5.3 of the Plan states *inter alia* as follows:

"7.5.3 Rural Economy
Rural Fingal is comprised of a large number of diverse towns, villages and Rural Fingal is well placed to sustain its population and its services, to promote its communities and its tourism product, to protect its built and natural environment and to diversify in terms of local enterprise, tourism and employment. There are a number of rural economic sectors throughout the County, and these include agriculture, horticulture, agri-food, agribusiness, equine, forestry, land reclamation and aggregate extraction, farm diversification, renewable energy projects, small and medium sized enterprises, home-based economic activity and rural tourism. ***Fingal is renowned for its agri-food and horticulture sector and they make a significant contribution to employment in rural areas, being a pivotal source of***

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enterprise creation and opportunities. All of these sectors will play a vital role in the rural economy in the future. The NPF and RSES support these sectors and state that rural economies and communities should be facilitated in agriculture forestry, tourism and rural enterprise, *while avoiding over-spill development from urban areas and urban generated housing.*

The above policy of the Fingal Development Plan clearly recognises the contribution of the agricultural, horticultural and agri-food sector to employment in rural areas. It therefore beggars' belief that a development of a renewable energy project which is inextricably linked to agriculture and horticulture would be rejected by Fingal County Council when the Development Plan, RSES and NPF all seek to support these sectors and **should be facilitated.**

"Policy EEP23 – Rural Economy Support and protect existing rural economies such as valuable agricultural lands to ensure sustainable food supply, to protect the value and character of open countryside and to support the diversification of rural economies to create additional jobs and maximise opportunities in emerging sectors, such as agri-business, renewable energy, tourism and forestry.

The proposed development would constitute an ancillary part of the overall farming and Agri food operations of the Hoey family but would represent a very strong positive step in terms of sustainability. The digestate outputs from the proposed renewable energy development would go back into the land as organic fertiliser of the highest quality and therefore supports the sustainable food supply. Therefor the proposed development is fully aligned with the above Policy EEP23 and accords fully with the principles of proper planning and sustainable development.

Section 7.5.3.2 of the Plan states:

"7.5.3.2 Renewable energy Objective EEO70 – Renewable and Alternative Energy
Facilitate and encourage the development of the alternative energy sector, in line with a Local Renewable Energy Strategy, and work with the relevant agencies to support the development of alternative forms of energy where such developments do not negatively impact upon the environmental quality, and visual, residential or rural amenity of the area".

Having inspected the site and reviewed the proposed development we consider that the location of the proposed development is the most appropriate location for a development of this nature, having regard to the proximity to the gas grid and to the farm sheds which will supply the inputs into the anaerobic digestor. The EIAR confirms that the proposed development would not negatively impact on environmental quality, visual, residential or rural amenities of the area. We are satisfied therefore that the proposed development accords fully with EEO70 of the Plan.

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Section 7 .53 .3of thePlan states as follows:

> *"7.5.3.3 Rural enterprise*
> *It is acknowledged that the development of rural enterprise and employment opportunities will be vital to sustaining the rural economy. In accordance with the economic strategy for the overall County, employment, servicing the rural areas, should, in general, be directed to the local employment centres of small towns and villages and rural business zones, catering for local investment and small-scale industry. Within the rural countryside, horticulture, agriculture, equine, recreational, tourism, energy production and rural resources based enterprise is promoted.*

The proposed development consists of an agricultural development and a u tilty installation, which the Development Plan clearly supports in rural areas such as the appeal site. We are satisfied that the proposed development would if permitted support the sustaining of the rural economy in accordance with the economic strategy for the overall county.

Section 7.5.3.5 of the Plan states inter alia as follows:

> *"7.5.3.5 Agriculture, Agri-food and Farm diversification*
> *Fingal is the principal County within the Dublin region for agricultural activities and has a national reputation for its horticultural sector. The agricultural profile of the County is characterised by mainly tillage and beef production operators, with a number of horticultural farms engaged in specialist fruit and vegetable production. Agriculture and agri-food are not significant employers to the County at present, but the industry is still underdeveloped. The quantum of agricultural land available and favourable zonings for the sector create significant potential opportunity to grow the sector and its employment base into the future.*
>
> *Fingal has a well-established agri-food sector with a number of successful agri-food companies. This sector is well placed to play a significant role in the economy into the foreseeable future. The agricultural sector must adapt to the challenges posed by modernisation, restructuring, market development and the increasing importance of environmental issues. It is recognised that there is a need for diversification from traditional agricultural practices. The Council will encourage farming practices and production methods that have regard to conservation, landscape protection, the protection of wildlife habitats, endangered species, flora and fauna and water quality. Sustainable agricultural practices will be encouraged to ensure that development does not impinge on the visual amenity of the countryside or on the architectural heritage of the County and that watercourses and areas of ecological importance are protected from the threat of pollution. The Council will continue to support and facilitate agriculture and new agricultural initiatives.*

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Fingal County Council, through the Local Enterprise Office, is delivering a wide range of financial and nonfinancial supports to agri-food companies in the County. The Agri-Food Strategy for Fingal builds upon this work and sets out a common framework that will foster innovation and collaboration across the sectors, increasing value added, leading to further jobs creation in the agri-food sector and maximising the potential of the agri-food base in the County. Fingal County Council developed the strategy with the input of a steering group of local sectoral experts. Policy EEP28 – Agriculture Safeguard the agricultural identity of North Fingal, promoting the rural character of the County and supporting the agricultural/horticultural production sectors".

The applicants are one of the largest stakeholders in the farming, horticulture and food production sector in Fingal and are significant local employers. The proposed development shows the applicant's commitment to sustainable agricultural practices which should be supported in accordance with the above policies and objectives. Whilst the proposed development would not generate significant employment directly, it would result in sustaining indirect jobs by providing an additional revenue stream for local farmers through cash crops. It is recognised that the tillage sector is a very difficult and uncertain market being significantly impacted by climate. The proposed development would provide a steady stream of income for local farmers.

Section 14.15.5 of the Plan states as follows:

"14.15.5 Agricultural Development
Agricultural developments have the potential for immense impact on the environment and landscape. The traditional form of agricultural buildings is disappearing with the onset of advanced construction methods and wider range of materials. Some new farm buildings have the appearance of industrial buildings and due to their scale and mass can have serious visual impacts.

Objective DMSO100 – Agricultural Buildings
In the construction and layout of agricultural buildings, the Council requires that buildings be sited as unobtrusively as possible and that the finishes and colours used, blend the development into its surroundings. The Council accepts the need for agricultural buildings and associated works (walls, fences, gates, entrances, yards etc.) to be functional, but they will be required to be sympathetic to their surroundings in scale, materials and finishes. Buildings should relate to the landscape and not the skyscape. Traditionally this was achieved by having the roof darker than the walls.

Objective DMSO101 – Design of Agricultural Buildings
Appropriate roof colours are dark grey, dark reddish brown or a very dark green. Where cladding is used on the exterior of farm buildings, dark colours (preferably dark green, red or grey) with matt finishes will normally be

required. The grouping of agricultural buildings is encouraged in order to reduce their overall impact in the interests of amenity".

The proposed structures have been designed to reflect the adjoining agricultural structures, with similar finishes and colours. The proposed development will sit below the height of the existing buildings on the landscape which will aid their absorption in accordance with the above Objectives of the Development Plan.

"Objective DMSO102 – Assessment of Agricultural Development
Consider traffic safety, pollution control, and the satisfactory treatment of effluents, smells and noise in the assessment of agricultural development. Proper provision for disposal of liquid and solid wastes shall be made. In addition, the size and form of buildings and the extent to which they can be integrated into the landscape, will be factors which will govern the acceptability or otherwise of such development".

Careful consideration has been given to all of these aspects of development management through the EIAR process. A road safety audit has been completed, the proposed development has been designed to the highest possible standards in terms of environmental control. We note that there were no objections from the other Departments of the Planning Authority to the proposed development.

The proposed development is agricultural in its nature and is smaller in scale than the existing structures adjoining and therefore is acceptable in terms of its size and form and how it integrates into the landscape.

Table 5.1 'Summary of Climate Action Measures by Chapter' as set out in the County Development Plan highlights several measures which would be achieved through the development of the proposed Anaerobic Digestor. Measures relating to the proposed development are emphasised in bold writing below:

Chapter 5 – Climate Action

Objective EEO30 – The Green Economy
Support the growth of the 'green economy' including renewable energy, retrofitting, and electric vehicles and charging infrastructure, supporting the transition towards a circular economy in compliance with national policy and legislation.

Objective EEO31 – Green Economy Initiatives
Support the growth of business in the green and circular economy and the initiatives within the IDA strategy Driving Recovery and Sustainable Growth, or any superseding document, including through the accelerated roll-out of the National Broadband Plan.

The facility would if permitted contribute to the expansion of the green and circular economy by producing renewable biomethane, reducing reliance on fossil fuels, and promoting sustainable agricultural practices. By advancing low-carbon

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energy solutions and sustainable agricultural practices, the facility will make a significant contribution to Ireland's transition to a green economy while enhancing the local rural economy and reducing environmental impact.

Policy EEP24 – Protecting the Rural Landscape And Natural Heritage
Balance protecting the landscape and natural heritage of rural Fingal with the need to harness and promote economic opportunities associated with rural life such as agricultural, horticultural, tourism and rural-related economic uses.

Objective EEO63 –Sustainable Agricultural Practices
Encourage the development of environmentally sustainable agricultural practices, to ensure that development does not impinge on the visual amenity of the countryside and that watercourses, wildlife habitats and areas of ecological importance are protected from the threat of pollution.

The facility is designed to integrate seamlessly with the existing agricultural setting, minimising visual and environmental impact, while supporting sustainable rural enterprise. By processing agricultural byproducts into biomethane and organic fertiliser, the facility enhances soil health, reduces chemical fertiliser use, and contributes to Ireland's renewable energy targets. Additionally, it aligns with circular economy principles, ensuring that local farming operations remain productive and environmentally sustainable without compromising the rural character of Fingal.

The proposed development would be located directly adjacent to the cattle sheds which are a source of animal by product for the proposed AD. This is an ideal scenario in terms of siting as the appeal site is adjacent to the farm buildings and to the gas pipeline.

Photo 4: Showing proximity of appeal site to appeal site

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Objective EEO70 – Renewable and Alternative Energy

Facilitate and encourage the development of the alternative energy sector, in line with a Local Renewable Energy Strategy, and work with the relevant agencies to support the development of alternative forms of energy where such developments do not negatively impact upon the environmental quality, and visual, residential or rural amenity of the area.

Objective EEO86 – Farm Diversification

Promote farm diversification where:

- *the proposal is related directly either to the agricultural operation engaged upon on the farm or the rural nature of the area.*
- *The use is compatible with the existing road infrastructure in the area.*
- *it does not unacceptably impact on the landscape, environment and character of the area.*

Objective EEO88 – Support Teagasc and Other Farming / Local Bodies

Support and facilitate the work of Teagasc and other farming / local bodies within the County in the promotion of the rural economy, including agriculture development, rural diversification, tourism adaptation and in the development of new initiatives to support farming.

The proposed development would facilitate the development of alternative energy by producing renewable biomethane for direct injection into the gas grid, reducing greenhouse gas emissions and supporting national and local climate targets. As a farm-integrated development, the facility supports farm diversification by utilising agricultural by-products ensuring that the development is directly related to agricultural operations. Its location adjacent to an established Agri food cluster ensures that it is compatible with the existing road infrastructure, minimising transport impact. Additionally, it supports the rural economy and farming sector by enhancing resource efficiency, creating new revenue streams for farmers, and promoting circular economy principles. The facility aligns with Teagasc's objectives for sustainable agriculture and rural innovation, reinforcing its role as a key contributor to the long-term viability of the local farming community.

"Policy IUP30 – Promote Low Carbon Energy Development

Promote more energy-efficient development through the location of housing and employment along district heating hubs, or potential renewable energy locations, where people can connect buildings to energy efficient, low-carbon alternatives.

Policy IUP33 – Renewable Energy

Continue to develop and implement climate action and energy related initiatives in Fingal and continue to support the recording and monitoring of renewable energy potential in Fingal in partnership with other stakeholders including the East Midlands Regional Assembly EMRA, the Dublin Energy Agency (Codema) and the Climate Action Regional Office (CARO).

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Objective IUO44 – Energy Utilities
Support the development of enhanced electricity and gas supplies, and associated transmission and distribution networks, to serve the existing and future needs of the County, and to facilitate new transmission infrastructure projects and technologies".

The facility directly supports Policy IUP30 by producing renewable biomethane, a low-carbon energy alternative that reduces reliance on fossil fuels and can be injected into the national gas grid for widespread distribution. It further aligns with Policy IUP33 by contributing to Fingal's renewable energy targets, enhancing the county's energy resilience, and supporting regional and national climate action initiatives. Additionally, the project is consistent with Objective IUO44, as it facilitates enhanced gas supply and distribution, ensuring that renewable gas infrastructure is integrated into the existing energy network. The strategic location of the facility near the gas grid ensures efficient energy transmission, reinforcing Fingal's commitment to sustainable energy development.

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10.0 Grounds of Appeal

The Grounds of Appeal are as follows:

1) **Reason No. 1 of the Planning Authority decision is unreasonable and factually inaccurate and fails to appreciate the nature of the proposed development. The proposed development does not constitute a material contravention of the Development Plan.**
2) **Reason No. 2 of the Planning Authority Decision is unreasonable having regard to the established pattern of development adjoining the appeal site and fails to appreciate the site-specific locational need for the proposed development relative to the gas line.**
3) **Reason No. 3 of the Planning Authority decision is unreasonable having regard to the very limited volume of traffic generated by the proposed development. This could have been easily addressed by way of a further information request and certainly does not constitute a valid or an appropriate reason for refusal.**
4) **The Planner's report fails to properly interpret the nature of the proposed development in assessing the principle of same.**

The Grounds of Appeal are expanded on below:

1) **Reason No. 1 of the Planning Authority decision is unreasonable and factually inaccurate and fails to appreciate the nature of the proposed development. The proposed development does not constitute a material contravention of the Development Plan.**

Reason for Refusal No. 1 states as follows:

> *"The proposed development involves the construction of a commercially operated anaerobic digestion (AD) facility. The proposed development would not be directly connected to the local rural community, nor would it serve the local rural economy, as evidently, the majority of the raw materials required by the AD process would be sourced from outside the local rural area. The 'Anaerobic Digester' land-use is considered akin an 'Industrial' use of land, either 'General' or 'High Impact' as per Appendix 7 of the development plan. An 'Anaerobic Digester' use could also be characterised as an 'Agribusiness'. The proposed development is therefore considered to be unacceptable in principle as these uses are specifically precluded from areas zoned 'RU' as per the zoning objective, each being listed as a 'Not Permitted' land-use under the 'RU' land-use zoning objective. The proposed development would therefore be a material contravention of the 'RU' land-use zoning 'RU' land-use zoning objective of the Fingal Development Plan 2023-2029 and would be contrary to the proper planning and sustainable development for the area".*

All farming activities are commercially operated, and this farm and agri-food enterprise is no different albeit it is on a major scale. The suggestion that this

proposed development would be a "commercially operated anaerobic digestion facility" and "not be directly connected to the local rural community" is factually incorrect and shows a total lack of understanding or appreciation of the nature of the proposed development. The proposed anaerobic digester is inextricably linked to the crops which are grown on the farm and are grown locally. The inputs into this proposed anaerobic digester will be from the applicant's own farm and from local tillage producers. In excess of 90% of all feedstock is sourced in Fingal. The applicants have long established farm partnerships and contracts with many local farmers and suppliers which shall be utilised in this proposed development.

The suggestion that this proposed development is akin to an "industrial use of land" is also totally inaccurate. This is not an industrial use; it is an agricultural use of land inextricably linked to the existing agricultural activities which have been operating from here for 40 years.

As explained in the process section above the main inputs into this biological process are silage and other feed crops. These feedstocks are stored in their various forms in the proposed farm buildings which are similar to any on farm silage bays or manure stores.

The Planner's report states: "*Whilst the application submission proposes a relationship between the proposed "Anaerobic Digester" and local agricultural practices in terms of supply of raw materials, such a relationship is not "fixed" and could be readily sapped for an alternative relationship with other, non-local suppliers, even from other non-agricultural sectors*". We would submit that the foregoing represents a prejudiced approach to the determination of this application and does not assess the application on its merits. The applicants are farmers and food producers, they are not waste operator and have no intention of entering the waste industry. It also completely ignores the fact that National Policy promotes this type of development as "Agri Centric". The EIAR shows that there are more than sufficient feedstocks available to supply the proposed development so there is no need for them to seek alternative supplies as the planner's report suggests. The applicants are farmers and have always been farmers, it is their intention to continue to do so and the proposal is simply a new opportunity to improve the sustainability of the farm.

Reason No. 1 of the decision of the Planning Authority states "An 'Anaerobic Digester' use **could** also be characterised as an 'Agribusiness'. The proposed development is therefore **considered** to be unacceptable in principle as these uses are specifically precluded from areas zoned 'RU' as per the zoning objective"

The suggestion that the proposed development is an "agri-business" is incorrect, misleading and disingenuous as the entire farming operations being carried out by Country Crest is a business model given its scale in supplying all of the onions and potatoes to Tesco. This is modern scale farming and business. Why such a proposal would be unacceptable in an RU Zoning in a rural area is incomprehensible. However, for the avoidance of doubt, by definition an Agri business is defined in Fingal Development Plan – Appendix 7 as follows:

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"Agribusiness
A business that is directly related to the agricultural or horticultural sector involving the processing of produce of which a significant portion is sourced locally. It may also include support services for the agriculture or horticulture sector".

There is no processing of produce in this proposed development and the proposed development is not providing a support service for agriculture.

We are satisfied that the proposed development falls within the definitions of Agricultural Buildings and Utility Installation under Appendix 7 of the Fingal Development Plan which state as follows:

"Agricultural Buildings
Use of a building(s) for the purposes of horticulture and agriculture including for the purposes of housing livestock, dairy farming, training of horses, growing of produce, storage and other uses directly related to primary food production and the rearing or breeding of livestock".

Utility Installations
A structure composed of one or more pieces of equipment connected to or part of a structure and/ or a facility designed to provide a public utility service such as the provision of heat, electricity, telecommunications, water or sewage disposal and/or treatment".

The proposed development includes buildings which are used for the purposes of agriculture and in that they store agricultural byproducts and feedstocks. The proposed development also comprises of structures which are designed to provide a public utility service namely gas which is required for the production of electricity and heat.

Modern intensive agriculture and horticulture is very scientific in its form, piggeries have feed mills and scientific models developed to ensure the appropriate feed mixes are given at the various stages of the life cycle of the pig to reduce the nitrogen output from the pig manure generated. Intensive poultry farms have major bio-security controls in place to protect the animals from disease, the internal environments of henhouses are controlled to avoid excessive concentrations of ammonia and other gases, heat and ventilation are critical considerations also.
The very traditional production of silage is also bio-sensitive and all farms have nutrient management plans governing the application of fertilisers.
Even on the very basic slatted shed cattle farm careful consideration is given to the control of gases during agitation of slurry. Agriculture is a complex mix of various sciences.

The proposed development is no different than other large scale farming activity.

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Put simply the proposed development of an anaerobic digester involves the storage of feedstocks, animal by-products and water and the mixing of same in the agricultural practice of anaerobic digestion to produce biogas, biomethane and digestate. The gas is a renewable energy source and the digestate is used as organic fertiliser and is applied to the land. The proposed development is no different than any other agricultural farming activity.

The suggestion that the proposed development is unacceptable in principle or that it is specifically precluded from areas zoned RU is factually incorrect and completely unreasonable. A development of this nature is undoubtedly agricultural and is therefore fully acceptable in an RU Zoning. This is not an agri-business or an industrial use.

The proposed use is Anaerobic Digestion which is not listed anywhere in the list of uses in the Zoning Matrix and must therefore be assessed on its own merits. As outlined above we are satisfied that an anaerobic digestor is an 'Agricultural Use' and 'Utility Installation' which will be connected to the gas grid adjoining. These uses are acceptable in principle in this RU Zoning.

Having regard to the fact that Anaerobic Digestion appears only once in the Development Plan in a policy which supports the development of same, we are satisfied that the proposed development accords with the Development Plan and with the proper planning and development of the area.

The use of the term material contravention is unacceptable in this context, having particular regard to the nature of the proposed development which is clearly agricultural.

Whilst the suggestion that the proposed development would be a material contravention of the Development Plan is strongly rejected on the basis that it is factually incorrect the provisions of Section 37(2) must be addressed. Section 37(2) of the Planning and Development Act 2000 (as amended) states as follows:

"(2) (a) Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.
(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—
(i) the proposed development is of strategic or national importance,
(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
(iii) permission for the proposed development should be granted having regard to F365[regional spatial and economic strategy] for the area, guidelines under section 28, policy directives under section 29, the statutory

obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.
(c) Where the Board grants a permission in accordance with paragraph (b), the Board shall, in addition to the requirements of section 34(10), indicate in its decision the main reasons and considerations for contravening materially the development plan"

Having regard to the National Biomethane Strategy which identified the need to development 140 of these facilities in the next 5 years this proposal is therefore of strategic and national importance in order to meet the Climate Change requirements.
We would submit that whilst there are clear objectives in the Development Plan supporting renewable energies of which **biogas, biomethane and Anaerobic Digestion** are stated, Anaerobic Digestion is not listed as a use within any of the zones and therein lies the conflict when the Planning Authority has misinterpreted the proposed development as "akin to industrial use" or "agribusiness" when clearly it is an agricultural use of an agricultural nature.

Having regard to the previously specified National Policies in respect of climate change, biomethane strategy and the development of AD of sufficient scale by 2030 permission for the proposed development should be granted.
Having regard to the regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, outlined in the policy section above permission should be granted in this instance.

The proposed development should be granted having regard to the pattern of development adjoining the appeal site which is agricultural in nature and having regard to the fact that the proposed development is inextricably linked to the established agricultural activities in the surrounding area. We note the permission granted (F23A/0326) in 2023 by FCC to the applicants for a utility installation in the form of a 2.3MW wind turbine on RU zoned lands. Having regard for the precedent set out by this grant of permission. Therefore, having regard to the pattern of development and to the permissions granted since the making of the Development Plan, permission should be granted for the proposed development.

Notwithstanding the fact that we do not consider the proposed development to be a material contravention of the Development Plan, we are satisfied based on the foregoing that the Board may grant permission in accordance with the provisions of Section 37(2) based on the following:
1. Anaerobic Digestor is not named in the Zoning Matrix
2. There are conflicting objectives in the Development Plan,

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3. National and regional policies of the Government in relation to Biomethane and Climate Change.
4. Having regard to the pattern of development and permissions granted since the making of the Development Plan.
We are satisfied therefore that the Board may decide to grant permission in this instance in accordance with Section 37(2) of the Planning and Development Act.

Compliance with National, Regional and Local Policy

The development is in full compliance with the following national, regional and local policies:

- National Planning Framework (NPO 55, NPO 56) – Encouraging renewable energy production and sustainable waste management.
- Climate Action Plan 2024 – Supporting biomethane production as a key component of Ireland's energy transition.
- Eastern and Midlands Regional Spatial and Economic Strategy (RSES) - Recognising AD as a critical element of rural diversification, agricultural sustainability, and bioeconomy development.
- Fingal County Development Plan – Encouraging rural enterprise development while ensuring resource-efficient land use.

The primary function of the proposed AD facility is agricultural in nature, as it processes organic by-product, animal slurry, and silage sourced directly from the farm and surrounding rural areas. AD technology is widely recognised as a farm-based renewable energy solution, helping farmers manage organic byproducts efficiently. Unlike general industrial developments, which involve manufacturing, processing, or large-scale production, AD facilities do not generate heavy traffic, noise, or pollution beyond what is typical for a large agricultural enterprise. They also do not involve mass production or heavy machinery unrelated to agriculture.

The Fingal Development Plan Appendix 7 categorises general and high-impact industry based on large-scale processing, warehousing, and logistics, none of which apply to a farm-based AD facility. Given this, the AD facility should not be misclassified as an industrial use but rather as a rural enterprise supporting agriculture and sustainability.

The RU zoning objective seeks to protect and promote the development of agriculture and rural-related enterprise, while also facilitating agricultural infrastructure that supports farm operations. The proposed AD facility meets this objective by processing organic farm byproduct, animal slurry, and silage sourced directly from the farm and surrounding rural areas, reinforcing its agricultural function rather than an industrial one.
Anaerobic Digestion is widely recognised as a farm-based utility that enhances agricultural efficiency by providing on-site byproducts management and renewable energy production. The Fingal Development Plan allows 'Utility Installations' within RU-zoned land, particularly where they serve rural and agricultural needs. The AD facility functions as an agricultural utility by processing farm byproducts into useful outputs, thereby improving farm

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sustainability and reducing environmental impact. The biomethane produced is integrated into the national gas grid, supporting Ireland's renewable energy targets while ensuring that farms have access to sustainable, farm-generated energy sources. The facility's role in carbon sequestration and circular farming practices aligns with the RU zoning objective's emphasis on environmental sustainability and biodiversity. By definition, Utility Installations within rural areas facilitate agricultural operations, renewable energy integration, and farm sustainability—all of which are direct functions of the proposed AD facility.

Across Ireland and Europe, AD facilities are commonly approved as agricultural infrastructure because they support farm sustainability, circular economy practices, and energy security. Many existing AD facilities in Ireland have been permitted on rural-zoned land, as they are recognised as integral to agricultural operations rather than industrial activities. The National Biomethane Strategy and Ireland's Climate Action Plan explicitly identify on-farm AD facilities as essential to rural sustainability and energy security. Furthermore, the Eastern and Midlands Regional Spatial and Economic Strategy (RSES) (RPO 7.34) also supports biomethane production and anaerobic digestion as part of agricultural land-use diversification, reinforcing the classification of such facilities as agricultural infrastructure rather than industrial development.

2. **Reason No. 2 of the Planning Authority Decision is unreasonable having regard to the established pattern of development adjoining the appeal site and fails to appreciate the site specific locational need for the proposed development relative to GNI national gas grid .**

Reason No. 2 states as follows:

> *"Having regard to the 'High-Lying Agricultural' landscape character type of the surrounding rural landscape, which is considered to be of 'High' landscape value and also considered to be 'High' in terms of sensitivity; and, having regard to the scale, height, design and layout of the proposed development and the limited visual impact information submitted as part of the applications, it is considered that when viewed collectively, the proposed network of buildings would cumulatively have a profoundly negative impact on the visual amenities of the application site and the surrounding area. The proposed development would be visually obtrusive and would seriously injure the amenities of the area and of property in the vicinity. The proposed development would therefore be contrary to the proper planning and sustainable development for the area".*

Reason No. 2 of the Planning Authority decision is unreasonable and fails to properly consider the existing pattern of development on this rural . The appeal site is located in the centre of the agricultural landholding and is a sufficient distance from public roads and public views. The Landscape and Visual Assessment chapter of the EIAR confirms that the appeal site is "*not within any area of High Sensitivity*. The nearest Highly Sensitive Landscape areas are

Courtlough area and the coastal area which are c. 420m to the northwest and 430m to the north-east, respectively.

The siting of the proposed buildings follows best practice in terms of clustering agricultural buildings in the landscape. The appeal site is adjacent to existing large scale agricultural buildings and Agri food operations ensuring that the facility is in keeping with the built form and character of the area.

The Visual Impact Assessment (VIA) included in the EIAR as part of the original planning application to FCC demonstrates that:

- Existing hedgerows and field boundaries will be retained and enhanced, providing natural screening from surrounding viewpoints.
- The site's gently sloped topography and surrounding agricultural structures will reduce visibility from key vantage points.
- New landscaping measures, including additional planting, will further integrate the facility into the rural setting.

The proposed facility will therefore not be visible from elevated scenic viewpoints identified in the Development Plan, such as Hillfort Mound or the surrounding ridgelines.

The proposed AD facility does not impinge in any significant way on the character, integrity, or distinctiveness of the area and is consistent with Objective GINHO59 in the Fingal Development Plan.

"Objective GINHO59 – Development and Sensitive Areas Ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area. New development in highly sensitive areas shall not be permitted if it:

- *Causes unacceptable visual harm.*
- *Introduces incongruous landscape elements.*
- *Causes the disturbance or loss of (i) landscape elements that contribute to local distinctiveness, (ii) historic elements that contribute significantly to landscape character and quality such as field or road patterns, (iii) vegetation which is a characteristic of that landscape type and (iv) the visual condition of landscape elements".*

The facility is designed to blend with the existing adjoining agricultural development and with the neighbouring FoodPark buildings minimising its impact on the visual landscape. The proposed structures are typical of agricultural infrastructure (e.g., silos, storage tanks, and sheds), and are visually consistent with the rural character. The proposed development also where possible retains and enhances existing hedgerows and vegetation, maintaining the area's ecological and scenic value.

From the contiguous elevations prepared and submitted as part of this 1st party appeal, it is evident that the proposed development would not be located on a visual ridge or highly elevated position, meaning it would not disrupt scenic views

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across Fingal. As well as this the finished design of the agricultural building/utility installations on site will blend with the agricultural setting.

We strongly disagree with the Planner's report statement "*When viewed collectively, this network of buildings would cumulatively have a profoundly negative impact on the visual amenities of the application site and the surrounding areas*".
A site inspection and examination of the drawings will show that the proposed development will be absorbed into the local landscape having regard to the existing farm buildings adjoining.

Fig 19 Existing contiguous elevation

Fig 20: Proposed development outlined in dark green (existing light green) (contiguous elevation)

Fig 21 Existing Elevation shaded lightgreen and Proposed development outlined in darkgreen (contiguous elevation)

The proposed Anaerobic Digestion (AD) facility has been carefully designed to minimise visual impact and maintain the rural character of the landscape. Through strategic siting, retention of natural screening, additional landscaping, and architectural design, the development is not visually obtrusive. It would not cause unacceptable visual harm and fully respects the scenic and ecological value of the area. The project is fully compliant with Objective GINHO59 and ensures that the amenities of the area remain preserved while contributing to sustainable rural development.

The decision of the Planning Authority is therefore unreasonable and fails to consider the proposed development in the context of the existing large farm structures on the landholding. It should be noted that the tallest highest building proposed would be lower than the existing buildings on the landholding. The existing onion store is also significantly larger than the proposed development. The proposed development has been sited on a lower part of the landholding and will therefore be below the ridge height of the existing farm buildings. The colour and finishes of the proposed buildings will be similar to that of the existing farm buildings and will therefore read as one cluster of buildings.

Photo 5: View of appeal site adjoining existing farm

Farm buildings have an agricultural character that is accepted in a rural environment. The proposed development provides for farm buildings and farm structures and would therefore accord with the established pattern of development in the area.

Having inspected the site we are satisfied that the proposed development would be compatible with the existing agricultural structures and would not detract from the visual amenity of the area and we request that Reason No. 2 of the Planning Authority decision be rejected in this instance.

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3. **Reason No. 3 of the Planning Authority decision is unreasonable having regard to the very limited volume of traffic generated by the proposed development. This could have been easily addressed by way of a further information request and certainly does not constitute a valid or an appropriate reason for refusal.**

Reason for Refusal No. 3 of the Planning Authority decision states as follo ws.

> *"The application has not provided a Road Safety Audit within the application submission. Given the proposed intensification of the local road network, the absence of a Road Safety Audit precludes the Local Authority from assessing the potential road safety risks associated with a development prior to the award of planning consent, and prior to the commencement of construction work. The applicant has failed to demonstrate that the proposed development would adequately protect vulnerable pedestrians in close proximity to articulated vehicles with limited visibility performing difficult manoeuvres. In its current format the proposed development is therefore considered a traffic hazard and proposed development would therefore be contrary to the proper planning and sustainable development for the area".*

The proposed development would generate only a very minimal amount of traffic on a daily basis. From our examination of the Traffic report included in the EIAR the proposed development would if permitted generate a very limited volume of additional HGV movements. Having regard to the fact that the proposed development would generate only a small increase in traffic relative to the existing traffic being generated by the existing operations of the site, it was considered that a Road Safety Audit was not necessary for the purposes of the planning application.
This could have been requested by way of Further Information during the processing of the planning application and would not constitute a valid reason for refusal in this instance.

In order to address the reason for refusal an independent Road Safety Audit was carried out and accompanies this appeal. All of the minor findings of the Road Safety Audit shall be implemented by the Design Team and revised drawings accompany this appeal which may be determined by An Bord Pleanala in their determination of this application de novo. Having regard to the fact that the applicant's were denied the opportunity to submit same by way of a response to a request for Further Information it is reasonable that these minor revisions be accepted as part of this appeal.

It is noted that the Transport Planning Section did not object to the proposed development in principle but rather requested that a Road Safety Audit be carried out. The decision of the Planning Authority runs contrary to the recommendations of the Transport Planning Section.

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We strongly question the logic behind the Planner's report's statement that "*Any Development Planning Application which results in a permanent change to the road layout or an intensification of an existing road should be accompanied by a Road Safety Audit.*" This statement is taken entirely out of context as it relates specifically to National Roads under TII "Road Safety Audit GE-STY-01024" and is not applicable to internal road layouts of private facilities.

> "*This Standard shall apply to all National Road Schemes. This includes work carried out under agreement with the Overseeing Organisation resulting from developments alongside or affecting the National Roads. The Standard sets out two categories of scheme: Road Scheme. A scheme results in new road construction or permanent change to the existing road or roadside layout. Development Scheme. A scheme which results in a change to the road or roadside layout that is initiated and/or executed for commercial or private development*".

Road safety audits are carried out under Licence and to require an RSA for every single internal road layout would place an unacceptable burden on an already stretched system. The burden of the cost of these RSAs must also be considered. They should be limited to where they are appropriate and not every single development without giving careful thought and consideration to whether they are required.

It would seem that the planner's report misinterpreted the TII Standards. TII Standards for National Routes should not be applied to internal road/private road networks and to require same would be totally inappropriate.

4. The Planner's report fails to properly interpret the nature of the proposed development in assessing the principle of same.

The Planner's report states as follows:

> "*Whilst the application submission proposes a relationship between the proposed "Anaerobic Digestor" and local agricultural practices in terms of supply of raw materials, such a relationship is not "fixed" and could be readily swapped for an alternative relationship with other, non-local suppliers even from other non-agricultural sectors. It is noted within the submission that the proposed suppliers are located in Counties Louth and Monaghan, which undermines the claim the proposed development will foster "local" economic ties. The ability for such a relationship to be substituted for another means the activity of "Anaerobic Digestion" is not intrinsically linked with local, rural activity. As such the proposed activity does not protect and promote the value of the rural area of the County and is not considered to align positively with "RU" land-use objective*".

The above statement of the Planner's report is unreasonable and fails to properly consider the longstanding farming activities which have been carried out on site

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and the long-term farming connections that have been established with the farm. Each planning application must be treated on its own merits and taken at face value. The tone of the planner's report is somewhat disingenuous in that it fails to accept the bona fides of this application. We have shown that there are significant local ties already established with this farm and other local farmers. These relationships would be enhanced by the proposed development as has been explained earlier in this appeal by the "green catch crops."

The slurry (17,080 tonnes) and cattle manure (1,080 tonnes), which are vital for the digestion process, are also predominantly sourced from local Fingal farms, reinforcing the integration of local agricultural into the project.

Whole crop silage (10,000 tonnes) and grass silage (24,500 tonnes) are 100% locally sourced, supporting local farmers by providing a reliable market for their crops.

Vegetable and food byproducts (750 tonnes) are entirely sourced onsite, reducing transport emissions and demonstrating a closed-loop agricultural system.

The poultry litter (7,000 tonnes), an essential feedstock for AD, is primarily sourced from Bellview Eggs in Drogheda (7%) and Chicken Litter Recycling Co-Op in Monaghan (3%), both of which have longstanding business relationships with the existing site operations and amounts to only a very small percentage of the overall input into this process.

The table below shows the intended sources of inputs into this process, the majority of which are sourced on-site or locally.

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Table 1: Projected Sourcing of Materials Required for AD Process

Q	Total (t)	Sourced onsite (t)	Sourced offsite (t)	% offsite sourced	offsite sourced in Fingal (tonnes)	offsite source outside Fingal (tonnes)	Offsite sourced from closest supplier Bellview Eggs (tonnes)	offsite sourced from Chicken Litter Recycling Co-Op (tonnes)
Grass silage	24500	24500	0	0				
Slurry	17080	2000	15080	88%	15080			
Whole crop silage	10000	10000	0	0				
Water	8000	8000	0	0				
Poultry Litter	7000		7000	100%		7000	5000	2000
WWTP sludge	1300	1300	0	0				
Cattle manure	1080	600	480	44%	480			
Veg byproducts	650	650	0	0%				
Food byproduct	100	100	0	0%				
Draff grains	400		400	100%				
	70110	47150	22960	33%	15560	7000	5000	2000

This sourcing model prioritises local supply chains, demonstrating that the AD facility would not operate as a standalone industrial operation as suggested by the Planner's report but would be inextricably linked to the existing agricultural activities and a key enabler of local agricultural sustainability and economic activity. The applicants have no objection to the attachment of a condition if the Board considers necessary in respect of the types of materials accepted to the proposed development in line with the above.

Existing Relationships

The proposed development would directly benefit Fingal's agricultural sector by integrating into a circular economy, ensuring that local farms and businesses mutually benefit from the production and reuse of materials. The existing relationship with Chicken Litter Recycling Co-Op demonstrates a perfect environmental circular economy as the following procedures occur:

- Local wheat grown at Country Crest is sold to Carton Bros to feed poultry.

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- The poultry at Carton Bros is processed and used in Ballymaguire Foods, a local agri-food enterprise.
- The poultry manure is returned as organic fertiliser or in the case of the proposed development as a raw material source for the AD process.

By generating renewable biomethane, the facility reduces the carbon footprint of local farming and food production, aligning with Ireland's Climate Action Plan and Fingal County's sustainability goals.
With 90% of feedstock sourced within Fingal County, this AD facility is a cornerstone of local economic resilience, supporting farming communities and contributing to a thriving rural enterprise ecosystem.

The suggestion that the proposed development is not "intrinsically linked with the local rural activity" is simply untrue and unreasonable. The applicants are locals to the area and have been farming for the past 40 years in this location and have made a strong contribution to this local area in terms of employment. This is the next phase in terms of their move to more sustainable farming practices and to suggest that it is not intrinsically linked to their well-established rural activity is grossly inaccurate.

The suggestion that the proposed development "is not considered to align positively with "RU" land-use objective" is incorrect. This is clearly an agricultural development which constitutes the sustainable shift in the farming practices of an existing farm towards more renewable energy. As outlined in the Development Plan section of this appeal, the proposed development fully accords with the policies and objectives of the Development Plan for this rural area and there is no basis for this suggestion of the Planner's report.

The Planner's report's references to the previous application for an anaerobic digester on the Food Park zoning and the comments regarding the "industrial scale of development proposed" are unreasonable. The permitted anaerobic digester under Ref: F12A/0119 was for a smaller scale development which was deemed unviable for the level of investment required. It is understood that many permitted small-scale Ads around the country have not been built for the same reason and others which have been built have become unviable and have been closed.
This application must be looked at in the context of the existing scale of farming practices by the applicant's which is undoubtedly major in terms of scale. Their farming operations extend as far as Donegal and they supply all of the onions and potatoes to Tesco which is no small quantity. It is completely unreasonable to impose small scale farming limitations on a nationwide farm.
An examination of the site layout plan will show that this proposal is only a small-scale expansion of the existing footprint of buildings on the farm. The proposed development has been carefully sited to fit in with the existing cluster of agricultural buildings and there is no reason in proper planning and development terms why it should not be permitted in this instance.

The Planner's report's statement regarding "parent activity" is unfathomable having regard to the major scale farming and food production operations being

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carried out on this landholding. The planner's report states "Anaerobic digestors" are noted as not being specifically listed as a "land-use" either being "Permitted in Principle" or "Not Permitted" in their own right. A review of the application submission is sufficient however, to determine that the proposed use may not be considered ancillary to any "parent" activity at the application site as per Objective ZO4 of the Development Plan".

France is described as the "breadbasket of Europe" it is not an exaggeration to suggest that Fingal is a primary food source for Ireland and the applicant's farming, horticulture and food production operations are a major contributor in this regard. To suggest that an anaerobic digester is anything but ancillary to the main farming and food production activities on the landholding is simply incorrect and irrational. The proposed development would if permitted complement the existing parent activity which is farming/agriculture and food production.

The proposal must be viewed in the context of the larger picture of the farming and agri food production operations of the applicants, this proposal is simply the next piece of the jigsaw puzzle in terms of the natural expansion of the farming and food production activities. To suggest it is not related to the parent activity is simply untrue, it would be inextricably linked to the farming and food production activities of the applicants. Their shift towards sustainability has been occurring for a number of years in line with the growth of the farming business.

This appeal has endeavoured to provide a simplistic description of the proposed anaerobic digestion process intended to be carried out on the appeal site and we are satisfied that the proposed development is undoubtedly agricultural and not industrial as the planner's report suggests. There is no basis for their assumption that the proposal is industrial given that the inputs into this are silage, feedstocks and animal manure which on any given day are agricultural and are not industrial. The planner's report suggestion that the proposed development being "industrial" is "unacceptable in principle" is therefore rejected as being completely unreasonable and inaccurate.

There is no basis for the planner's reports suggestion that this proposed development is an agri-business as is does not fall within the definition of same. As an aside the term agri-business is prejudiced as every farm is run as a business as it is the farmer's livelihood and there is nothing wrong with that, this has been the case since the beginning of time.

Based on the foregoing the Planner's report conclusion in respect of the proposed development that it would "materially contravene the RU land-use zoning" is rejected as being irrational and unreasonable and constitutes a total failure to understand and appreciate the existing farming activities on the landholding and the nature of the proposed development.

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11.0 Conclusion

At a time of climate change crisis recognised throughout the world and where significant national, regional and local policies have been developed to support renewable energy and specifically the national policy for delivering 140 of these types of anaerobic digestor installations in the country it is completely unacceptable that the Planning Authority failed to properly consider this proposal and instead reached the irrational conclusion that it was akin to industrial development. The statements in the Planner's report show a complete lack of understanding of the nature of the proposal and how it is intended to be operated as an ancillary part of a major farming and food supplier in this country.

This appeal has shown that the proposed development accords fully with the policies and objectives of the Development Plan, it is not a material contravention of the RU zoning.

The proposed development is comprised of agricultural buildings and utility installations as defined in Appendix 7 of the Development Plan and as such fully accords with the policies and objectives of the Development Plan in respect of agricultural and utility installations.

Two of the reasons for refusal in respect of traffic and visual impact could have easily been addressed by way of a request for further information and yet no opportunity was given by the Planning Authority who instead opted for a decision to refuse thus placing an unnecessary burden on An Bord Pleanála to make a decision which could have been appropriately assessed by the Planning Authority. The suggested need for an RSA for a development of this scale is questionable and unnecessary, nonetheless it is submitted with this appeal and should inform the decision in respect of same.

This proposal clearly represents the next step in the evolution of the Hoey farm and Country Crest in line with the principles of sustainable development. The applicants have shown their commitment to sustainability over the years, not simply in a tokenistic gesture but in very real forms of sustainable development. Rather than rejecting the proposal, they should be supported in trying to deliver an essential piece of infrastructure which is required in order to meet our national energy requirements as well as meeting our climate change targets. As leading growers, food suppliers and farmers they are now showing leadership in this green energy proposal. From a proper planning and development perspective we are satisfied that this proposal accords fully with the principles of proper planning and sustainable development and should be permitted.

Having regard to the foregoing and to the following:

1. Ireland's Climate Change Commitments: The Climate Action Plan 2024 outlines a strong commitment to *'Agri-Centric Biomethane Production'* as a key element of Ireland's energy transition strategy. The government has set a target of producing **5.7 TWh** of indigenous biomethane by 2030, requiring a scaled-up Anaerobic Digestion (AD) sector.

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2. The National Biomethane Strategy and the need for 140 of these types of facilities throughout the country,
3. The established large scale farming activities of the applicants and the long-established farming connections which will be enhanced by the proposed development,
4. The need for the proposed development to facilitate the transition towards more sustainable farming practices,
5. The strong established commitment to sustainability from the applicant's in the past,
6. The appeal site is ideally located relative to the existing farm and to the gas grid which can harvest the gas produced.
7. The proposed development meets all of the standards in terms of environmental quality as set out in the EIAR.
8. The proposed development is well sited and would not detract from the visual amenity of the area due to the clustering with existing agricultural buildings.

The proposed development therefore accords with the National, Regional and Fingal Development Plan policies and objectives and would therefore accord with the proper planning and development of the area and we request that the decision of the Planning Authority be overturned in this instance.

Yours sincerely,

Geraldine Fahy BA MRUP MIPI

Schedule of Attachments:
The following accompanies this appeal:
1. Cheque for €3000 being the statutory appeal fee where an EIAR is included.
2. Copy of Planning Authority Decision
3. Copy of Planner's report
4. Letter of support Teagasc
5. Letter of support Gas Networks Ireland.
6 Letter re enforcement
7. S.I. No. 113 of 2022 European Union (Good Agricultural Practice For Protection Of Waters) Regulations 2022
8. Diagram of Anaerobic Digestor and inputs
9. Country Crest letter
10. Revised Drawings
11. Road Safety Audit

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Comhairle Contae Fhine Gall
Fingal County Council

An Roinn um Pleanáil agus Infrastruchtúr Straitéiseach
Planning and Strategic Infrastructure Department

DFK Engineers
Botanic Court,
30-32 Botanic Road,
Glasnevin,
D09W2V9

DECISION TO REFUSE PERMISSION
PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

Decision Order No PF/0582/25	**Decision Date** 20 February, 2025
Register Ref. F24A/1162E	**Registered** 18 December, 2024

Area Balbriggan

Applicant Country Crest ULC

Development The development of an Anaerobic Digestion (AD) Facility to produce a renewable biomethane gas for direct injection into the national gas grid on a site of circa 7.28 hectares at the townland of Collinstown, Lusk, Co Dublin. The development comprises of AD tanks and processing equipment, feedstock storage facilities and equipment, silage storage clamps, digestate management and storage facilities. Carbon dioxide from the production of this biomethane will be captured for reuse in the Irish food industry.

The proposed supporting infrastructure to be developed includes inter alia, 1 no. 45m diameter combined primary and secondary digestion tank (8.5m high, 7947m³ & 3981m³ respectively) & attached pumping unit, 1 no reception tank (5m high, 250 m³) & attached pumping unit, 1 no. 32m diameter power digest tank & attached gas sphere (12m high, 4.825m³ & 3130 m³ respectively) & attached pumping unit, 1 no. digestate separator building (119.5 m2), 1 no. pasteurization unit & hygenization buffer tank, 1 no. gas upgrading unit, 1 no. gas pre-treatment unit, 1 no. gas valve chamber, 1 no. gas flare (9m high), 1 no. GNI gas injection unit (25.1 m2) with an underground gas pipeline to the gas grid

connection adjacent the site to the west, 1 no. combined heat and power unit, 2 no. boiler containers, 1 no. oxygen compound, 1 no. heat distribution container, 1 no. switchboard container, 1 no. carbon dioxide liquefaction unit, 2 no. weighbridges & integrated lever arms & access control & attached bio security units, 1 no. single-storey office and administration building (123 m2), 1 no. ESB sub-station (66 m2), 1 no. enclosed feedstock reception building (1527 m2), 1 no. odour abatement machinery (with 14m high chimney), Silage clamps (8m high), 1 no. machinery shed (309.4 m2), 1 no. services building (288.6 m2), 1 no. solid digestate storage building (484.1 m2), 2 no. covered digestate lagoons, attached pumping building (30 m2) and attached digestate bading-unloading areas, roof mounted solar arrays / photovoltaic panels, all associated car and bicycle parking, internal road layouts, earthen berms, site retaining walls, palisade fencing and boundary treatments, hard surface and bunded areas for housing supporting plant, processing and storage facilities and all associated site works. All accessed by the existing Country Crest internal road network which uses as public roadway access point to the L1155 Man o War Road.

The facility requires an Industrial Emissions Licence from the EPA and is accompanied by a Natura Impact Statement (NIS) and an Environmental Impact Assessment Report (EIAR).

Location Country Crest, Collinstown, Lusk, Co. Dublin

Submitted Floor Area 2573.3 Sq Metres

Time extension(s) up to and including

Additional Information Requested **/ Received** /

In pursuance of its functions under the above mentioned Acts, as Planning Authority, the County Council for the County of Fingal did by Order dated as above make a decision to **REFUSE PERMISSION** in respect of theabove proposal.

Subject to the **(3)** reason(s) on the attached Pages.

Reasons

1. The proposed development involves the construction of a commercially operated anaerobic digestion (AD) facility. The proposed development would not be directly connected to the local rural community, nor would it serve the local rural economy, as evidently, the majority of the raw materials required by the AD process would be sourced from outside the local rural area. The 'Anaerobic Digester' land-use is considered akin an 'Industrial' use of land, either 'General' or 'High Impact' as per Appendix 7 of the development plan. An 'Anaerobic Digester' use could also be characterised as an 'Agribusiness'. The proposed development is therefore considered to be unacceptable in principle as these uses are specifically precluded from areas zoned 'RU' as per the zoning objective, each being listed as a 'Not Permitted' land-use under the 'RU' land-use zoning objective. The proposed development would therefore be a material contravention of the 'RU' land-use zoning 'RU' land-use zoning objective of the Fingal Development Plan 2023-2029, and would be contrary to the proper planning and sustainable development for the area.

2. Having regard to the 'High-Lying Agricultural' landscape character type of the surrounding rural landscape, which is considered to be of 'High' landscape value and also considered to be 'High' in terms of sensitivity; and, having regard to the scale, height, design and layout of the proposed development and the limited visual impact information submitted as part of the applications, it is considered that when viewed collectively, the proposed network of buildings would cumulatively have a profoundly negative impact on the visual amenities of the application site and the surrounding area. The proposed development would be visually obtrusive and would seriously injure the amenities of the area and of property in the vicinity. The proposed development would therefore be contrary to the proper planning and sustainable development for the area.

3. The application has not provided a Road Safety Audit within the application submission. Given the proposed intensification of the local road network, the absence of a Road Safety Audit precludes the Local Authority from assessing the potential road safety risks associated with a development prior to the award of planning consent, and prior to the commencement of construction work. The applicant has failed to demonstrate that the proposed development would adequately protect vulnerable pedestrians in close proximity to articulated vehicles with limited visibility performing difficult manoeuvres. In its current format the

proposed development is therefore considered a traffic hazard and proposed development would therefore be contrary to the proper planning and sustainable development for the area.

Signed on behalf of the Fingal County Council

25 February, 2025

for **Senior Executive Officer**

NOTE: Please note that applicant is required to remove Site Notice on receipt of Notification from Planning Authority of decision.

NOTE: Please note all observations/submissions have been taken into consideration when making this decision.

NOTES

(A) REFUND OF FEES SUBMITTED WITH A PLANNING APPLICATION

Provision is made for a partial refund of fees in the case of certain repeat applications submitted within a period of twelve months where the full standard fee was paid in respect of the first application and where both applications relate to developments of the same character or description and to the same site. An application for a refund must be made in writing to the Planning Authority and received by them within a period of eight weeks beginning on the date of Planning Authority's decision on the second application. For full details of fees, refunds and exemptions the Planning & Development Regulations, 2001 should be consulted

(B) APPEALS

1. An appeal against the decision may be made to An Bord Pleanála by the applicant or ANY OTHER PERSON who made submissions or observations in writing to the Planning Authority in relation to this planning application within four weeks beginning on the date of this decision. (N.B. Not the date on which the decision is sent or received). A person who has an interest in land adjoining land in respect of which permission has been granted may within the appropriate period and on payment of the appropriate fee apply to the Board for Leave to Appeal against that decision.

1. Every appeal must be made in writing and must state the subject matter and full grounds of appeal. It must be fully complete from the start. Appeals should be sent to:
The Secretary, An Bord Pleanála, 64 Malborough Street, Dublin 1.

2. An appeal lodged by an applicant or his agent or by a third party with An Bord Pleanála will be invalid unless accompanied by the prescribed fee. A schedule of fees is at 7 below. In the case of third party appeals, a copy of the acknowledgement of valid submission issued by F.C.C. must be enclosed with the appeal.

3. A party to an appeal making a request to An Bord Pleanála for an oral Hearing of an appeal must, in addition to the prescribed fee, pay to An Bord Pleanála a further fee (see 7 (f) below)

4. Where an appeal has already been made, another person can become an "observer" and make submissions or observations on the appeal. A copy of the appeal can be seen at the Planning Authority's office

5. If the Council makes a decision to *grant permission/ retention/ outline/ permission consequent on the grant of outline* and there is no appeal to An Bord Pleanála against this decision, a final grant will be made by the Council as soon as may be after the expiration of the period for the taking of such an appeal. If every appeal made in accordance with the Acts has been withdrawn, the Council will issue the final grant as soon as may be after the withdrawal

6. Fees payable to An Bord Pleanála from 5th September 2011 are as follows:

Case Type	
Planning Acts	
(a) Appeals against decisions of Planning Authorities	
Appeal	
(i) 1st party appeal relating to commercial development where the application included the retention of development	€4,500 or €9,000 if an EIS or NIS involved
(ii) 1st party appeal relating to commercial development (no retention element in application	€1,500 or €3,000 in EIS or NIS involved
(iii) 1st party appeal non-commercial development where the application included the retention of development.	€660
(iv) 1st party appeal solely against contribution condition(s) – 2000 Act Section 48 or 49	€220
(v) Appeal following grant of leave to appeal (An application for leave to appeal is also €110)	€110
(vi) An appeal other than referred to in (i) to (v) above.	€220
(b) Referral	€220
(c) Reduced fee for appeal or referral (applies to certain specified bodies)	€110
(d) Application for leave to appeal (section 37(6)(a) of 2000 Act	€110
(e) Making submission or observation (specified bodies exempt).	€50
(f) Request for oral hearing under Section 134 of 2000 Act	€50

NOTE: the above fee levels for planning appeals and referrals remain unchanged from those already in force since 2007 (but note the addition of NIS in (i) and (ii) above).

Fees apply to: All third party appeals at 7(a)(iv) above except where the appeal follows a grant of leave to appeal; First party (section 37 appeals) planning appeals not involving commercial or retention development, an EIS or NIS. All other (non section 37) first party appeals.

These bodies at 7(c) above are specified in the Board's order which determined fees. They include planning authorities and certain other public bodies e g. National Roads Authority, Irish Aviation Authority.

NB. This guide does not purport to be a legal interpretation of the fees payable to the Board. A copy of the Board's order determining fee under the Planning Act is obtainable from the Board. Further information about fees under other legislation may be found in the appropriate legislation and is also available from the Board.

If in doubt regarding any of the above appeal matters, you should contact An Bord Pleanála for clarification at **(01) 8588 100**

PF\ 05882/25

COMHAIRLE CONTAE FHINE GALL

RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Register Reference: F24A/1162E

Area: Balbriggan

Date of Registration: 18 December, 2024

Co rrespondence: DFK Engineers Botanic Court,, 30-32 Botanic Road,, Glasnevin,, D09W2V9

Developm ent: The development of an Anaerobic Digestion (AD) Facility to produce a renewable biomethane gas for direct injection into the national gas grid on a site of circa 7.28 hectares at the townland of Collinstown, Lusk, Co Dublin. The development comprises of AD tanks and processing equipment, feedstock storage facilities and equipment, silage storage clamps, digestate management and storage facilities. Ca rbon dioxide from the production of this biomethane will be captured for reuse in the Irish food industry.

The proposed supporting infrastructure to be developed includes inter alia, 1 no. 45m diameter combined primary and secondary digestion tank (8.5m high, 7947m³ & 3981m³ respectively) & attached pumping unit, 1 no reception tank (5m high, 250 m³) & attached pumping unit, 1 no. 32m diameter power digest tank & attached gas sphere (12m high, 4.825m³ & 3130 m³ respectively) &attached pumping unit, 1 no. digestate separator building (119.5 m2), 1 no. pasteurization unit & hygenization buffer tank, 1 no. gas upgrading unit, 1 no. gas pre-treatment unit, 1 no. gas valve chamber, 1 no. gas flare (9m high), 1 no. GNI gas injection unit (25.1 m2) with an underground gas pipel ine to the gas grid connection adjacent the site to the west, 1 no. combined heat and power unit, 2 no. boiler containe rs, 1 no. oxygen compound, 1 no. heat distribution container, 1 no. switchboard contai ner, 1 no. carbon dioxide liquefaction unit, 2 no. weighbridges & integrated lever arms & access control & attached bio security units, 1 no. single-storey office and administration b uilding (123 m2), 1 no. ESB sub-station (66 m2), 1 no. enclosed feedstock reception building (1527 m2), 1 no. odour abatement machinery (with 14m high

chimney), Silage clamps (8m high), 1 no. machinery shed (309.4 m2), 1 no. services building (288.6 m2), 1 no. solid digestate storage building (484.1 m2), 2 no. covered digestate lagoons, attached pumping building (30 m2) and attached digestate loading-unloading areas, roof mounted solar arrays / photovoltaic panels, all associated car and bicycle parking, internal road layouts, earthen berms, site retaining walls, palisade fencing and boundary treatments, hard surface and bunded areas for housing supporting plant, processing and storage facilities and all associated site works. All accessed by the existing Country Crest internal road network which uses as public roadway access point to the L1155 Man o War Road.

The facility requires an Industrial Emissions Licence from the EPA and is accompanied by a Natura Impact Statement (NIS) and an Environmental Impact Assessment Report (EIAR).

Location: Country Crest, Collinstown, Lusk, Co. Dublin

Applicant: Country Crest ULC

Application Type: Permission

Zoning: 'RU' - The objective of which is to 'Protect and promote in a balanced way, the development of agriculture and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage'

Planning Officers Report:

AF/FR

Report of the Planning Officer Typed 20th February 2025

Site Visit: 15th January 2025.

COMHAIRLE CONTAE FHINE GALL

RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reg. Ref. F24A/1162E

Nature of Development
This is an application for PERMISSION for;
The development of an Anaerobic Digestion (AD) Facility to produce a renewable biomethane gas for direct injection into the national gas grid on a site of circa 7.28 hectares at the townland of Collinstown, Lusk, Co Dublin. The development comprises of AD tanks and processing equipment, feedstock storage facilities and equipment, silage storage clamps, digestate management and storage facilities. Carbon dioxide from the production of this biomethane will be captured for reuse in the Irish food industry.

The proposed supporting infrastructure to be developed includes inter alia, 1 no. 45m diameter combined primary and secondary digestion tank (8.5m high, 7947m³ & 3981m³ respectively) & attached pumping unit, 1 no reception tank (5m high, 250 m³) & attached pumping unit, 1 no. 32m diameter power digest tank & atta ched gas sphere (12m high, 4.825m³ & 3130 m³ respectively) & attached pumping unit, 1 no. digestate separator building (119.5 m2), 1 no. pasteurization unit & hygenization buffer tank, 1 no. gas upgrading unit, 1 no. gas pre-treatment unit, 1 no. gas valve chamber, 1 no. gas flare (9m high), 1 no. GNI gas injection unit (25.1 m2) with an underground gas pipeline to the gas grid connection adjacent the site to the west, 1 no. combined heat and power unit, 2 no. boiler containers, 1 no. oxygen compound, 1 no. heat distribution container, 1 no. switchboard container, 1 no. carbon dioxide liquefaction unit, 2 no. weighbridges & integrated lever arms & access control & attached bio security units, 1 no. single-storey office and administration building (123 m2), 1 no. ESB sub-station (66 m2), 1 no. enclosed feedstock reception building (1527 m 2) 1 no. odour abatement machinery (with 14m high chimney), Silage clamps (8m high), 1 no. machinery shed (309.4 m2), 1no. services building (288.6 m2), 1 no. solid digestate storage building (484.1 m2), 2 no. covered digestate lagoons, attached pumping building (30 m2) and attached digesta teloading-unloading areas, roof mounted solar arrays / photovoltaic panels, all associated car and bicycle parking, internal road layouts, earthen berms, site retaining walls, palisade fencing and boundary treatments, hard surface and bunded areas for housing supporting plant, processing and storage facilities and all associated site works. All accessed by the existing Country Crest internal road network which uses as public roadway access point to the L1155 Man o War Road.

The facility requires an Industrial Emissions Licence from the EPA and is accompanied by a Natura Impact Statement (NIS) and an Environmental Impact Assessment Report (EIAR).File Reg. Ref: F24A/1162E.

Location at Country Crest, Collinstown, Lusk, Co. Dublin by Country Crest ULC.

Site Location and Description:
The subject site is located to the west of the overall Country Crest / Ballymaguire Foods agribusiness complex at Collinstown, Lusk, Co. Dublin. The overall complex is located approx. 1.5km north-west of Lusk and accommodates several industrial scale agribusiness buildings and stores along with ancillary uses. The main entrance to the overall complex is from an approx. 1km long private access road situated off the L1155 to the west. There is also a secondary entrance to the south of the site which provides access to a local road that leads to Quickpenny Road approx. 1.5km to the south.

The subject site also has a vehicular access from Skerries Road to the west via a cul-de-sac local access road which serves a handful of residential dwellings and some agricultural fields. This road turn into an overgrown and unmaintained boreen approx. 115m to from the site entrance.
The nearest residential dwelling is approx.115m to the south of the site and, save for the Country Crest / Ballymaguire Foods complex, the site is generally surrounded by agricultural lands.

The site area is approx. 7.3 hectares.

Fingal Development Plan 2023-2029:
Zoning Objective
Under the Fingal Development Plan 2023-2029, the site is designated for the 'RU' – 'Rural' land-use zoning objective. 'RU' zoned lands have an objective to: '*Protect and promote in a balanced way, the development of agriculture and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage.*' The vision for 'RU' zoned lands is to:
'Protect and promote the value of the rural area of the County. This rural value is based on:

- Agricultural and rural economic resources
- Visual remoteness from significant and distinctive urban influences,
- A high level of natural features.

Agriculture and rural related resources will be employed for the benefit of the local and wider population. Building upon the rural value will require a balanced approach involving the protection and promotion of rural biodiversity, promotion of the integrity of the landscape, and enhancement of the built and cultural heritage.'

The site is generally surrounded by lands designated with the 'RU' land-use zoning objective however; to the west the Country Crest / Ballymaguire Foods complex is designated with the 'FP' - 'Food Park' land-use zoning objective. 'FP' zoned lands have an objective to: '*Provide for and facilitate the development of a Food Industry Park'.*

The vision for 'FP' zoned lands is to:
'Facilitate the development of a state-of-the-art Food Park incorporating the growing, preparation, proce ssing ripening, packaging, storing, distribution and logistics relating to food, drink, flowers and related products on lands adjacent to major transport infrastructure, operating at a national and international scale and optimising its strategic value to the regional economy. The park will be primarily devo tedto developing value added opportunities within the food sector'.

Green Infrastructure Maps
The subject site is located in a 'High-Lying Agricultural' landscape character type area.

General Policies and Objectives
The following policies, objectives and sections of the Development Plan are considered relevant to the proposed development:

- Section 14.15.1 Business Parks and Industrial Areas;
- Objective DMSO89 – Design and Siting of Business Parks and Industrial Areas;
- Table 14.15: Design Guidelines for Business Parks, Industrial Areas (Enterprise and Employment lands).

Relevant Nati onaland Regional Planning Policy:

- National Planning Framework – Project Ireland 2040 (2018);
- The National Development Plan 2021-2030
- Eastern and Midland Regional Spatial Ecoromic Strategy (2019);
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009);
- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (2009).
- The National Biomethane Strategy 2024

Relevant Planning History:

Reg. Ref. F06A/1198

On 22nd November 2006, the Planning Authority GRANTED PERMISSION to Country Crest Ltd. for a single storey extension (27.5 sq.m.) to side of existing premises, consisting of new staff canteen kitchen, changing room and cleaners store and all associated site works.

Reg. Ref. F06A/1167

On 19th December 2006, the Planning Authority GRANTED PERMISSION to Country Crest Ltd. for an onion storage facility within a new 3,000 sq.m single storey agricultural building with a 100 sq.m adjoining plant room and all associated site works.

Reg. Ref. F08A/0036

On 13th May 2008, the Planning Authority GRANTED PERMISSION to Country Crest Ltd. for the erection of an ESB substation, with adjoining switch room and associated site works to include new hard standing access road.

Reg. Ref. F08A/1140

On 8th June 2009, the Planning Authority GRANTED PERMISSION to Mr. Gabriel Hoey to construct a single storey agri-business facility (2,191sq. m), incorporating two storey internal ancillary office/staff accommodation (573 sq. m), plant/switch/tool rooms (54 sq.m), (total floor area 2,819 sq.m), with all associated site works to include new access road, visitor/staff car parking, truck parking, marshalling area, covered loading bay, and new biocycle waste water treatment plant.

Adjacent Site ('FP' land-use zoning)

Reg. Ref. F12A/0119 (& F12A/0119/E1 & F12A/0119/E2)

On 27th November 2012, full planning permission was granted for a new Anaerobic Digestion/Combined Heat & Power facility consisting of a) Anaerobic Digestion/Combined Heat & Power plant (1,400sq.m.) containing two 10m high tanks, b) 7m high covered silage clamps (1,500sq.m.), c) single storey office/laboratory unit (78sq.m.) and d) all associated site development works.

Enforcement Cases

It is noted there is an active enforcement file open against part of the overall Country Crest / Ballymaguire Foods agribusiness site under Ref. 23/119A. The planning officer notes this enforcement case.

Proposed Development:

The proposed development, asstated in the public notices and indicated on the plans and particulars submitted, seeks permission for the construction of an Anaerobic Digestion Facility to produce a renewable biomethane gas for direct injection into the national gas grid on a site of approx. 7.3 hectares at the townland of Collinstown, Lusk, Co Dublin.

The applicant states the development comprises Anaerobic Digestion tanks and processing equipment, feedstock storage facilities and equipment, silage storage clamps, digestate management and storage facilities; and that the carbon dioxide from the production of the biomethane will be captured for reuse in the Irish food industry.

The proposed supporting infrastructure for the Anaerobic Digestion Facility includes for, inter alia, the following:

- 1 no. 45m diameter combined primary and secondary digestion tank (8.5m high, 7947m³ & 3981 m³ respectively) & attached pumping unit;
- 1 no reception tank (5m high, 250 m³) & attached pumping unit;
- 1 no. 32m diameter power digest tank & attached gas sphere (12m high, 4.825m³ & 3130 m³ respectively) & attached pumping unit;
- 1 no. digestate separator building (119.5 m2);
- 1 no. pasteurization unit & hygenization buffer tank;
- 1 no. gas upgrading unit;
- 1 no. gas pre-treatment unit;
- 1 no. gas valve chamber;
- 1 no. gas flare (9m high);
- 1 no. GNI gas injection unit (25.1 m2) with an underground gas pipeline to the gas grid connection adjacent the site to the west;
- 1 no. combined heat and power unit;
- 2 no. boiler containers;
- 1 no. oxygen compound;
- 1 no. heat distribution container;
- 1 no. switchboard container;
- 1 no. carbon dioxide liquefaction unit;

- 2 no. weighbridges & integrated lever arms & access control & attached bio security units;
- 1 no. single-storey office and administration building (123 m2);
- 1 no. ESB sub-station (66 m2);
- 1 no. enclosed feedstock reception building (1527 m2);
- 1 no. odour abatement machinery (with 14m high chimney);
- Silage clamps (8m high);
- 1 no. machinery shed (309.4 m2);
- 1 no. services building (288.6 m2);
- 1 no. solid digestate storage building (484.1 m2);
- 2 no. covered digestate lagoons, attached pumping building (30 m2) and attached digestate loading-unloading areas;
- roof mounted solar arrays / photovoltaic panels

and all associated car and bicycle parking, internal road layouts, earthen berms, site retaining walls, palisade fencing and boundary treatments, hard surface and bunded areas for housing supporting plant, processing and storage facilities and all associated site works. All accessed by the existing Country Crest internal road network which uses as public roadway access point to the L1155 Man o War Road.

Consultee Reports:

Departmental Reports

- Water Services Department: Report received. No objections to the proposed development subject to conditions.
- Environment Section (Waste Enforcement & Regulation): No report received at time of writing
- Air and Noise Officer Section: No report received at time of writing
- Heritage Officer / Archaeologist: No report received at time of writing
- Transportation Planning Section: Report received, objection outlined below.
- Parks and Green Infrastructure Division: No report received at time of writing
- Biodiversity: No report received at time of writing

Prescribed Bodies

- Uisce Éireann: Report received. No objections to the proposed development subject to conditions.
- Inland Fisheries Ireland: Nothing received at time of writing.
- Health & Safety Authority: Nothing received at time of writing.
- Gas Networks Ireland: Nothing received at time of writing.
- An Taisce: Nothing received at time of writing.

- EPA: Nothing received at time of writing.

Third-Party Submissions:
12 third-party submissions were received on the proposed development within the statutory time period. The submissions raised a number of issues relevant to the application proposals as follows:

- Incompatibility of development with the 'RU Zoning' of the proposed location and incompatible with current food production use of adjacent lands.
- The Anerobic Digester will lead to an unac œptable deterioration of the general Lusk Village Environment, especially in relation to visual impact, offensive odours, air quality, excessive noise, plant emissions.
- Increased HGV traffic on surrounding road network leading to public / road safety risk
- Anerobic Digester poses an unacceptable risk to the flora and fauna of the area, especially in relation to potential pollution of watercourses (2no. large lagoons may leak into water sources, thus contaminating wells and local drinking water supplies)
- Anerobic Digester facility will have a Negative Visual Impact on areas of natural beauty and Protective Views (i.e. Skerries Road R127 and L1165 Collinstown to Man O war) due to the tall structures proposed. It will also be clearly visible from Quickpenny road, an approach road to Lusk Village.
- Proposals fail to adequately address safe disposal of effluent and digestate.
- Proposal poses an unacceptable risk to the Natura 2000 Sites
- Negative impact this Facility will have on local water courses and drinking supplies. Many people within the local area of this proposed facili ty, have their water supply fed off private wells.
- Planning Application has not fully complied with COMAH Regulations.
- Risk posed to the environment and in particular to the Natura 2000 sites nearby is not acceptable.
- Potential pollution / health risks.
- Impact on property values.
- Inadequate public notices.
- Inadequate community consultation
- Misleading application documents
- Surface water drainage not addressed appropriately
- The proposed Anerobic Digester envisages sourcing feedstock from 119km. This is inclusive of >60,000 tonnes per annum of waste.
- The development is located unnecessarily close to residential dwellings.

Pre-Planning Consultation:
Section 19 of the planning application form confirms that no pre-planning consultation was undertaken in relation to the proposed development.

Planning Assessment:
The proposed development is assessed in terms of planning policy compliance and other relevant planning considerations. The primary issues for assessment are considered to be the following:

- Principle of development;
- Impact on the visual amenity of adjoining area;
- Transportation and access considerations;
- Water services, drainage and flood risk
- Parks and green infrastructure;
- Other considerations;
- Screening for Appropriate Assessment;
- NIS & EIAR.

Principle of development
The proposed development seeks permission for the development of an Anaerobic Digester and associated development which will include the following (non-exhaustive list):

- 1 no. 45m diameter combined primary and secondary digestion tank (8.5m high, 7947m³ & 3981m³ respectively) & attached pumping unit;
- 1 no reception tank (5m high, 250 m³) & attached pumping unit;
- 1 no. 32m diameter power digest tank & attached gas sphere (12m high, 4.825m³ & 3130 m³ respectively) & attached pumping unit;
- 1 no. digestate separator building (119.5 m2);
- 1 no. pasteurization unit & hygenization buffer tank;
- 1 no. gas upgrading unit;
- 1 no. gas pre-treatment unit;
- 1 no. gas valve chamber;
- 1 no. gas flare (9m high);
- 1 no. GNI gas injection unit (25.1 m2) with an underground gas pipeline to the gas grid connection adjacent the site to the west;
- 1 no. combined heat and power unit;
- 2 no. boiler containers;
- 1 no. oxygen compound;
- 1 no. heat distribution container;
- 1 no. switchboard container;

- 1 no. carbon dioxide liquefaction unit;
- 2 no. weighbridges & integrated lever arms & access control & attached bio security units;
- 1 no. single-storey office and administration building (123m2);
- 1 no. ESB sub-station (66 m2);
- 1 no. enclosed feedstock reception building (1527 m2);
- 1 no. odour abatement machinery (with 14m high chimney);
- Silage clamps (8m high);
- 1 no. machinery shed (309.4 m2);
- 1 no. services building (288.6 m2);
- 1 no. solid digestate storage building (484.1 m2);
- 2 no. covered digestate lagoons, attached pumping building (30 m2) and attached digestate loading-unloading areas;
- roof mounted solar arrays / photovoltaic panels

The subject site is zoned 'RU' - 'Rural' under the Development Plan. The 'RU' Development Plan Objective is to protect and promote in a balanced way, the development of agriculture and rural-related enterprise, biodiversity, the rural landscape, and the built and cultural heritage. The 'RU' Vision as per the development plan is to protect and promote the value of the rural area of the County. This rural value is based on:

- Agricultural and rural economic resources
- Visual remoteness from significant and distinctive urban influences,
- A high level of natural features.

Whilst the application submission proposes a relationship between the proposed 'Anaerobic Digester' and local agricultural practices in terms of supply of raw materials, such a relationship is not 'fixed' and could readily be swapped for an alternative relationship with other, non-local suppliers, even from other non-agricultural sectors. It is noted within the submission that proposed suppliers are located in Counties Louth & Monagahan, which undermines the claim the proposed development will foster 'local' economic ties. The ability for such a relationship to be substituted for another means the activity of 'Anaerobic Digestion' as proposed is not intrinsically linked with local, rural activity. As such, the proposed activity does not protect and promote the value of the rural area of the County and is not considered to align positively with the 'RU' land-use objective.

It is notes that the applicant has reference permission reg ref: F12A/0119 within the submission. Firstly, it is noted that this permission was granted at the adjacent site to the application site. The land-use zoning of the adjacent site IS 'FP' - Food Park, rather than the 'RU' Rural zoning at the application site, with significant implications for the application proposals. Secondly, the development proposals within permission reg ref: F12A/0119 are not in any way analogous to the application proposals in this case. The proposed AD development approved at the adjacent site was modest compared with the industrial scale of development proposed within the application submission which is subject of this report.

'Anaerobic Digesters' are noted as not being specifically listed as a 'land-use' either being 'Permitted in Principle' or 'Not Permitted' in their own right. A review of the application submission is sufficient however, to determine that the proposed use may not be considered ancillary to any 'parent' activity at the application site as per Objective ZO4 of the Development Plan. Moreover, the use of land and buildings for 'Anaerobic Digestion' activity may be considered as comprising an 'Industrial' use of land, which may either be considered as 'General' (whereby such an activity could not be carried out or installed adjacent to a residential area without detriment to the amenity of that area by reason of impacts such as noise, vibration, smell, fumes, smoke, soot, ash, dust or grit); or, as 'High Impact', whereby the proposed use requires special assessment due to its potential for detrimental environmental effects. An 'Anaerobic Digester' use could also be characterised as an 'Agribusiness' given in this case its proposed direct relationship to the agricultural sector, involving the processing of produce of which a significant portion may be sourced locally.

Having regard to the nature of the proposed development, the details submitted and the wider context, the planning officer is satisfied the proposed development falls to be considered under the definitions of 'Industry – High Impact' and 'Industry – General' as per Appendix 7 of the Development Plan. The proposed development is therefore considered to be unacceptable in principle as these uses are specifically precluded from areas zoned 'RU' as per the zoning objective, each being listed as 'Not Permitted'. It is noted that the proposals could also be characterised as 'Agribusiness' which is also listed as a 'Not Permitted' land-use under the 'RU' land-use zoning objective.

In summary, having regard to the 'RU' land-use zoning attached to the site and the factors cited above, the planning officer is satisfied the proposed development is unacceptable in principle, and would materially contravene the 'RU' land-use zoning objective of the Fingal Development Plan 2023-2029.

Impact on the visual amenity of adjoining area

The subject site is located in a 'High-Lying Agricultural' landscape character type area, which is considered to be of 'High' landscape value and also considered to be 'High' in terms of sensitivity. There is little obtrusive or inappropriate development in the surrounding area. The application proposals involve the development of a complex of industrial style buildings of varying heights, mass, design, and by virtue of a range of external finishing materials - appearance. It is noted that no Visual Impact Assessment was submitted with the application.

When viewed collectively, this network of buildings would cumulatively have a profoundly negative impact on the visual amenities of the application site and the surrounding areas. It is difficult to conceive of any alternative configuration of such proposed buildings that may be considered acceptable at this location, given the range in heights from 8.5m to 12m to 14m; given the design, and given the proposed external finished of such buildings. The a rray of buildings proposed would irreparably alter the rural character of the site and would have a significantly detrimental impact on the visual amenities of the surrounding area. The proposed development has failed to demonstrate how it would mitigate such harm to local visual amenities, and would therefore be contrary to the aims and objectives of Policy GINHP25; Objective sGINHO56; GINHO57 & GINHO59 of t hedevelopment plan, which seek to preserve the uniqueness of a landscape character type by having regard to its character, value and sensitivity.

Transportation and access considerations

Though reference is made within the EIAR to a Transportation Assessment Report prepared by NRB Consulting Engineers, no standalone Transport Assessment was submi ttedin support of the proposals. Rather, only Sections 4.4.5 and 11.3.6 of the EIAR deals with Traffic related impacts of the development. These have been reviewed by the Transportation Planning team who comment as follows.'

Road Layout

The Transportation Planning Section have concerns relating to the proposed site and road layout.

Pedestrian access throughout the site needs careful consideration. A number of at grade designated pedestrian routes are proposed. A walkway is proposed along the west of the site. However, pedestrians need to cross the road to access the route and all access points to various structures and plant are then on the opposite side

of the road. A safer option would appear to provide the pedestrian route on the eastern side of the road along the western boundary. The proposed walkway routes appear narrow. A minimum width of 2m should be provided to all pedestrian routes.

The Transportation Planning Section's preference is for footpaths in lieu of at grade pedestrian routes. However, these will be considered if safety can be assured. Bollards may be required in locations. A road safety audit should be provided for the road network.

The Transportation Planning Section are concerned the proposed road and site layout does not adequately protect vulnerable pedestrians in close proximity to articulated vehicles with limited visibility performing difficult manoeuvres. In its current format the proposed development is considered a traffic hazard.

Road Safety Audit

The application has not provided a road safety audit. Any Development Planning Application which results in a permanent change to the road layout or an intensification of an existing road should be accompanied by a Road Safety Audit. It is important that the Road Safety Audit process is built into the early stages of the Planning Procedure to allow the Local Authority to give due consideration to the potential road safety risks associated with a development prior to the award of planning consent, and prior to the commencement of construction work.

A Stage 1 Road Safety Audit should be completed for the proposed road network and submitted by the Applicant with the Planning Application, to the satisfaction of the Planning Authority, in compliance with the TII Publication 'Road Safety Audit GE-STY-01024'.

The Transportation Planning Section are concerned the proposed road and site layout does not adequately protect vulnerable pedestrians in close proximity to articulated vehicles with limited visibility performing difficult manoeuvres. In its current format the proposed development is considered a traffic hazard.

Traffic

A number of submissions have been submitted which raise concerns of the development being accessed by '44+ trucks per day'.

The submitted Engineer's report states a Transportation Assessment Report and Preliminary Mobility Mana gement Plan have been prepared to accompany the application. However, these documents are not available with the application and should be provided.

The submitted Environmental Impact Assessment Report provides assessment for traffic. The report It estimates that the proposed development would result in a daily increase of approximately 44 Passenger Car Units (PCUs). The report predicts there to be no significant increase in traffic volumes during the operation of the AD Plant.

In addition, Table 11.1: Estimated Annual Average Daily Traffic at the Site of the subm tted EIAR outlines the following:

Worst Case Max. Number of 28T Truckloads Per Day = 8
Resulting Worst Case Max AM / PM Peak Hour Trucks Departing = 2

The '44+ trucks per day' referenced in many of thepublic submissions appears to be relating to '44 Passenger Car Units (PCUs)' referenced in the submitted EIAR. In reality this is significantly less than 44 trucks. The report details the worst-case scenario as a maximum of 8 no. 28T truckloads per day.

Car Parking

The submitted site layout proposes 12 no. car parking spaces. This is in accordance with Table 14.18: Car Parking Zones of the Fingal Development Plan 2023-2029. An accessi ble parking space is proposed at 1 of the proposed 12 spaces (8%). This is in accordance with 14.17.8 Accessible Car Parking of the development plan which requires a minimum of 5%.

An EV charging point is proposed at 1 of the proposed 12 spaces (8%). Section 14.17.10 Electric Vehicle Parking of the development plan requires a minimum of 10% of spaces to be provided with EV charging points for non-residential development. EV charging shall also be provided to accessible car parking. A second EV charging point should be provided for the proposed accessible car parking space. This may be requested by way of additional information.

Bike Parking

An external bicycle shelter is proposed providing 20 no. bicycle pa rking spaces. No deviation for long-stay and short-stay bicycle parking has been proposed. The

proposed bicycle shelter design is appropriate for short-stay bicycle parking only. The proposed shelter does not provide sufficient shelter and security for long-stay bicycle parking. Bicycle parking shall be in accordance with the Fingal Development Plan 2023-2029 with justification for the proposed quantities of bicycle parking provided in accordance with Table.

The location of the bicycle shelter has not been given sufficient consideration. The bicycle shelter is located further away from the proposed office building than all the car parking spaces. Furthermore, the bicycle shelter is located beside the weigh bridge and truck access/egress. The desire line route for bicycles travelling to the bicycle shelter crosses the route of oncoming truck traffic. In its current format the proposed development is considered a traffic hazard and cannot be supported by the Transportation Planning Section. This may be addressed by way of additional information.

Conclusion

The Transportation Planning Section are concerned the proposed road and site layout does not adequately protect vulnerable pedestrians in close proximity to articulated vehicles with limited visibility performing difficult manoeuvres. In its current format the proposed development is considered a traffic hazard. The Transportation Planning Section cannot support the proposed development in its current format as it is considered a traffic hazard.

Water services, drainage and flood risk

The proposed development has been referred to the Water Services Department for comment and a report back has been received. Regarding the foul drainage arrangements, Water Services have stated they have no objections to the proposed development subject to standard conditions as follows:

- Supervision of construction of the on-site wastewater treatment system shall be carried out by a suitably qualified (Fetac / QQI), experienced and competent professional.
- No foul drainage is to discharge into the surface water system under any circumstances.
- The foul drainage must be in compliance with the Regional Code of Practice for Drainage Works Version 6.0, FCC, April 2006, or the EPA Code of Practice for Domestic Wastewater Treatment Systems (PE≤10) (2021), whichever is applicable.

Regarding the surface water drainage arrangements, Water Services have again stated they have no objections to the proposed development subject to no surface water / rainwater is to discharge into the foul water system under any circumstances; and the surface water drainage must be in compliance with the Greater Dublin Regional Code of Practice for Drainage Works, Version 6.0, FCC, April 2006.

The planning officer notes Water Services have raised no objections to the proposed development with regard to flood risk. The planning officer has identified the proposed development as being located within Flood Zone C. In accordance with 'The Planning System and Flood Risk Management Guidelines for Planning Authorities' (2009), the planning officer is satisfied the proposed development acceptable with regard to flood risk.

Pa rks and Green hfr astructure

The proposed development has been referred to Parks and Green Infrastructure for comment and a report back has been received. The Parks Division note that there are existing hedgerows located along each site boundary of the above development which are considered significantly worthy to retain. No objections are offered by Parks and Green Infrastructure regarding the proposals, and they recommend the imposition of planning conditions in the event of a recommendation to grant planning permission, as detailed below.

Objectives SPQHO90 and SPQHO91 of the Development Plan 2023-2029 relate to the retention of hedgerow boundaries:

Objective SPQHO90 – Entrances and Front Boundary Treatment
Ensure that the design of entrances and front boundary treatment is sensitive to the rural setting. In this regard, block walls and ornamental features will be discouraged, and native hedging will be utilised where appropriate.

Objective SPQHO91 – Retention of Hedgerows and Other Distinctive Boundary Treatments.

Ensure the retention of hedgerows and other distinctive boundary treatments in rural areas. Where removal of a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, provision of the same type of boundary/provision of agreed species of similar length will be required within the site.

Landscape Plan:
Landscape MasterPlan – Page 1 and Page 2, Drawings no: DWG.01A 134-24-02 A LANDSCAPE MASTERPLAN - PAGE2 DWG.01B and 134-24-02 A LANDSCAPE MASTERPLAN - PAGE2 DWG.01B, prepared by GRIFFIN Landscape Architects. These landscape plans are acceptable in principle.

In the event of planning permission being granted the following conditions shall be applied:
1. All site boundary trees shall be retained and protected from damage during the construction works in accordance with BS 5837: 2012, Trees in relation to Design, Demolition and Construction - Recommendations
2. The approved landscape plan shall be fully implemented within the first available planting season following the substantial completion of construction works. Any failed plantings shall be replaced by the developer until they become fully established.

Other considerations:
Air and Noise
The proposed development has been referred to the Air and Noise Officer Section for comment and a report back has been received. The Air and Noise Officer Section have no objections to the proposed development subject to any grant of permission that may be forthcoming having a condition attached relating to site development and building works times. The planning officer notes the assessment of the Air and Noise Officer Section and considers their recommended condition, or that of a similar wording, should be attached to any grant of permission that may be forthcoming.

Environment
Should a grant of permission be forthcoming, a Construction and Demolition Resource Waste Management Plan (RWMP) as set out in the 'Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for C&D Projects (2021) should be prepared. An RWMP shall include details of the various waste streams and expected tonnages which will be generated during site clearance, demolition and construction phases and any proposed exportation or importation of soil and stone material including destination/source locations, quantities and if any material will be assessed under By-Product notification. The RWMP shall also include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources)

pursuant to the agreed RWMP shall be made available for inspection at the site office at all times. The RWMP should be prepared prior to the commencement of development.

Heritage / Archaeology

It is noted that previously, archaeological monitoring took place within the subject site under a previous application for permission (Fingal County Council Reg.Ref. F22A/0077). This was undertaken by Donald Murphy of ACSU Ltd. (dated 28th November 2022). The Heritage Officer notes it became apparent during that assessment that the site was previously subject to significant groundwork, with up to 1.3m of introduced soil/made ground recorded on site. The remaining portion of the site was also disturbed. The Heritage Officer states this is also apparent from the examination of aerial imagery (2016). No archaeological features, deposits or artefacts were identified and no further archaeologicalw ork was recommended. As such, the Planning Officer has no reservations regarding the proposed development on archaeological grounds.

Screening for Appropriate Assessment

The applicant has submitted a Screening for Appropriate Assessment (hereafter 'AA screening') prepared by Panther Ecology Ltd. This has in turn been reviewed by Brady Shipman Martin on behalf of the Planning Authority.

The AA screening has been prepared by Paula Farrell BSc. of Panther Ecology Ltd. who states a site visit was on 28th August 2024 to examine the ecological context of the site;wh ile a review of the proposed development, the AA/Natura Impact Statement process and a desk study of the information on European sites within the potential zone of influence of the site was also undertaken in preparat ion. Table 5.1.1 of the AA screening ident ifies seven Special Protectio n Area (SPA) sites and four Special Area of Conservation (SAC) sites within the Zone of Influence (Zol) as follows:

- Rogerstown Estuary SAC – 4.5km from the site (Screened In);
- Rogerstown Estuary Spa – 4.5km from the site (Screened In);
- NorthW est Irish Sea SPA – 6km from the site (Screened In);
- Rockabill to Dalkey Island SAC – 5.9km from the site;
- Rockabill SPA –7 .9km from the site;
- Malahide Estuary SAC – 8km from the site;
- Malahide Estuary SPA – 8km from the site;
- Lambay Island SPA – 10.9km from the site;
- Lambay Island SAC – 11.2km from the site;

- River Nanny Estuary and Shore – 11.8km from the site;
- Baldoyle Bay SAC 000199 14km from the site;
- Baldoyle Bay SPA from the site.

The Brady Shipm an Martin review concludes as follows:

'In summary the AASR prepared by Panther Ecology Ltd. considers that there is potential for significant effects on only the Rogerstown Estuary SAC and SPA and North-West Irish Sea SPA as a result of the proposed development via contamination of surface water only, and only during the construction phase. The potential for all other significant effects, on all other European sites, during both construction and operation is excluded. The precautionary approach taken in the AA Screening Report is considered reasonable. Based on all available information including that provided by the applicant, and given the nature and scale of the proposed development as well as the location, conservation objectives and qualifying interests of the European sites, this is considered to be an appropriate screening conclusion.'

The planning officer notes the submitted AA screening and its contents and agrees with the conclusion reached by the consultants having reviewed the submission and the repo rtprepared by Panther Ecology.

Natura Impact Statement

As noted above, three European sites were screened in for construction phase impacts and considered in the NIS. The NIS further appraises the potential for construction phase impacts via the surface water pathway (only) on these three sites and reiterates the findings of the AA Screening Report. It states that:

'During the construction works, there is potential for water quality deterioration through the release of suspended solids during soil disturbance works resulting in excessive eutrophication, leading to the deoxygenation of waters and subsequent asphyxia of aquatic species. An increase in sediments has the potential to impact upon fish species by damaging gravel beds required for spawning, smothering fish eggs and in extreme cases, by interfering with the gills of fish. An increase in suspended solids also has the potential to reduce water clarity, which can impact the light penetration of water and may also affect certain behaviors of aquatic fauna such as foraging success.

A potential source of chemical contamination would be from the release of hydrocarbons (oils, fuels) from construction plant and equipment which can affect

water quality, potentially resulting in toxic conditions for aquatic flora and fauna. Oil films on the water surface can disrupt oxygen diffusion from the atmosphere, resulting in de-oxygenation of waters.

Another potential source of contamination would be the release of uncured concrete. In the event of uncured concrete entering a waterbody, the pH would be altered locally, potentially leading to the death of aquatic flora and fauna and an alteration to the waterbody substrate.'

The NIS provides further details on the qualifying interests (QIs) and special conservation interests (SCIs) of the screened-in Natura 2000 sites and further sets outs which of these QIs and SCIs will be potentially impacted by the proposed development.

Section 8 of the NIS lists mitigation measures to address the potential for significant adverse effects on the Rogerstown Estuary SAC and SPA and North-West Irish Sea SPA due to deterioration in water quality during the construction phase. This section includes mitigation measures for in-stream works, water quality deterioration and biosecurity measures. The majority of these measures proposed for dealing with pollution prevention at construction are standard, best practice measures and are based on standard construction industry methodologies, normally implemented on sites of this scale and proven to work successfully. No operational phase mitigation or monitoring measures are proposed. The NIS states that once the mitigation and monitoring measures are implemented in full, there will be no residual impacts that could adversely affect the integrity of these Natura 2000 sites, or any other European site.

Conclusion – AA Screening & NIS

Having reviewed the submitted AA Screening Report and Natura Impact Statement together with the details of the proposed development and all associated documentation, the Council's consultants consider that the applicant has sufficiently demonstrated that the project, with the implementation of the mitigation measures presented in the Natura Impact Statement, either alone or in-combination with other plans or projects, will not have a signifi cant adverse impact on any Natura 2000 site. Having reviewed the subm issions, and the review of the Screening Opinion and NIS as prepared by BSM, the planning officer concurs with these findings. In the event that planning permission is recommended for the proposals, three conditions have been prepared by BSM. These conditions will notbe necessary given the officer's recommendation in this case.

EIAR

The applicant has submitted an EIAR as part of the overall application submission. This has in turn been reviewed by Brady Shipman Martin on behalf of the Planning Authority. Having reviewed the EIAR material, and having considered the review of the EIAR as prepared by Thomas Burns BAgrSc (Landscape); Dip. EIA Management; Ad. Dip. Planning and Environmental Law; MILI, MIELA, and Namrata Kaile MCIEEM, Ecologist, the officer concurs with the conclusions therein. It is considered that the applicant has demonstrated that the project, with the implementation of the proposed mitigation measures presented, will not give rise to significant environmental effects. The review proposes that should the planning authority be minded to grant permission for the proposed development that appropriate conditions be attached. In this case, such conditions will not be necessary. Alternatively, if the planning authority were to seek additional information from the applicant, it is recommended that the EIAR be reviewed, and revised / updated if necessary, to take account of any changes to either the design or construction methodology, or the assessment of potential environmental impacts arising as a result of a request for further information. Again, in these particular circumstances, such a request will be unnecessary.

Conclusion:

Having regard to the 'RU' land-use zoning attached to the site, and the 'High Lying' Landscape Character type, the proposed development is considered to be incompatible with the policies and objectives of the Fingal Development Plan 2023-2029 which seek to preserve rural character in appropriate locations. The planning officer considers the proposed development to be unacceptable in principle having regard to the land-use zoning at the application site, and unacceptable with respect to its impact on the visual amenities of the area. The development is also considered to be unacceptable by the Transportation Planning section.

RECOMMENDATION

I recommend that a decision to **REFUSE PERMISSION** be made under the PLANNING & DEVELOPMENT ACT 2000, AS AMENDED, subject to the following (3) reason(s):-

Reasons

1. The proposed development involves the construction of a commercially operated anaerobic digestion (AD) facility. The proposed development would

not be directly connected to the local rural community, nor would it serve the local rural economy, as evidently, the majority of the raw materials required by the AD process would be sourced from outside the local rural area. The 'Anaerobic Digester' land-use is considered akin an 'Industrial' use of land, either 'General' or 'High Impact' as per Appendix 7 of the development plan. An 'Anaerobic Digester' use could also be characterised as an 'Agribusiness'. The proposed development is therefore considered to be unacceptable in principle as these uses are specifically precluded from areas zoned 'RU' as per the zoning objective, each being listed as a 'Not Permitted' land-use under the 'RU' land-use zoning objective. The proposed development would therefore be a material contravention of the 'RU' land-use zoning 'RU' land-use zoning objective of the Fingal Development Plan 2023 2029, and would be contrary to the proper planning and sustainable development for the area.

2. Having regard to the 'High-Lying Agricultural' landscape character type of the surrounding rural landscape, which is considered to be of 'High' landscape value and also considered to be 'High' interms of sensitivity; and, having regard to the scale, height, design and layout of the proposed developme rt and the limited visual impact information submitted as part of the applications, it is considered that when viewed collectively, the proposed network of buildings would cumulatively have a profoundly negative impact on the visual amenities of the application site and the surrounding area. The proposed development would be visually obtrusive and would seriously injure the amenities of the area and of property in the vicinity. The proposed development would therefore be contrary to the proper planning and sustainable development for the area.

3. The application has not provided a Road Safety Audit within the application submission. Given the proposed intensification of the local road network, the absence of a Road Safety Audit precludes the Local Authority from assessing the potential road safety risks associated with a development prior to the award of planning consent, and prior to the commencement of construction work. The applicant has failed to demonstrate that the proposed development would adequately protect vulnerable pedestrians in close proximity to articulated vehicles with limited visibility perf orming difficult manoeuvres. I n its current format the proposed development is therefore considered a traffic hazard and proposed development would therefore be contrary to the proper planning and sustainable development for the area.

COMHAIRLE CONTAE FHINE GALL

RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reg. Ref. F24A/1162E

Patrick O'Connor

Senior Executive Planner

Endorsed: p.p. C. Hely

Administrative Officer

Order: A decision pursuant to Section 34 of the PLANNING & DEVELOPMENT ACT 2000, AS AMENDED, to **REFUSE PERMISSION** for the above proposal for the **(3)** reason(s) set out above is hereby made.

Dated 20th February, 2025

M. McAleese

Director of Services

Thereunto empowered by order of the Chief Executive, Fingal County Council C.E. No. 8909 delegating to me all powers, functions & duties in relation to the council of the County of Fingal in respect of this matter.

Teagasc
Agriculture and Food Development Authority

HEAD OFFICE
Oak Park, Carlow
Príomh-Oifig, Páirc na Darach, Ceatharlach
Tel: 059-917 0200 Fax: 059-918 2097
Tel. Int: 00353+59-917 0200

Date; 12/3/2025

To whom it concerns,

I am aware of an application by Country Crest ULC to develop an anaerobic digester at the site in Collinstown, Lusk, Co. Dublin. From a tillage farm perspective there are a number of areas where the development of this facility can be of benefit to tillage farmers in that area.

1. Use of organic manures as a feed source – I understand that poultry manure will be a feed stock of the digester this will be of significant benefit to the soils and water in the source areas to reduce the amount of poultry manure applied to soils in the area where it is produced. Poultry manure contains a very high level of Nitrogen Phosphorus and Potassium so repeated applications to local farms or fields will result in soil indices for those nutrients increasing to a point where they are not needed. This in turn will lead to an increased risk of losses to watercourses in those areas, however where poultry manure can be used as a feed source for and anaerobic plant will help to alleviate the risk.
2. Use of organic manures and digestate on tillage soils – as part of the Teagasc Marginal Abatement Cost Curve (MACC) the application of organic manures on tillage soils is a key component of tillage farms strategy of reducing greenhouse gas emissions and in turn help the industry achieve it's 2030 reduction targets.
   Applying organic manures to tillage soils will directly replace part of the need for chemical fertilisers in terms of some of the nitrogen, but more specifically all of the phosphorus and potassium requirements.
3. Circular economy – the development of the AD plant in a tillage area will help the sustainability of the industry in the North Dublin, East Meath and Louth areas as the plant will provide an alternative income stream for farms in those areas to produce feedstock for the digester. Digestate from the plant can then be used as a fertiliser, as described above, to replace the requirement for chemical fertilisers on those tillage farms. Teagasc are actively promoting this circular economy activity or collaboration between different farms as part of the Signpost project.

It is my opinion that the development of this AD project will not only improve the sustainability of the local farm community, it will also improve water quality in the areas where poultry manures are produced, while also being an integral part of the overall industry's commitment to meet our greenhouse gas emissions targets.

Yours sincerely,

Shay Phelan

Teagasc Tillage Specialist

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Bóthar na nOibreacha Gáis
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Líonraí Gáis Éireann | Gas Networks Ireland

6th March 2025

To: whom it may concern

I wish to confirm that Gas Networks Ireland (GNI) has reviewed the application from Country Crest ULC received 26th September 2022, in relation to the request for a connection of the customer development of a biomethane production facility at **Rathmooney, Lusk, Co. Dublin, K45 NP03** to the GNI gas network infrastructure in the area.

Having completed initial network modelling analysis, GNI is satisfied that the connection is feasible and will endeavour to progress design and delivery of the project once **Country Crest ULC** has entered into the appropriate contractual arrangements for delivery of the works.

GNI is committed to decarbonising the gas network with renewable gases such as biomethane and looks forward to working with **Country Crest ULC** to facilitate the connection of its biomethane production facility to the gas network.

Kind regards

Jason Huntley

Gas Networks Ireland

Comhairle Contae Fhine Gall
Fingal County Council

An Roinn um Pleanáil agus Infrastruchtúr Straitéiseach
Planning and Strategic
Infrastructure Department

Emmet Fingan
DFK Consulting Engineers,
Botanic Court, 30/32 Botanic Road
Glasnevin
Dublin 9

7 September, 2023

Reg. Ref. **F22A/0077C 4/4(ii)**

Area: Rush Lusk

Location Rathmooney, Lusk, Co Dublin

Applicant Bally maguire Foods Ltd

Proposal 1. A total of 2520sqm part single storey, part two storey agri-business facility including 2 2160sqm Ground Floor works area, staff amenities and storage 3. 360sqm First floor offices and associated amenities 4. Enlarged percolation area serving the existing WWTU 5. New Internal roadway with car parking, serviceyard, roof mounted PV panels and all associated works.

AI received 25/5/2022
AI deemed significant **
Revised public notices received 9/6/2022

Dear Sir / Madam,

I refer to your submission received on 13-Jul-2023 to comply with Condition no. 4ii of Register Reference F22A/0077/C4/4(ii).

I wish to inform you that your submission is **acceptable** on planning grounds and is IN COMPLIANCE with the requirements of Condition No.(s)4ii .

Yours faithfully,
A McNamee

for **Senior Executive Officer**

PF/ 2027 /23

COMHAIRLE CONTAE FHINE GALL

RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Register Reference: **F22A/0077/C4/4(ii)**

Area: Rush Lusk

Date of Registration: 13 July, 2023

Development: 1. A total of 2520sqm part single storey, part two storey agri-business facility including 2. 2160sqm Ground Floor works area, staff amenities and storage 3. 360sqm First floor offices and associated amenities 4. Enlarged percolation area serving the existing WWTU 5. New Internal roadway with car parking, service yard, roof mounted PV panels and all associated works.

AI received 25/5/2022

AI deemed significant **

Revised public notices received 9/6/2022

Correspondence: Emmet Finegan DFK Consulting Engineers,, Botanic Court, 30/32 Botanic Road, Glasnevin, Dublin 9

Location: Rathmooney, Lusk, Co Dublin

Applicant: Ballymaguire Foods Ltd

Application Type: Compliance with Conditions

Zoning:

Planning Officers Report:

AD/AMCN

F22A/0077/C4/4(ii)
A submission of COMPLIANCE with Condition 4(ii) of F22A/0077 has been received by the Planning Authority on 13th July 2023. Date of final grant of F22A/0077stated as 6th September 2022.

Condition 4(ii) of F22A/0077
The following requirements in relation to transportation shall be complied with in full:

ii. A detailed site-specific Construction Environmental Management Plan (CEMP) and Construction Traffic Management Plan shall be submitted for the approval of the Transportation Planning Section prior to commencement of construction.

REASON: In the interest of traffic, cyclist & pedestrian safety and sustainable development.

COMHAIRLE CONTAE FHINE GALL

RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reg. Ref. F22A/0077/C4/4(I)

Departmental Reports
Transport Planning Section – No Objection.

Assessment
As part of this compliance submission, the applicant has submitted a Cover Letter by Doherty Finegan Kelly Consulting Civil & Structural Engineers along with 3 no. Site Access / Egress drawings. The submitted documentation has been reviewed by the Transport Planning Section of Fingal County Council. The Transport Planning Section has no objection to the submitted Construction Traffic Management Plan and consider it to be in compliance with Condition 4(ii).

Recommendation
The submission for Condition 4(ii) of F22A/0077 received on the 13 th July 2023 is considered to be **IN COMPLIANCE** and the applicant should be notified accordingly.

I recommend that the applicant be informed accordingly

COMHAIRLE CONTAE FHINE GALL

RECORD OF EXECUTIVE BUSINESS AND CHIEF EXECUTIVE'S ORDER

Reg. Ref. F22A/0077/C4/4(II)

Andrew Davidson

Senior Executive Planner

Endorsed P.P. Mark Daly
Administrative Officer

Order: Applicant to be informed as set out in the above report.

Dated 7th September, 2023

Mallory Bradley
Senior Planner

Thereunto empowered by order of the Chief Executive, Fingal County Council C.E. No. 8584 delegating to me all powers, functions & duties in relation to the council of the County of Fingal in respect of this matter.

STATUTORY INSTRUMENTS.

S.I. No. 113 of 2022

EUROPEAN UNION (GOOD AGRICULTURAL PRACTICE FOR PROTECTION OF WATERS) REGULATIONS 2022

S.I. No. 113 of 2022

EUROPEAN UNION (GOOD AGRICULTURAL PRACTICE FOR PROTECTION OF WATERS) REGULATIONS 2022

I, DARRAGH O'BRIEN, Minister for Housing, Local Government and Heritage, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Directive 91/676/EEC of 12 December 1991[1], Directive 2000/60/EC of 23 October 2000[2], Directive 2003/35/EC of 26 May 2003[3], Directive 2006/118/EC of 12 December 2006[4] and Directive 2008/98/EC of 19 November 2008[5] hereby make the following regulations:

[1] O.J. No. L 375/1, 31 December 1991.
[2] O.J. No. L 327/1, 22 December 2000.
[3] O.J. No. L 156/17, 25 June 2003.
[4] O.J. No. L 372/19, 27 December 2006.
[5] O.J. No. L 312/3, 22 November 2008.

Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil" of 11th March, 2022.

EUROPEAN UNION (GOOD AGRICULTURAL PRACTICE FOR PROTECTION OF WATERS) REGULATIONS 2022

CONTENTS

PART 1

PRELIMINARY

Citation, commencement and application

1. (*a*) These Regulations may be cited as the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022.

(*b*) These Regulations shall apply to all holdings in the State.

(*c*) These Regulations shall apply to all movements of livestock manure in the State.

(*d*) These Regulations shall come into effect on 11th March 2022.

Purpose of Regulations

2. The purpose of these Regulations is to give effect to Ireland's Nitrates Action Programme pursuant to Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural source.

Revocations

3. The European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations 2018, the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations 2020, the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) (Nos. 2 and 3) Regulations 2020, and the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations 2021 are hereby revoked.

Interpretation

4. (1) In these Regulations, save where the context otherwise requires—

"Act of 1992" means the Environmental Protection Agency Act, 1992 (No. 7 of 1992);

"Agency" means the Environmental Protection Agency established under section 19 of the Act of 1992;

"agriculture" includes the breeding, keeping and sale of livestock (including cattle, horses, pigs, poultry, sheep and any creature kept for the production of food, wool, skins or fur), the making and storage of silage, the cultivation of land, and the growing of crops (including forestry and horticultural crops);

"application to land", in relation to fertiliser, means the addition of fertiliser to land whether by spreading on the surface of the land, injection into the land,

placing below the surface of the land or mixing with the surface layers of the land but does not include the direct deposition of manure to land by animals;

"aquifer" means a subsurface layer or layers of rock or other geological strata of sufficient porosity and permeability to allow either a significant flow of groundwater or the abstraction of significant quantities of groundwater;

"biochemical oxygen demand" for the purposes of sub-article (2) (b) (i) means a 5 day biochemical oxygen demand test done in accordance with method ISO 5815-1:2003, International Organisation for Standardization, or any update of that method;

"chemical fertiliser" means any fertiliser that is manufactured by an industrial process;

"commonage" means a land parcel which is held by two or more persons in specified shares or jointly and originally purchased from the Irish Land Commission under the Land Purchase Acts, including land over which two or more persons have grazing rights or the right to take turf;

"dry matter" for the purposes of sub-article (2)(b)(ii) means a test for total solids done in accordance with method 2540B, Standard Methods for the Examination of Water and Wastewater, American Public Health Association, 21st Edition, 2005, or any update of that method;

"eligible area" in relation to a holding and the grassland stocking rate, means the eligible area of the holding or the grassland as appropriate excluding areas under farm roads, paths, buildings, farmyards, woods, dense scrub, rivers, streams, ponds, lakes, sandpits, quarries, expanses of bare rock, areas of bogland not grazed, areas fenced off and not used for production, inaccessible areas and areas of forestry (including Christmas trees), or required to be totally destocked under a Commonage Framework Plan;

"farmyard manure" means a mixture of bedding material and animal excreta in solid form arising from the housing of cattle, sheep and other livestock excluding poultry;

"fertiliser" means any substance containing nitrogen or phosphorus or a nitrogen compound or phosphorus compound utilised on land to enhance growth of vegetation and may include livestock manure, the residues from fish farms and sewage sludge;

"grass" means permanent grassland or temporary grassland (temporary implying leys of less than four years);

"grazing livestock" means cattle (with the exclusion of veal calves), sheep, deer, goats and horses.

"groundwater" means all water that is below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil;

"holding" means an agricultural production unit and, in relation to an occupier, means all the agricultural production units managed by that occupier;

"livestock" means all animals kept for use or profit (including cattle, horses, pigs, poultry, sheep and any creature kept for the production of food, wool, skins or fur);

"livestock manure" means waste products excreted by livestock or a mixture of litter and waste products excreted by livestock, even in processed form;

"local authority" means a city council or county council within the meaning of the Local Government Act, 2001 (No. 37 of 2001);

"local authority shared service" means common or combined services provided to more than one local authority, the provision of which (to the local authorities concerned) enables, assists or facilitates the carrying out of any administrative task or process necessary for or incidental to the performance of a function assigned under these regulations to local authorities.

"the Minister" means the Minister for Housing, Local Government and Heritage;

"the Nitrates Directive" means Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution caused by nitrates from agricultural sources;

"occupier", in relation to a holding, includes the owner, a lessee, any person entitled to occupy the holding or any other person having for the time being control of the holding;

"OSi" means Ordnance Survey Ireland established by Ordnance Survey Ireland Act, 2001 (No. 43 of 2001).

"organic fertiliser" means any fertiliser other than that manufactured by an industrial process and includes livestock manure, dungstead manure, farmyard manure, slurry, soiled water, silage effluent, spent mushroom compost, non-farm organic substances such as sewage sludge, industrial by-products and sludges and residues from fish farms;

"ploughing" includes ploughing and primary cultivation, excluding shallow cultivation carried out to encourage natural regeneration;

"relevant local authority" means the local authority in whose administrative area a farm holding or part of a farm holding is situated;

"river basin district" means a river basin district established by the European Communities (Water Policy) Regulations, 2003 (S.I. No. 722 of 2003) or any amendment thereof in relation to the establishment of river basin districts;

"slurry" includes—

(*a*) excreta produced by livestock while in a building or yard, and

(*b*) a mixture of such excreta with rainwater, washings or other extraneous material or any combination of these, of a consistency that allows it to be pumped or discharged by gravity at any stage in the handling process but does not include soiled water;

"soil test" means a soil sample taken in accordance with the soil sampling procedure set out in Schedule 1 and analysed in accordance with that Schedule, at a laboratory that meets the requirements of the Minister for Agriculture, Food and the Marine for this purpose;

"soiled water" has the meaning assigned by sub-article (2);

"steep slope" means ground which has an average incline of 20% or more in the case of grassland or 15% or more in the case of other land;

"Teagasc" means the Agriculture and Food Development Authority established in September 1988 under the Agriculture (Research, Training and Advice) Act, 1988.

"tidal waters" includes the sea and any estuary up to high water mark medium tide and any enclosed dock adjoining tidal waters;

"waters" includes—

(*a*) any (or any part of any) river, stream, lake, canal, reservoir, aquifer, pond, watercourse, or other inland waters, whether natural or artificial,

(*b*) any tidal waters, and

(*c*) where the context permits, any beach, river bank and salt marsh or other area which is contiguous to anything mentioned in paragraph (a) or (b), and the channel or bed of anything mentioned in paragraph (a) which is for the time being dry, but does not include a sewer;

"watercourses" means any body of water that is marked on a modern 1:5,000 scale OSi map.

"waterlogged ground" means ground that is saturated with water such that any further addition will lead, or is likely to lead, to surface run-off;

and cognate words shall be construed accordingly.

(2) (*a*) In these Regulations "soiled water" includes, subject to this sub-article, water from concreted areas, hard standing areas, holding areas for livestock and other farmyard areas where such water is contaminated by contact with any of the following substances—

(i) livestock faeces or urine or silage effluent,
(ii) chemical fertilisers,
(iii) washings such as vegetable washings, milking parlour washings or washings from mushroom houses,
(iv) water used in washing farm equipment.

(*b*) In these Regulations, "soiled water" does not include any liquid where such liquid has either—

(i) a biochemical oxygen demand exceeding 2,500 mg per litre, or
(ii) a dry matter content exceeding 1% (10 g/L).

(*c*) For the purposes of these Regulations, soiled water which is stored together with slurry is deemed to be slurry.

(3) In these Regulations a reference to:—

(*a*) an Article, Part or Schedule which is not otherwise identified is a reference to an Article, Part or Schedule of these Regulations,

(*b*) a sub-article or paragraph which is not otherwise identified is a reference to a sub-article or paragraph of the provision in which the reference occurs, and

(*c*) a period between a specified day in a month and a specified day in another month means the period commencing on the first-mentioned day in any year and ending on the second-mentioned day which first occurs after the first-mentioned day.

(4) In these Regulations a footnote to a table in Schedule 2 shall be deemed to form part of the table.

PART 2

FARMYARD MANAGEMENT

Minimisation of soiled water

5. (1) An occupier of a holding shall take all such steps, as far as is practicable for the purposes of minimising the amount of soiled water produced on the holding.

(2) Without prejudice to the generality of sub-article (1), an occupier of a holding shall ensure, as far as is practicable, that—

(*a*) clean water from roofs and unsoiled paved areas and that flowing from higher ground on to the farmyard is diverted away from soiled yard areas and prevented from entering storage facilities for livestock manure and other organic fertilisers, soiled water, and effluents from dungsteads, farmyard manure pits, silage pits or silage clamps and

(*b*) rainwater gutters and downpipes where required for the purposes of paragraph (a) are maintained in good working condition.

(3) The spreading of soiled water to land is prohibited between the following dates:

(*a*) Between 21st December and 31st December for all milk producers from 2022,

(*b*) Between 10th December and 31st December for all milk producers from 2023,

(*c*) Between 1st December and 31st December from 2024 onwards for all milk producers with the exception of winter/liquid milk[6] producers, and

(*d*) Between 1st December and 31st December from 1st January 2025 onwards for all milk producers including winter/liquid milk[1] producers

[6] Holdings that produce milk during the winter and hold a winter/liquid milk contract with their milk processor.

Collection and holding of certain substances

6. (1) Livestock manure and other organic fertilisers, soiled water and effluents from dungsteads, farmyard manure pits, silage pits or silage clamps arising or produced in a building or yard on a holding shall, prior to its application to land or other treatment, be collected and held in a manner that prevents the run-off or seepage, directly or indirectly, into groundwaters or surface waters of such substances.

(2) The occupier of a holding shall not cause or permit the entry to waters of any of the substances specified in sub-article (1).

Provision and management of storage facilities

7. (1) Storage facilities for livestock manure and other organic fertilisers, soiled water and effluents from dungsteads, farmyard manure pits, silage pits or silage clamps shall be maintained free of structural defect and be maintained and managed in such manner as is necessary to prevent run-off or seepage, directly or indirectly, into groundwater or surface water, of such substances.

(2) Storage facilities being provided on a holding shall—

(*a*) be designed, sited, constructed, maintained and managed so as to prevent run-off or seepage, directly or indirectly, into groundwater or surface water of a substance specified in sub-article (1), and

(*b*) comply with such construction specifications for those facilities as may be approved from time to time by the Minister for Agriculture, Food and the Marine.

(3) Storage facilities other than those referred to in sub-article (2) shall be of such construction and design and shall be maintained and managed in such a manner so as to comply with the requirements of sub-article (1) and article 6(2).

(4) In this article "storage facilities" includes out-wintering pads, earthen-lined stores, integrated constructed wetlands and any other system used for the holding or treatment of livestock manure or other organic fertilisers.

General obligations as to capacity of storage facilities

8. (1) The capacity of storage facilities for livestock manure and other organic fertilisers, soiled water and effluents from dungsteads, farmyard manure pits, silage pits or silage clamps on a holding shall be adequate to provide for the storage of all such substances as are likely to require storage on the holding for such period as may be necessary as to ensure compliance with these Regulations and the avoidance of water pollution.

(2) For the purposes of sub-article (1) an occupier shall ensure to have the storage capacity likely to be required during periods of adverse weather conditions when, due to extended periods of wet weather, frozen ground or otherwise, the application to land of livestock manure or soiled water is precluded.

(3) For the purposes of Articles 8 to 14, the capacity of storage facilities on a holding shall be disregarded insofar as the occupier does not have exclusive use of those facilities.

(4) For the purposes of Articles 10 to 14 the capacity of facilities required in accordance with these Regulations for the storage of manure from livestock of the type specified in Tables 1, 2 or 3 of Schedule 2 shall be determined by reference to the criteria set out in the relevant table and the rainfall criteria set out in Table 4 of that schedule and shall include capacity for the storage for such period as may be necessary for compliance with these Regulations of rain-water, soiled water or other extraneous water which enters or is likely to enter the facilities.

(5) The occupier of a holding shall only be eligible to avail of a derogation from the limits on the amount of livestock manure to be applied as specified in Article 20 if the capacity of storage facilities for livestock manure, effluent and soiled water on the holding is in accordance with Articles 8 and 9.

(6) Subject to sub-article (7), the spreading of all slurry must be applied by:

(*a*) 8th October from 2022;

(*b*) 1st October from 2023 onwards.

(7) Notwithstanding sub-article (6), slurry may be spread between 8th and 15th October in 2022, and between 1st and 15th October from 2023 in accordance with criteria to be published by the Minister, in consultation with the Minister for Agriculture, Food and the Marine, by 1st September 2022.

Capacity of storage facilities for effluents and soiled water

9. Without prejudice to the generality of Article 8, the capacity of facilities for the storage on a holding of—

(*a*) effluent produced by ensiled forage and other crops shall equal or exceed the capacity specified in Table 5 of Schedule 2,

(*b*) soiled water shall equal or exceed the capacity required to store all soiled water likely to arise on the holding during a period of 10 days,

(*c*) soiled water being provided on a holding shall equal or exceed the capacity required to store all soiled water likely to arise on the holding during a period of 15 days, and

(*d*) From 1st December 2023, a minimum of 3 weeks' storage capacity shall be in place on the holding and from 1st December 2024, a minimum of 4 weeks' storage capacity shall be in place on the holding except for winter/liquid milk producers where this storage must be in place by 1st December 2025.

Capacity of storage facilities for pig manure

10. (1) Without prejudice to the generality of Article 8, the capacity of facilities for the storage on a holding of livestock manure produced by pigs

shall, subject to sub-article (2) and Article 14, equal or exceed the capacity required to store all such livestock manure produced on the holding during a period of 26 weeks.

(2) The period specified in Schedule 3 shall, in substitution for that prescribed by sub-article (1), apply in relation to livestock manure produced by pigs on a holding where all the following conditions are met—

(*a*) the number of pigs on the holding does not at any time exceed one hundred pigs, and

(*b*) the holding comprises a sufficient area of land for the application in accordance with these Regulations of all livestock manure produced on the holding.

Capacity of storage facilities for poultry manure

11. (1) Without prejudice to the generality of Article 8, the capacity of facilities for the storage on a holding of livestock manure produced by poultry shall, subject to sub-article (2) and Article 14, equal or exceed the capacity required to store all such livestock manure produced on the holding during a period of 26 weeks.

(2) The period specified in Schedule 3 shall, in substitution for that prescribed by sub-article (1), apply in relation to livestock manure produced by poultry on a holding where all the following conditions are met—

(*a*) tillage or grassland farming is carried out on the holding,

(*b*) the number of poultry places on the holding does not exceed 2,000 places, and

(*c*) the holding comprises a sufficient area of land for the application in accordance with these Regulations of all livestock manure produced on the holding.

Capacity of storage facilities for manure from deer, goats and sheep

12. Without prejudice to the generality of Article 8, the capacity of facilities for the storage on a holding of livestock manure produced by deer, goats and sheep shall, subject to Article 14, equal or exceed the capacity required to store all such livestock manure produced on the holding during a period of six weeks.

Capacity of storage facilities for manure from cattle

13. Without prejudice to the generality of Article 8, the capacity of facilities for the storage on a holding of livestock manure produced by cattle shall, subject to Article 14, equal or exceed the capacity required to store all such livestock manure produced on the holding during the period specified in Schedule 3.

Reduced storage capacity in certain circumstances

14. (1) The capacity of facilities for the storage of livestock manure on a holding may, to such extent as is justified in the particular circumstances of the holding, be less than the capacity specified in Article 10, 11, 12 or 13, as appropriate, in the case of a holding where—

(*a*) the occupier of the holding has a contract providing exclusive access to adequate alternative storage capacity located outside the holding,

(*b*) the occupier has a contract for access to a treatment facility for live-stock manure, or

(*c*) the occupier has a contract for the transfer of the manure to a person registered under and in accordance with the European Communities (Transmissible Spongiform Encephalopathies and Animal By-products) Regulations 2008 (S.I. No. 252 of 2008) to undertake the transport of manure.

(2) Subject to sub-article (3), the capacity of facilities for the storage of live-stock manure may be less than the capacity specified in Article 12 or 13, as appropriate, in relation to—

(*a*) deer, goats or sheep which are out-wintered at a grassland stocking rate which does not exceed 130 kg nitrogen until 31st December 2024 and 100 kg nitrogen from 1st January 2025 onwards at any time during the period specified in Schedule 4 in relation to the application of organic fertiliser other than farmyard manure, or

(*b*) livestock (other than dairy cows, deer, goats or sheep) which are out-wintered at a grassland stocking rate which does not exceed 85 kg nitrogen at any time during the period specified in Schedule 4 in relation to the application of organic fertiliser other than farmyard manure.

The requirement for full storage for those holdings stocked between 100 kg N/ha and 130 kg N/ha applies from 1st January 2025.

(3) Sub-article (2) shall apply only in relation to a holding where all the following conditions are met—

(*a*) all the lands used for out-wintering of the livestock are comprised in the holding,

(*b*) the out-wintered livestock have free access at all times to the required lands,

(*c*) the amount of manure produced on the holding does not exceed an amount containing 130 kg of nitrogen per hectare per annum until 31st December 2024 and 100 kg of nitrogen per hectare per annum from 1st January 2025 onwards,

(*d*) severe damage to the surface of the land by poaching does not occur, and

(*e*) the reduction in storage capacity is proportionate to the extent of out-wintered livestock on the holding.

(4) In this article, a grassland stocking rate of 130 kg, 100 kg or 85 kg of nitrogen, as the case may be, means the stocking of grassland on a holding at any time by such numbers and types of livestock as would in the course of a year excrete waste products containing 130 kg, 100 kg or 85 kg of nitrogen, as the case may be, per hectare of the grassland when calculated in accordance with the nutrient excretion rates for livestock specified in Table 6 of Schedule 2.

PART 3

NUTRIENT MANAGEMENT

Interpretation, commencement etc

15. (1) In this Part, "crop requirement", in relation to the application of fertilisers to promote the growth of a crop, means the amounts and types of fertilisers which are based on the relevant tables in Schedule 2 to apply to soil for the purposes of promoting the growth of the crop having regard to the foreseeable nutrient supply available to the crop from the fertilisers, the soil and from other sources.

(2) The amount of nitrogen or phosphorus specified in Table 7 or 8 of Schedule 2, as the case may be, in relation to a type of livestock manure or other substance specified in the relevant table shall for the purposes of this Part be deemed to be the amount of nitrogen or phosphorus, as the case may be, contained in that type of manure or substance except as may be otherwise specified in a certificate issued in accordance with Article 32.

(3) The amount of nitrogen or phosphorus available to a crop from a fertiliser of a type which is specified in Table 9 of Schedule 2 in the year of application of that fertiliser shall, for the purposes of this Part, be deemed to be the percentage specified in that table of the amount of nitrogen or phosphorus, as the case may be, in the fertiliser.

(4) The amount of nitrogen or phosphorus available to a crop from an organic fertiliser of a type which is not specified in Table 9 of Schedule 2 shall be deemed to be the amount specified in the table in relation to cattle manure or, where supported by the necessary analysis, the amount of nitrogen estimated on the basis of the C:N ratio of the compost in accordance with Table 9A unless a different amount has been determined in relation to that fertiliser by, or with the agreement of, the relevant local authority or the Agency, as the case may be.

(5) A reference in this Part to the "nitrogen index" or the "phosphorus index" in relation to soil is a reference to the index number assigned to the soil in accordance with Table 10 or 11 of Schedule 2, as the case may be, to indicate the level of nitrogen or phosphorus available from the soil.

(6) From 11th March 2022, on holdings with grassland stocking rates of 130 kg nitrogen per hectare from grazing livestock manure (dairy cows and other bovines two years old and over) or above prior to export of livestock

manure from the holding, a maximum crude protein content of 15% is permissible in concentrate feedstuff fed to grazing livestock on the holding between 15th April and 30th September. Records of crude protein content of concentrate feedstuff shall be kept in accordance with Article 23(1)(j).

(7) On holdings with grassland stocking rates of 170 kg nitrogen per hectare from grazing livestock manure or above prior to export of livestock manure from the holding, a liming programme shall be prepared and must establish the following:-

(*a*) A calculation of liming requirements for each parcel to achieve optimum pH;

(*b*) A lime application programme for the farm.

(8) The stocking rate allowance for commonage land shall not exceed 50 kg organic nitrogen per hectare.

(9) Chemical fertiliser shall not be spread on commonage land.

Duty of occupier in relation to nutrient management

16. (1) An occupier of a holding shall take as far as is practicable all such steps for the purposes of preventing the application to land of fertilisers in excess of crop requirement on the holding.

(2) For the purposes of the determination of the grassland stocking rate in tables 12, 13A and 13B the previous calendar year's stocking rate data shall be used.

(3) (*a*) For the purposes of this article, the phosphorus index for soil shall be deemed to be phosphorus index 3 unless a soil test indicates that a different phosphorus index is appropriate in relation to that soil subject to paragraph (e).

(b) The soil test to be taken into account for the purposes of paragraph (a) in relation to soil shall, subject to paragraph (c), be the soil test most recently taken in relation to that soil.

(*c*) Where a period of four years or more has elapsed after the taking of a soil test, the results of that test shall be disregarded for the purposes of paragraph (a) except in a case where that soil test indicates the soil to be at phosphorus index 4.

(*d*) The phosphorus fertilisation rate for soils with more than 20% organic matter shall not exceed the amounts permitted for Index 3 soils, subject to the provisions of paragraph (e).

(*e*) For the purposes of paragraph (d), soils shall be deemed to have an organic matter content of 20% as defined on a Teagasc-EPA Indicative Soils map unless otherwise determined in soil tests carried out in accordance with this article.

(*f*) From 11th March 2022 all occupiers of holdings that have a grassland stocking rate of 170 kg N/ha or above prior to export

of livestock manure, shall take soil tests and shall assume P index 4 until soil tests are taken. From 1st January 2023 all occupiers of holdings with a grassland stocking rate above 130 kg N/ha shall take soil tests and shall assume P index 4 until soil tests are taken. From 1st January 2023 all occupiers of holdings on all arable land shall take soil tests.

(4) Without prejudice to the generality of sub-article (1) and subject to sub-article (5), the amount of available nitrogen or available phosphorus applied to promote the growth of a crop specified in Table 12, 13A, 14, 15, 16, 17, 18, 19, 20 or 21 of Schedule 2 shall not exceed the amount specified in the table in relation to that crop having regard to the relevant nitrogen index or phosphorus index, as the case may be, for the soil on which the crops are to be grown. In the case of crops not identified in the tables listed above, fertilisers shall be applied in accordance with Teagasc guidance as approved by the Minister for Agriculture, Food and the Marine.

(5) Increased phosphorus build-up on grassland on farms with grassland stocking rates of 130 kg nitrogen per hectare and above shall only be permitted in accordance with the rates contained in Table 13B provided that the following conditions are met:

(*a*) Soil analysis is carried out for soil phosphorus and soil organic matter contents; Soils shall be deemed to have an organic matter content of 20% as defined on a Teagasc-EPA Indicative Soils map unless otherwise determined in soil tests carried out in accordance with this article.

(*b*) An occupier availing of the phosphorus build-up programme shall engage the services of a Department of Agriculture, Food and the Marine approved Farm Advisory System Advisor.

(*c*) A detailed farm nutrient plan for the holding shall be submitted in a format specified by the Minister for Agriculture, Food and the Marine.

(*d*) The occupier shall participate in an appropriate training programme specified by the Minister for Agriculture, Food and the Marine for the purpose of meeting the requirements of these regulations.

(6) In the case of a holding on which grazing livestock are held, the amount of available phosphorus supplied to the holding by concentrated feedstuff shall be the amount fed to such livestock in excess of 300 kg per 89 kg livestock manure nitrogen in the previous calendar year and the phosphorus content of such concentrated feedstuff shall, in the absence of a known phosphorus content or phosphorus content provided by the supplier, be deemed to be 0.5 kg phosphorus in respect of each 100 kg of such concentrated feedstuff.

(7) The nitrogen and phosphorus maximum limits in Tables 12, 13A and 13B are in addition to the nitrogen and phosphorus contained in grazing livestock manure produced on the holding.

PART 4

PREVENTION OF WATER POLLUTION FROM FERTILISERS AND CERTAIN ACTIVITIES

Distances from a water body and other issues

17. (1) Chemical fertiliser shall not be applied to land within 2m of any surface waters.

(2) Organic fertiliser or soiled water shall not be applied to land within—

(*a*) 200m of the abstraction point of any surface waters, borehole, spring or well used for the abstraction of water for human consumption in a water scheme supplying $100m^3$ or more of water per day or serving 500 or more persons,

(*b*) 100m of the abstraction point (other than an abstraction point specified in paragraph (a)) of any surface waters, borehole, spring or well used for the abstraction of water for human consumption in a water scheme supplying $10m^3$ or more of water per day or serving 50 or more persons,

(*c*) 25m of any borehole, spring or well used for the abstraction of water for human consumption other than a borehole, spring or well specified in paragraph (a) or (b),

(*d*) 20m of a lake shoreline or a turlough likely to flood,

(*e*) 15m of exposed cavernous or karstified limestone features (such as swallow-holes and collapse features),

(*f*) subject to sub-article (12), 5m of any surface waters (other than a lake or surface waters specified at paragraph (*a*) or (*b*)), or

(*g*) the distance specified in sub-article 2(f) shall be increased to 10m for a period of two weeks preceding and two weeks following the periods specified in Schedule 4.

(3) Notwithstanding the requirements of sub-articles (2)(a), (2)(b) and (2)(c), organic fertiliser or soiled water may be applied to land within:

(*a*) 30m from the abstraction point in the case of any surface waters, bore-hole, spring or well used for the abstraction of water for human consumption in a water scheme supplying $10m^3$ or more of water per day or serving 50 or more persons, or

(*b*) 15m from the abstraction point in the case of any borehole, spring or well used for the abstraction of water for human consumption other than a borehole, spring or well specified in paragraph (*a*),

where the provisions of sub-article (4) are complied with.

(4) Organic fertiliser or soiled water may only be applied to land in accordance with sub-article (3) where a local authority or Irish Water (as the case may be) has completed a technical assessment of conditions in the vicinity

of the abstraction point, including taking into account variation in soil and subsoil conditions, the landspreading pressures in the area, the type of abstraction, available water quality evidence and the likely risk to the water supply source and the local authority, in consultation with Irish Water, where relevant, has determined that the distance does not give rise to a risk to the water supply and a potential danger to human health.

(5) A local authority may, following consultation with Irish Water, where relevant, decide to apply the landspreading restriction to the upstream catchment area and to the close proximity downstream of the abstraction point in the case of any surface waters.

(6) A local authority may, in the case of any particular abstraction point and following consultation with the Agency and, where relevant, Irish Water, specify a greater distance than that specified in sub-articles (2) or (3) where, following prior investigations by Irish Water or the local authority (as the case may be), the local authority is satisfied that such distance is appropriate for the protection of waters being abstracted at that point. The distance so specified shall be determined by the local authority using an evidence-based approach which takes into account the natural vulnerability of the waters to contamination from land spreading, the potential risk to human health arising from the landspreading activity as well as the water quality evidence, including information on water quality trends.

(7) Notwithstanding the provisions of sub-articles (2), (3) and (6), a local authority shall, following prior investigations by Irish Water or the local authority (as the case may be) and following consultation with the Agency and, where relevant, Irish Water, specify an alternative distance, including a landspreading exclusion area where necessary, in the case of a water abstraction for human consumption in a scheme supplying $10m^3$ or more of water per day, or serving 50 or more persons, within a timeframe to be agreed with the Agency and, where relevant, Irish Water, where—

(*a*) on the basis of the results of monitoring carried out for the purposes of Article 7 of the European Communities (Drinking Water) Regulations 2014 (S.I. No. 122 of 2014), the quality of water intended for human consumption does not meet the parametric values specified in Part I of the Schedule of those Regulations or the quality of water constitutes a potential danger to human health, and it appears to the local authority following consultation with the Agency and, where relevant, Irish Water, that this is due to the landspreading of organic fertilisers or soiled water in the vicinity of the abstraction point, or

(*b*) investigations undertaken by Irish Water as part of the management of a water supply scheme indicate that the landspreading activity presents a significant risk to the drinking water supply or a potential danger to human health having regard to catchment factors in the vicinity of the abstraction point including but not limited to slope, vulnerability, and hydrogeology, the scale and intensity of land spreading pressures, the type of water supply source and water quality evidence, including information on water quality trends.

(8) A distance specified by a local authority in accordance with sub-articles (3), (5), (6) and (7) may be described as a distance or distances from an abstraction point, a hydrogeological boundary or topographical feature or as an area delineated on a map or in such other way as appears appropriate to the authority.

(9) In relation to sub-articles (6) and (7), "prior investigations" means, in relation to an abstraction point, an assessment of the susceptibility of waters to contamination in the vicinity of the abstraction point having regard to—

(*a*) the direction of flow of surface water or groundwater, as the case may be,

(*b*) the slope of the land and its runoff potential,

(*c*) the natural geological and hydrogeological attributes of the area including the nature and depth of any overlying soil and subsoil and its effectiveness in preventing or reducing the entry of harmful sub-stances to water, and

(*d*) where relevant, the technical specifications set out in the document "Groundwater Protection Schemes" published in 1999 (ISBN 1-899702-22-9) or any subsequent published amendment of that document.

(10) Where a local authority specifies a distance in accordance with either of sub-articles (3), (5), (6) or (7) the authority shall, as soon as may be—

(*a*) notify the affected landowners, Irish Water, the Agency and the Department of Agriculture, Food and the Marine of the distance so specified,

(*b*) send to the Agency a summary of the report of any investigations undertaken and the reasons for specifying the alternative distance,

(*c*) make an entry in the register maintained in accordance with Article 30(6), and

(*d*) publish and maintain on the local authority website an updated schedule of setback distances specified for each drinking water supply.

(11) The Agency may issue advice or direction to Irish Water or a local authority in relation to any requirements including requirements for technical assessments and prior investigations arising under sub-articles (2), (3), (4), (5), (6), (7), (8) or (9) and Irish Water or a local authority (as the case may be) shall comply with any such advice or direction given.

(12) Notwithstanding sub-article (2)(*f*), organic fertiliser or soiled water shall not be applied to land within 10m of any surface waters where the land has an average incline greater than 10% towards the water.

(13) Where farmyard manure is held in a field prior to landspreading it shall be held in a compact heap and shall not be placed within-

(*a*) 250m of the abstraction point of any surface waters or borehole, spring or well used for the abstraction of water for human

consumption in a water scheme supplying $10m^3$ or more of water per day or serving 50 or more persons,

(*b*) 50m of any other borehole, spring or well used for the abstraction of water for human consumption other than a borehole, spring or well specified at paragraph (a),

(*c*) 20m of a lake shoreline or a turlough likely to flood,

(*d*) 50m of exposed cavernous or karstified limestone features (such as swallow-holes and collapse features),

(*e*) 20m of any surface waters (other than a lake or surface waters specified at paragraph (a)).

(14) Organic fertiliser shall not be held in a field at any time during the periods specified in Schedule 4 as applicable to that substance.

(15) Silage bales shall not be stored outside of farmyards within 20m of surface waters or a drinking water abstraction point in the absence of adequate facilities for the collection and storage of any effluent arising.

(16) No cultivation shall take place within 2m of a watercourse identified on a modern 1:5,000 scale OSi mapping or better, except in the case of grassland establishment or the sowing of grass crops.

(17) Supplementary feeding points shall not be located within 20m of waters and shall not be located on bare rock.

(18) In the case of livestock holdings with grassland stocking rates of 170 kg nitrogen per hectare from livestock manure or above prior to export of livestock manure, bovine livestock shall not be permitted to drink directly from watercourses identified on the modern 1:5,000 scale OSi mapping or better. Where bovine livestock have direct access to watercourses on the holding, a fence shall be placed at least 1.5m from the top of the riverbank or water's edge (as the case may be). It will be permissible to move livestock across a watercourse to an isolated land parcel where necessary, provided that both sides of the watercourse are fenced.

(19) In the case of holdings identified in sub-Article 18, supplementary drinking points may not be located within 20m of surface waters.

(20) There shall be no direct runoff of soiled water from farm roadways to waters. The occupier of a holding shall comply with any specification for farm roadways specified by the Minister for Agriculture, Food and the Marine pursuant to this requirement.

(21) There shall be no direct runoff of soiled waters to waters resulting from the poaching of land on the holding.

(22) For late harvested crops and late harvested spring cereal crops, a minimum buffer of 6m shall be put in place to protect any intersecting watercourses.

Requirements as to manner of application of fertilisers, soiled water etc.

18. (1) (*a*) Livestock manure, other organic fertilisers, effluents, soiled water and chemical fertilisers shall be applied to land in as accurate and uniform a manner as is practically possible.

(*b*) Low emission slurry spreading equipment must be used for the application of slurry on holdings with grassland stocking rates of :

i. 170 kg nitrogen per hectare from grazing livestock manure or above prior to export of livestock manure from the holding.

ii. 150 kg nitrogen per hectare from grazing livestock manure or above prior to export of livestock manure from the holding from 1st January 2023.

iii. 130 kg nitrogen per hectare from grazing livestock manure or above prior to export of livestock manure from the holding from 1st January 2024.

iv. 100 kg nitrogen per hectare from grazing livestock manure or above prior to export of livestock manure from the holding from 1st January 2025.

v. slurry produced by pigs on any holding from 1st January 2023.

(*c*) From 1st January 2023, low emission equipment shall be used to apply livestock manure to arable land or the livestock manure shall be incorporated within 24 hours.

(2) Organic and chemical fertilisers or soiled water shall not be applied to land in any of the following circumstances—

(*a*) the land is waterlogged;

(*b*) the land is flooded or likely to flood;

(*c*) the land is snow-covered or frozen;

(*d*) heavy rain is forecast within 48 hours, or

(*e*) the ground slopes steeply and there is a risk of water pollution having regard to factors such as surface runoff pathways, the presence of land drains, the absence of hedgerows to mitigate surface flow, soil condition and ground cover.

(3) A person shall, for the purposes of sub-article (2)(d), have regard to weather forecasts issued by Met Éireann.

(4) Organic fertilisers or soiled water shall not be applied to land—

(*a*) by use of an umbilical system with an upward-facing splashplate,

(*b*) by use of a tanker with an upward-facing splashplate,

(*c*) by use of a sludge irrigator mounted on a tanker, or

(*d*) from a road or passageway adjacent to the land irrespective of whether or not the road or passageway is within or outside the curtilage of the holding.

(5) Subject to sub-article (6), soiled water shall not be applied to land—

(*a*) in quantities which exceed in any period of 42 days a total quantity of 50,000 litres per hectare, or

(*b*) by irrigation at a rate exceeding 5 mm per hour.

(6) In an area which is identified on maps compiled by the Geological Survey of Ireland as "Extreme Vulnerability Areas on Karst Limestone Aquifers", soiled water shall not be applied to land—

(*a*) in quantities which exceed in any period of 42 days a total quantity of 25,000 litres per hectare, or

(*b*) by irrigation at a rate exceeding 3 mm per hour unless the land has a consistent minimum thickness of 1m of soil and subsoil combined.

(7) For the purposes of sub-article (6), it shall be assumed until the contrary is shown that areas so identified as "Extreme Vulnerability Areas on Karst Limestone Aquifers" do not have a consistent minimum thickness of 1m of soil and subsoil combined.

Periods when application of fertilisers is prohibited

19. (1) Subject to this article, the application of fertiliser to land is prohibited during the periods specified in Schedule 4.

(2) Sub-article (1) shall not apply in relation to the application to land of—

(*a*) soiled water, subject to Article 5(3), or

(*b*) chemical fertilisers to meet the crop requirements of Autumn-planted cabbage or of crops grown under permanent cover, or

(*c*) fertilisers whose application rate or usage rate is less than 1kg per hectare of available nitrogen or phosphorus.

Limits on the amount of livestock manure to be applied

20. (1) The amount of livestock manure applied in any year to land on a holding, together with that deposited to land by livestock, shall not exceed an amount containing 170 kg of nitrogen per hectare. The amount considered to be applied to commonage shall not exceed 50 kg of nitrogen per hectare.

(2) For the purposes of sub-article (1), the amount of nitrogen produced by livestock and the nitrogen content of livestock manure shall be calculated in accordance with Tables 6, 7 and 8 of Schedule 2 except in the case of pig manure or poultry manure where a different amount is specified in a certificate issued in accordance with Article 32 in relation to that manure.

(3) For the purposes of sub-article (1), the area of a holding shall be deemed to be the eligible area of the holding.

Ploughing and the use of non-selective herbicides

21. (1) Where arable land is ploughed between 1st July and 30th November the necessary measures, shall be taken within 14 days of ploughing to provide for emergence of green cover. A rough surface shall be maintained prior to a crop being sown in the case of lands ploughed between 1st December and 15th January.

(2) Where grassland is ploughed between 1st July and 15th October the necessary measures shall be taken within 14 days of ploughing to provide for emergence of green cover from a sown crop.

(3) Grassland shall not be ploughed between 16th October and 30th November.

(4) (*a*) When a non-selective herbicide is applied to arable land or to grassland in the period between 1st July and 30th November the necessary measures shall be taken to provide for the emergence, within 6 weeks of the application, of green cover from a sown crop or from natural regeneration.

(*b*) When a non-selective herbicide is applied to land after 15th October, the requirement in sub-article 4 (a) shall be reduced to 75% of the relevant cereal area where a contract is in place for seed crops or crops producing grain destined for human consumption which prohibits the application of a non- selective herbicide preharvest.

(5) Where green cover is provided for in compliance with this Article, the cover shall not be removed by ploughing or by the use of a non-selective herbicide before 1st December unless a crop is sown within two weeks of its removal.

(6) In the case of land which is ploughed in the course of a ploughing competition under the auspices of the National Ploughing Association, a temporary exemption applies in the form of an extension to the time period specified in sub-article (1) or (2) for establishment of green cover after the land is ploughed.

(7) Shallow cultivation or sowing of a crop must take place within 7 days of baling of straw post harvest. Where straw is chopped shallow cultivation or sowing a crop must take place within 7 days of harvest. In all circumstances, shallow cultivation or sowing of a crop must take place within 14 days of harvesting. In certain weather conditions, the Minister, in discussion with the Minister for Agriculture, Food and the Marine, may advise when this should not apply.

PART 5

GENERAL

General duty of occupier

22. (1) An occupier of a holding shall ensure compliance with the provisions of these Regulations in relation to that holding.

(2) An occupier of a holding shall comply with any advice and/or directions which may be issued from time to time for the purposes of these Regulations by the Minister, the Minister for Agriculture, Food and the Marine or the Agency.

Keeping of records by occupier

23. (1) Records shall be maintained for each holding which shall indicate—

(*a*) total area of the holding,

(*b*) eligible area of the holding,

(*c*) cropping regimes and their individual areas,

(*d*) livestock numbers and type,

(*e*) an estimation of the annual fertiliser requirement for the holding and a copy of any Nutrient Management Plan prepared in relation to the holding,

(*f*) quantities and types of chemical fertilisers moved on to or off the holding, including opening stock, records of purchase and closing stock,

(*g*) livestock manure and other organic fertilisers moved on to or off the holding including quantities, type, dates and details of exporters and importers, as the case may be, in a format specified by the Minister for Agriculture, Food and the Marine,

(*h*) the results of any soil tests carried out in relation to the holding,

(*i*) the nature and capacity of facilities on the holding for the storage of livestock manure and other organic fertilisers, soiled water and effluents from dungsteads, farmyard manure pits, silage pits or silage clamps, including an assessment of compliance with Articles 9 to 14,

(*j*) the quantities and types of concentrated feedstuff fed to grazing live-stock on the holding, and

(*k*) the location of any abstraction point of water used for human consumption from any surface waters, borehole, spring or well.

(2) Where fertiliser is used on a holding and a certificate of the type mentioned in Article 15 or 20 was issued in relation to that fertiliser in accordance with Article 32, a copy of the certificate shall be retained and be available for inspection on the holding for a period of not less than five years from the expiry of validity of the certificate.

(3) Records shall be prepared for each calendar year by 31st March of the following year and shall be retained for a period of not less than five years.

(4) Notwithstanding sub-paragraphs (1), (2) and (3), an occupier shall, where requested by the Minister, the Minister for Agriculture, Food and the Marine, a local authority or the Agency, provide such information as is requested relating to the movement of organic fertilisers on or off the holding.

False or misleading information

24. A person shall not compile information which is false or misleading to a material extent or furnish any such information in any notice or other document for the purposes of these Regulations.

Authorised person

25. (1) In this Article, "authorised person" means—

(*a*) a person who is an authorised person for the purposes of section 28 of the Local Government (Water Pollution) Act, 1977 (No. 1 of 1977), or

(*b*) a person appointed under sub-article (11) to be an authorised person for the purposes of these Regulations.

(2) An authorised person may for any purpose connected with these Regulations—

(*a*) enter and inspect any premises for the purposes of performing a function under these Regulations or of obtaining any information which he or she may require for such purposes,

(*b*) at all reasonable times, or at any time if he or she has reasonable grounds for believing that there is or may be a risk to the environment, or that an offence under these Regulations is being or is about to be committed, arising from the carrying on of an activity at a premises, enter any premises and bring onto those premises such other persons (including a member of the Garda Síochána) or equipment as he or she may consider necessary, or

(*c*) at any time if he or she has reasonable grounds for suspecting there may be a risk to the environment, or that an offence under these Regulations is being or is about to be committed, involving the use of any vehicle halt and board the vehicle and require the driver of the vehicle to take it to a place designated by the authorised person, and such a vehicle may be detained at that place by the authorised person for such period as he or she may consider necessary.

(3) An authorised person shall not enter into a private dwelling under this article unless one of the following conditions applies—

(*a*) the entry is effected with the consent of the occupier or

(*b*) the entry is authorised by a warrant issued under sub-article (7).

(4) Whenever an authorised person enters any premises or boards any vehicle, under this article, he or she may—

(*a*) take photographs and carry out inspections, record information on data loggers, make tape, electrical, video or other recordings,

(*b*) carry out tests and make copies of documents (including records kept in electronic form) found therein and take samples,

(*c*) monitor any effluent, including trade effluent or other matter, which is contained in or discharged from a premises,

(*d*) carry out surveys, take levels, make excavations and carry out examinations of depth and nature of subsoil,

(*e*) require that the premises or vehicle or any part of the premises or anything in the premises or vehicle shall be left undisturbed for a specified period,

(*f*) require information from an occupier of the premises of any occupant of the vehicle or any person employed on the premises or any other person on the premises,

(*g*) require the production of, or inspect, records (including records held in electronic form) or documents, or take copies of or extracts from any records or documents, and

(*h*) remove and retain documents and records (including documents held in electronic form) for such period as may be reasonable for further examination, which the authorised person, having regard to all the circumstances, considers necessary for the purposes of exercising any function under these Regulations.

(5) (*a*) An authorised person who, having entered any premises or boarded any vehicle pursuant to these Regulations, considers that a risk to the environment arises from the carrying on of an activity at the premises or involving the use of the vehicle, may direct the owner or occupier of the premises or the driver of the vehicle to take such measures as are considered by that authorised person to be necessary to remove that risk.

(*b*) If the owner, occupier or driver referred to in paragraph (a) fails to comply with a direction of an authorised person under this subsection, the authorised person may do all things as are necessary to ensure that the measures required under the direction are carried out and the costs incurred by him or her in doing any such thing shall be recoverable from the owner or occupier by him or her, or the person by whom he or she was appointed.

(6) A person shall not—

(*a*) refuse to allow an authorised person to enter any premises or board any vehicle or to bring any person or equipment with him or her in the exercise of his or her powers,

(*b*) obstruct or impede an authorised person in the exercise of any of his or her powers,

(*c*) give to an authorised person information which is to his or her know-ledge false or misleading in a material respect, or

(*d*) fail or refuse to comply with any direction or requirement of an authorised person.

(7) (*a*) Where an authorised person in the exercise of his or her powers under this Article is prevented from entering any premises, or if the authorised person has reason to believe that evidence related to a suspected offence under these Regulations may be present in any premises and that the evidence may be removed therefrom or destroyed, or if the authorised person has reason to believe that there is a significant immediate risk to the environment, the authorised person or the person by whom he or she was appointed may apply to the District Court for a warrant under this Article authorising the entry by the authorised person onto or into the premises.

(*b*) If, on application being made to the District Court under this Article, the District Court is satisfied, on the sworn information of the authorised person that he or she has been prevented from entering a premises, the Court may issue a warrant authorising that person, accompanied, if the Court deems it appropriate by another authorised person or a member of the Garda Síochána, as may be specified in the warrant, at any time or times within one month from the date of the issue of the warrant, on production if so requested of the warrant, to enter, if need be by force, the premises concerned and exercise the powers referred to in sub-article (4) or (5).

(8) An authorised person may, in the exercise of any power conferred on him or her by these Regulations involving the bringing of any vehicle to any place, or where he or she anticipates any obstruction in the exercise of any other power conferred on him or her by these Regulations, request a member of the Garda Síochána to assist him or her in the exercise of such a power and any member of the Garda Síochána to whom he or she makes such a request shall comply with this request.

(9) Any certificate or other evidence given, or to be given, in respect of any test, examination or analysis of any sample shall, in relation to that sample, be evidence, without further proof, of the result of the test, examination or analysis unless the contrary is shown.

(10) When exercising any power conferred on him or her by these Regulations an authorised person shall, if requested by any person affected, produce a certificate or other evidence of his or her appointment as an authorised person.

(11) A person may be appointed as an authorised person for the purposes of these Regulations by the Minister, the Minister for Agriculture, Food and the Marine or the Agency.

(12) In this article "premises" includes land whether or not there are any structures on the land.

Offences and related matters

26. (1) A person who contravenes a provision of Parts 2 to 5 and Schedule 5 of these Regulations, excluding Article 17(5), (6), (7), (10) and (11), is guilty of an offence and shall be liable—

(*a*) on summary conviction to a Class A fine or to imprisonment for a term not exceeding 3 months or both or,

(*b*) on conviction on indictment to a fine not exceeding €500,000 or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment.

(2) Where an offence under these Regulations has been committed by a body corporate and it is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in any such capacity, that person, as well as the body corporate, is guilty of an offence and liable to be proceeded against and punished as if guilty of the first-mentioned offence.

(3) Where the affairs of a body corporate or unincorporated body are managed by its members, sub-article (2) shall apply to the acts and defaults of a member in connection with the functions of management as if such a member were a director or manager of the body.

(4) A prosecution for a summary offence under these Regulations may be taken by a local authority or the Agency.

(5) A prosecution for a summary offence may be taken by a local authority whether or not the offence is committed in the functional area of the authority.

(6) Where a court imposes a fine or affirms or varies a fine imposed by another court for an offence under these Regulations, prosecuted by the Agency or a local authority, it shall, on the application of the Agency or local authority concerned (made before the time of such imposition, affirmation or variation), provide by order for the payment of the amount of the fine to the Agency or local authority, as the case may be, and such payment may be enforced by the Agency or local authority, as the case may be, as if it were due to it on foot of a decree or order made by the court in civil proceedings.

(7) Where a person is convicted of an offence under these Regulations the court shall, unless it is satisfied that there are special and substantial reasons for not so doing, order that person to pay to the Agency or local authority concerned the costs and expenses, measured by the court, reasonably incurred by the Agency or local authority in relation to the investigation, detection and prosecution of the offence, including costs incurred in the taking of samples, the carrying out of tests, examinations and analyses and in respect of the remuneration and other expenses of employees, consultants and advisers.

(8) (*a*) Where a local authority has reason to believe that an offence has been or is being committed in relation to a holding the authority may by notice require the person who appears to the authority to be the occupier to provide such information as is specified in the notice in relation to the alleged offence and it shall be the duty of that person to provide such information within the time frame specified in the notice insofar as is known to him or her.

(*b*) A notice issued in accordance with paragraph (a) shall set out the provisions of Articles 22(1) and 24 and of sub-article (1).

(9) Where a local authority considers that an offence under these Regulations has been or is being committed in relation to a holding the authority shall take such enforcement measures as are warranted by the circumstances and as are necessary to ensure satisfactory compliance with these Regulations and which, save in the case of a trivial or insignificant offence or specific mitigating circumstances, shall include prosecution for the alleged offence.

(10) (*a*) Where on application by motion by the Agency or a local authority to the District Court, Circuit Court or the High Court, the court hearing the application is satisfied that a person has failed or is failing to comply with a provision of Parts 2 to 5 of these Regulations, the court may by order—

(i) direct the person to comply with the provisions,

(ii) make such other provision, including provision in relation to the payment of costs, as the court considers appropriate, and

(iii) make such interim or interlocutory order as it considers appropriate.

(*b*) An application for an order under this Article may be made whether or not there has been a prosecution for an offence under these Regulations in relation to the relevant failure of compliance and shall not prejudice the initiation of a prosecution for an offence under these Regulations in relation to the failure of compliance.

(11) The powers, duties and functions assigned to a local authority or the Agency by this Article are additional to, and not in substitution for, the powers, duties and functions assigned by the Local Government (Water Pollution) Acts 1977 and 1990 or any other statute.

(12) A local authority shall maintain a register of inspections undertaken of farm holdings and information received for the purposes of Article 26(8) and shall keep updated a record of all enforcement measures undertaken in accordance with the requirements of Article 26(9) and Article 29(6).

PART 6

FUNCTIONS OF PUBLIC AUTHORITIES

Minister for Agriculture, Food and the Marine

27. (1) The Minister for Agriculture, Food and the Marine shall carry out, or cause to be carried out, such monitoring and evaluation programmes in relation to farm practices as may be necessary to determine the effectiveness of measures being taken in accordance with these Regulations.

(2) The Minister for Agriculture, Food and the Marine shall, in relation to each year, make the overall results of monitoring and evaluations carried out in accordance with sub-article (1) available to the Agency, to the Minister and, on request, to a local authority.

(3) The Minister for Agriculture, Food and the Marine shall prepare and keep updated a register of all holdings and shall, on request, make a copy of the register available to the Minister, the Agency or a local authority.

(4) The Minister for Agriculture, Food and the Marine shall make available to the Minister, a local authority or the Agency a report of an inspection or inspections carried out for the purposes of these Regulations or upon written request other information in relation to any holding or holdings as the case may be where such transfer of data is necessary for the purposes of ensuring compliance with these Regulations.

(5) The Minister for Agriculture, Food and the Marine shall make available, upon written request, information in relation to any holding or holdings, as the case may be, where such transfer of data is necessary for the purposes of carrying out any functions set out in these regulations, including for the purpose of promoting compliance with these Regulations. Such information may be requested by the following:-

(*a*) the Minister,

(*b*) an individual local authority,

(*c*) a representative local authority under a local authority shared service established for the purpose of carrying out functions set out in these regulations including for the purpose of promoting compliance with these Regulations,

(*d*) Teagasc for the purpose of promoting compliance with these Regulations,

(*e*) the Agency.

(6) The Minister for Agriculture, Food and the Marine shall ensure compliance with the Data Sharing and Governance Act, No. 5 of 2019 in making available any information under sub-article (5) above.

Making and review of action programme by the Minister

28. (1) The Minister shall, following consultation with the Minister for Agriculture, Food and the Marine and other interested parties in accordance with this Article, prepare and publish not later than 31st December 2025 and every four years thereafter, a programme of measures (hereafter in this Article referred to as "an action programme") for the protection of waters against pollution from agriculture. An interim review of this action programme shall be undertaken by the Minister starting within the second year of the programme.

(2) An action programme required by sub-article (1) shall include all such measures as are necessary for the purposes of Article 5 of the Nitrates Directive and shall contain a review of the action programme most recently made for those purposes and of such additional measures and reinforced actions as may have been taken.

(3) The Minister shall ensure that all interested parties are given early and effective opportunities to participate in the preparation, review and revision of an action programme required by this Article and for this purpose shall—

(*a*) inform interested parties by public notices or other appropriate means including electronic media, in relation to any proposals for the preparation, review or revision of an action programme,

(*b*) make available to interested parties information in relation to the proposals referred to in paragraph (*a*) including information about the right to participate in decision-making in relation to those proposals,

(*c*) provide an opportunity for comment by interested parties before any decision is made on the establishment, review or revision of an action programme,

(*d*) in making any such decision, take due account of the comments made by interested parties and the results of the public participation, and

(*e*) having examined any comments made by interested parties, make reasonable efforts to inform those parties of the decisions taken and the reasons and considerations on which those decisions are based, including information on the public participation process.

(4) The Minister shall ensure that such reasonable time is allowed as is sufficient to enable interested parties to participate effectively.

(5) Where the Minister publishes any information in accordance with this Article, the Minister shall—

(*a*) do so in such manner as the Minister considers appropriate for the purpose of bringing that information to the attention of the public, and

(*b*) make copies of that information accessible to interested parties free of charge through a website or otherwise.

(6) The Minister shall specify by way of public notice on a website or otherwise the detailed arrangements made to enable public participation in the preparation, review or revision of an action programme, including—

(*a*) the address to which comments in relation to those proposals may be submitted, and

(*b*) the date by which such comments should be received.

(7) In this Article "interested parties" includes persons who—

(*a*) are carrying on any business which relies upon the water environment or which is affected, or likely to be affected, by the action programme, or

(*b*) are carrying on any activities which have or are likely to have an impact on water status, or

(*c*) have an interest in the protection of the water environment whether as users of the water environment or otherwise.

Agency

29. (1) The Agency shall prepare at four-yearly intervals a report in accordance with Article 10 of the Nitrates Directive and shall submit such report to the Minister.

(2) The Agency shall undertake a review of progress made in implementing these Regulations and shall submit a report to the Minister by 30th June 2025 and every four years thereafter with the results of that review and with recommendations as to such additional measures, if any, as appear to be necessary to prevent and reduce water pollution from agricultural sources.

(3) In preparing the reports required under sub-articles (1) and (2) the Agency shall consult with the Department of Agriculture, Food and the Marine and the co-ordinating local authority in each river basin district, and such other persons as it considers appropriate.

(4) The Department of Agriculture, Food and the Marine, the relevant local authorities and Irish Water shall provide the Agency with such information appropriate to their functions as may be requested by the Agency for the purposes of these Regulations.

(5) Each monitoring programme prepared by the Agency for the purposes of Article 10 of European Communities (Water Policy) Regulations, 2003 (S.I. No. 722 of 2003) shall include provision for such monitoring as is necessary for the purposes of these Regulations.

(6) The Agency shall make recommendations and shall, where considered necessary, give directions to each local authority in relation to the monitoring and inspections to be carried out, or other measures to be taken, by the authority for the purposes of these Regulations. The Agency may revise such recommendations and directions at such times thereafter as the Agency considers appropriate.

(7) The powers, duties and functions assigned to the Agency by these Regulations are additional to, and not in substitution for, the powers, duties and

functions assigned to the Agency by section 63 of the Environmental Protection Agency Act, 1992 (No. 7 of 1992) or any other statute.

Local authorities

30. (1) A local authority shall carry out, or cause to be carried out, such monitoring of surface waters and groundwater at selected measuring points within its functional area as makes it possible to establish the extent of pollution in the waters from agricultural sources and to determine trends in the occurrence and extent of such pollution.

(2) A local authority shall carry out or cause to be carried out such inspections of farm holdings as is necessary for the purposes of these Regulations and shall aim to co-ordinate its inspection activities with inspections carried out by other public authorities.

(3) For the purposes of sub-article (2) a local authority shall aim to develop co-ordination arrangements with other public authorities with a view to promoting consistency of approach in inspection procedures and administrative efficiencies between public authorities and to avoid any unnecessary duplication of administrative procedures and shall have regard to any inspection protocol which may be developed by the Minister, following consultation with the Minister for Agriculture, Food and the Marine.

(4) A local authority shall, in the exercise of its functions for the purposes of these Regulations—

(*a*) consult to such extent as it considers appropriate with the Minister, the Minister for Agriculture, Food and the Marine, the Agency, Irish Water and such other persons as it considers appropriate, and

(*b*) have full regard to any recommendations made, and comply with any direction given, to the authority by the Agency in accordance with Article 29.

(5) A local authority shall follow any protocol established by the Minister for furnishing a report of an inspection or inspections to the Department of Agriculture, Food and the Marine and such other persons as it considers appropriate for the purposes of these Regulations where non-compliance has been detected.

(6) A local authority shall maintain a register of all prior investigations carried out by the local authority itself or by Irish Water within its jurisdiction, and distances specified, for the purposes of Article 17.

Compliance with Data Protection Acts

31. The provision of information by a local authority, the Agency or the Minister for Agriculture, Food and the Marine in accordance with Article 27, 29 or 30 of these Regulations shall not be a breach of the Data Protection Acts, 1988, 2003 and 2018.

Certificate in relation to nutrient content of fertiliser

32. (1) A certificate of the type specified in Article 15 or 20 may be issued by a competent authority where the authority is satisfied that the nutrient content of the fertiliser in question has been assessed on the basis of appropriate methodologies based on net farm balance and is as specified in the certificate.

(2) A certificate issued under this Article shall be valid for such period, not exceeding twelve months, as shall be specified in the certificate.

(3) In this Article "competent authority" means—

(*a*) the Agency in relation to fertiliser arising in an activity in relation to which there is in force a licence under Part IV of the Act of 1992, and

(*b*) the Minister for Agriculture, Food and the Marine in relation to any other fertiliser.

(4) Notice of the methodologies used for the purposes of sub-article (1) shall be notified to the European Commission by the competent authority.

Exemption for exceptional circumstances for research

33. (1) A temporary exemption from a requirement of these Regulations may be granted to a person by the Agency or the Minister for Agriculture, Food and the Marine in the case of exceptional circumstances relating to research.

(2) A temporary exemption for the purposes of sub-article (1) shall be granted by way of certificate issued to the person carrying out the research by the Agency or the Minister for Agriculture, Food and the Marine and shall be subject to such conditions, if any, as are specified in the certificate.

(3) A certificate issued for the purposes of this Article shall specify the nature, extent and duration of the exemption to which the certificate relates and a copy of the certificate shall be sent as soon as may be to the relevant local authority.

SCHEDULE 1

SOIL TEST

A soil test refers to the results of an analysis of a soil sample carried out by a soil-testing laboratory that meets the requirements of the Minister for Agriculture, Food and the Marine for this purpose.

The analysis for phosphorus and, where appropriate, organic matter content and soil pH, and the taking of soil samples shall be carried out in accordance with the procedures below.

Analysis for Phosphorus

The Morgan's extractable P test as detailed below shall be used to determine the Soil P Index. A review of this soil test methodology for phosphorus availability will be undertaken for the mid-term review of this programme.

Preparation of soil sample

The soil shall be dried at 40°C for at least 24 hours (longer if necessary to ensure complete drying) in a forced draught oven with moisture extraction facilities. It shall then be sieved through a 2 mm mesh screen to remove stones and plant debris. After thorough mixing, it shall be sub-divided to obtain a representative sample. Where large samples are received at the laboratory, the entire sample shall be dried and sieved prior to sub-sampling for analysis.

Morgan's extracting solution

Constituents:— 1,400 ml of 40% NaOH in approximately 15 litres of water. Add 1,440 ml of glacial acetic acid. Make up to 20 litres with water and adjust pH to 4.8. The pH of the solution must be checked regularly and adjusted as necessary before use. A volume ratio of one part sieved soil to five parts of solution must be used, e.g. 6 ml of the prepared soil sample is extracted with a 30 ml volume of Morgan's extracting solution. The sample shall be shaken for 30 minutes to get a suitable mix and permit intended reaction, after which it is filtered through a No. 2 Whatman filter paper into vials for analysis. The filtered extract shall be analysed using standard laboratory techniques.

Results shall be reported in mg per litre.

Analysis of organic matter

Organic matter content shall be determined by loss on ignition.

Place a quantity of the prepared soil sample in an oven for 16 hours at 105°C. Remove and cool in a desiccator. Put approximately 4g of this soil into a pre-weighed crucible and determine the weight of the soil (initial weight). Place in a muffle furnace at 500°C for 16 hours for ashing. Remove the crucible, cool in a desiccator and determine the weight of the ash (final weight).

The organic matter of the soil is the difference in weight between the initial and final weights expressed as a percentage of the initial weight.

Analysis of soil pH

Soil pH shall be determined by measuring pH in a soil:water suspension of 1:2 ratio. Place 10 ml of dried sieved soil and 20 mls of deionised water into a suitable container. Mix thoroughly and allow to stand for at least 10 minutes. Stir for 30 seconds, and allow to settle immediately before recording the pH on a meter calibrated using buffer solutions of pH 4.0 and 7.0

Soil Sampling Procedure

The soil sample shall be taken in accordance with the procedure as specified below:

(*a*) The sampling area shall not exceed 4 hectares. Exceptionally, where soil types and cropping of lands were similar during the previous five years, a sample area of up to 5 hectares shall be deemed acceptable.

(*b*) Separate samples shall be taken from areas that are different in soil type, previous cropping history, slope, drainage or persistent poor yields.

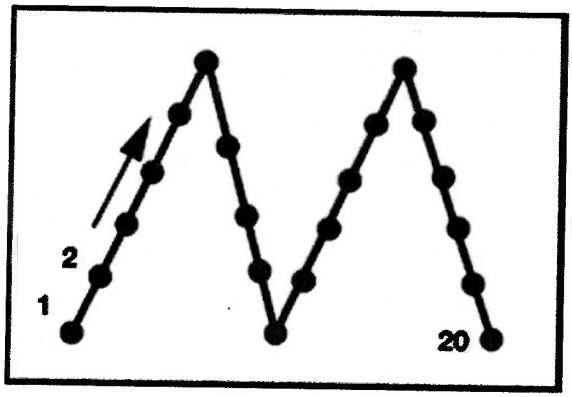
(*c*) Any unusual spots such as old fences, ditches, drinking troughs, dung or urine patches or where fertiliser or lime has been heaped or spilled shall be avoided.

(*d*) A field shall not be sampled for phosphorus until 3 months after the last application of any fertiliser containing this nutrient (chemical or organic).

(*e*) The sampling pattern shown in the figure below shall be followed. A soil core shall be taken to the full 100 mm depth. 20 cores shall be taken from the sampling area and placed in the soil container to make up the sample. Ensure the container is full of soil.

(*f*) The field and sample numbers shall be written/attached onto the soil container.

Figure 1: Sampling pattern



SCHEDULE 2

Article 8

CRITERIA AS TO STORAGE CAPACITY AND NUTRIENT MANAGEMENT

Table 1 Slurry storage capacity required for sows and pigs

Unit type	m^3/week[1]				
Water:meal ratio changing for finishers only	2.0:1	2.5:1	3.0:1	3.5:1	4.0:1
Breeding unit (per sow place)	-	-	-	-	0.174
Integrated unit (per sow place)	0.312	0.355	0.398	0.441	0.483
Finishing unit (per pig)	0.024	0.031	0.039	0.046	0.053

[1]An additional 200mm freeboard must be provided in all covered tanks and 300mm freeboard in all uncovered tanks. Allowance must also be made for net rainfall during the specified storage period for uncovered tanks.

Table 2 Slurry storage capacity required for cattle, sheep and poultry

Livestock type	m^3/week[1]
Dairy cow	0.33
Suckler cow	0.29
Cattle > 2 years	0.26
Cattle (18-24 months old)	0.26
Cattle (12-18 months old)	0.15
Cattle (6-12 months old)	0.15
Cattle (0-6 months old)	0.08
Lowland ewe	0.03
Mountain ewe	0.02
Lamb-finishing	0.01
Poultry — layers per 1000 birds (30% DM)	0.81

[1]An additional 200mm freeboard must be provided in all covered tanks and 300mm freeboard in all uncovered tanks. Allowance must also be made for net rainfall during the specified storage period for uncovered tanks.

Table 3 Storage capacity required for dungstead manure

Livestock type	Solid fraction (m^3/week)	Seepage fraction (m^3 /week)[1]
Dairy cow	0.28	0.04
Suckler cow	0.25	0.03
Cattle > 2 years	0.23	0.02
Cattle (18-24 months old)	0.23	0.02
Cattle (12-18 months old)	0.13	0.01
Cattle (6-12 months old)	0.13	0.01
Cattle (0-6 months old)	0.07	0.01

[1]Allowance must also be made for net rainfall during the specified storage period for uncovered tanks.

Table 4 Average net rainfall during the specified storage period

County	Millimetres per week
Carlow	24
Cavan	27
Clare	32
Cork	37
Donegal	38
Dublin	17
Galway	34
Kerry	45
Kildare	18
Kilkenny	23
Laois	22
Leitrim	33
Limerick	26
Longford	23
Louth	20
Mayo	40
Meath	19
Monaghan	23
Offaly	20
Roscommon	26
Sligo	32
Tipperary	27
Waterford	31
Westmeath	21
Wexford	25
Wicklow	33

Article 9

Table 5 Storage capacity required for effluent produced by ensiled forage

Crop	Minimum storage requirement	(m^3/100 tonnes)
	Short Term Storage[1]	Full Storage
Grass	7	21
Arable silage	7	21
Maize	4	10
Sugar beet tops	15	50

[1]Only permitted where a vacuum tanker or an irrigation system is available on the holding.

Article 14 and 20

Table 6 Annual nutrient excretion rates for livestock

Livestock type	Total Nitrogen	Total Phosphorus
	kg/year	kg/year
Dairy cow[7] (2022 only)	89	13
Dairy cow band 1[8] (from 2023)	80	12
Dairy cow band 2[9] (from 2023)	92	13.6
Dairy cow band 3[10] (from 2023)	106	15.8
Suckler cow	65	10
Cattle (0-1 year old)	24	3
Cattle (1-2 years old)	57	8
Cattle > 2 years	65	10
Mountain ewe & lambs	7	1
Lowland ewe & lambs	13	2
Mountain hogget	4	0.6
Lowland hogget	6	1
Goat	9	1
Horse (>3 years old)	50	9
Horse (2-3 years old)	44	8
Horse (1-2 years old)	36	6
Horse foal (< 1 year old)	25	3
Donkey/small pony	30	5
Deer (red) 6 months — 2 years	13	2

[7] In 2022 the N excretion rate for the dairy cow is 89 kg N/ha and from 2023 onwards the N excretion rate will be determined by the milk yield per annum (for the 3 preceding years) as explained in footnote 8, 9 and 10

[8] <4,500 kg milk yield per annum

[9] 4,501 – 6,500 kg milk yield per annum

[10] >6,500 kg milk yield per annum

Deer (red) > 2 years	25	4
Deer (fallow) 6 months — 2 years	7	1
Deer (fallow) > 2 years	13	2
Deer (sika) 6 months — 2 years	6	1
Deer (sika) > 2 years	10	2
Breeding unit (per sow place)	35	8
Integrated unit (per sow place)	87	17
Finishing unit (per pig place)	9.2	1.7
Laying hen per bird place	0.56	0.12
Broiler per bird place	0.24	0.09
Turkey per bird place	1	0.4

Article 15 and 20

Table 7 Amount of nutrient contained in $1m^3$ of slurry

Livestock type	Total Nitrogen (kg)	Total Phosphorus (kg)
Cattle	2.4	0.8
Pig	4.2	0.8
Sheep	10.2	1.5
Poultry — layers 30% DM	13.7	2.9

For the purposes of calculation, assume that 1 m^3 = 1,000 litres = 1 tonne = 1000 kg.

Table 8 Amount of nutrients contained in 1 tonne of organic fertilisers other than slurry

Livestock type		Total Nitrogen (kg)	Total Phosphorus (kg)
Poultry manure	broilers/deep litter	28.0	6.0
	layers 55% dry matter	23.0	5.5
	turkeys	28.0	13.8
Dungstead manure (cattle)		3.5	0.9
Farmyard manure		4.5	1.2
Spent mushroom compost		8	1.5
Sewage sludge		Total nitrogen and total phosphorus content per tonne shall be declared by the supplier in accordance with the Waste Management (Use of Sewage Sludge in Agriculture) Regulations,1998 to 2001 and any subsequent amendments thereto and this must be submitted to the local authority.	
Dairy processing residues and other products not listed above		Total nitrogen and total phosphorus content per tonne based on certified analysis shall be provided by the supplier.	

Article 15

Table 9 Nutrient availability in fertilisers

Fertiliser	Availability (%)		
	Nitrogen	Phosphorus	
		Soil Index 1& 2	Soil Index 3 & 4
Chemical	100	100	100
Pig and poultry manure	50	50	100
Farmyard manure	30	50	100
Spent mushroom compost	20	50	100
Cattle and other livestock manure (including that produced on the holding)	40	50	100

Table 9A Nutrient availability in compost

Compost C:N ratio[1]	N availability (%)
<10	25
12.5	17.5
15.0	10
17.5	5.5
>20	0.0

[1] The determination of the C:N ratio shall be based on a methodology agreed with the Agency or the Minister for Agriculture, Food and the Marine

Table 10 Determining nitrogen index for tillage crops

Tillage crops that follow permanent pasture			
Nitrogen Index			
Index 1	Index 2	Index 3	Index 4
The 5th tillage crop following permanent pasture. For subsequent tillage crops use the continuous tillage table.	The 3rd or 4th tillage crop following permanent pasture. If original permanent pasture was cut only, use index 1.	The 1st or 2nd tillage crop following permanent pasture (see also Index 4). If original permanent pasture was cut only, use index 2.	The 1st or 2nd tillage crop following very good permanent pasture which was grazed only.
Continuous tillage: — crops that follow short leys (1-4 years) or tillage crops			
Previous crop			
Index 1	Index 2	Index 3	Index 4
Cereals Maize	Sugar beet Fodder beet Potatoes Mangels Kale Oil seed rape, Peas, Beans		
	Leys (1-4 years) grazed or cut and grazed		
	Swedes removed	Swedes grazed in situ	
Vegetables receiving less than 200 kg/ha nitrogen	Vegetables receiving more than 200 kg/ha nitrogen		

Table 11 Phosphorus index system

Soil phosphorus index	Soil phosphorus ranges (mg/l)	
	Grassland	Other crops
1	0.0-3.0	0.0-3.0
2	3.1-5.0	3.1-6.0
3	5.1-8.0	6.1-10.0
4	> 8.0	>10.0

Table 12 Annual maximum fertilisation rates of nitrogen on grassland

Grassland stocking rate[1]	Available Nitrogen[2]
(kg/ha/year)	(kg/ha)
≤130	114
131-170	185
Grassland stocking rate greater than 170 kg/ha/year[3, 4]	
171-210	254
211-250	225
>250	225[5]

[1]Total annual nitrogen (kg) excreted by grazing livestock averaged over the eligible grassland area (ha) (grazing and silage area). Stocking rate refers to grassland area only.

[2]The maximum nitrogen fertilisation of grassland shall not exceed that specified for stocking rates less than or equal to 170 kg/ha/year unless a minimum of 5% of the eligible area of the holding is used to grow crops other than grass or a derogation applies in respect of the holding. Where a derogation applies on the holding derogation rates apply based on stocking rate of the holding. For a new derogation applicant they may apply the derogation rate of 225 kg/ha for the 1st year only and from year 2 onwards must use rates as per stocking rate on the holding.

[3]This table does not imply any departure from Article 20(1) which prohibits the application to land on a holding of livestock manure in amounts which exceed 170 kg nitrogen per hectare per year, including that deposited by the animals themselves (or 250 kg in the case of a holding to which a derogation has been granted, in accordance with the Nitrates Directive).

[4] these fertilisation rates are only applicable where the fertiliser type specified by the Minister for Agriculture, Food and the Marine is used.

[5]The application of nitrogen from livestock manure (including that deposited by the animals themselves) to the eligible grassland area shall not exceed 250 kg nitrogen per hectare per year.

Table 13A Annual maximum fertilisation rates of phosphorus on grassland

Grassland stocking rate[1] (kg/ha/year)	Phosphorus Index			
	1	2	3	4
	Available Phosphorus (kg/ha) [2,3,6]			
<85	27	17	7	0
86-130	30	20	10	0
131-170	33	23	13	0
Grassland stocking rate greater than 170 kg/ha/year[4,5]				
171-210	36	26	16	0
211-250	39	29	19	0
>250	39	29	19	0

[1]Total annual nitrogen (kg) excreted by grazing livestock averaged over the eligible grassland area (grazing and silage area). Stocking rate refers to grassland area only.
[2]The fertilisation rates for soils which have more than 20% organic matter shall not exceed the amounts permitted for Index 3 soils, subject to the provisions in Article 16(3)(*f*).
[3]Manure produced by grazing livestock on a holding may be applied to Index 4 soils on that holding in a situation where there is a surplus of such manure remaining after the phosphorus fertilisation needs of all crops on soils at phosphorus indices 1, 2 or 3 on the holding have been met by the use only of such manure produced on the holding.
[4]The maximum phosphorus fertilisation of grassland shall not exceed that specified for stocking rates less than or equal to 170 kg/ha/year unless a minimum of 5% of the eligible area of the holding is used to grow crops other than grass or a derogation applies in respect of the holding.
[5]This table does not imply any departure from Article 20(1) which prohibits the application to land on a holding of livestock manure in amounts which exceed 170 kg Nitrogen per hectare per year, including that deposited by the animals themselves (or 250 kg in the case of a holding to which a derogation has been granted in accordance with the Nitrates Directive).
[6]An additional 15 kg of phosphorus per hectare may be applied on soils at phosphorus indices 1, 2, or 3 for each hectare of pasture establishment undertaken.

Table 13B Annual maximum fertilisation rates of phosphorus on grassland adopting increased P build-up application rates

Grassland stocking rate[1] (kg/ha/year)	Phosphorus Index			
	1	2	3	4
	Available Phosphorus (kg/ha) [2,3,6]			
131-170	63	43	13	0
Grassland stocking rate greater than 170 kg/ha/year[4,5]				
171-210	66	46	16	0
211-250	69	49	19	0
>250	69	49	19	0

[1]Total annual nitrogen (kg) excreted by grazing livestock averaged over the eligible grassland area (grazing and silage area). Stocking rate refers to grassland area only.
[2]The fertilisation rates for soils which have more than 20% organic matter shall not exceed the amounts permitted for Index 3 soils, subject to the provisions in Article 16(3)(*f*)..
[3]Manure produced by grazing livestock on a holding may be applied to Index 4 soils on that holding in a situation where there is a surplus of such manure remaining after the phosphorus fertilisation needs of all crops on soils at phosphorus indices 1, 2 or 3 on the holding have been met by the use only of such manure produced on the holding.
[4]The maximum phosphorus fertilisation of grassland shall not exceed that specified for stocking rates less than or equal to 170 kg/ha/year unless a minimum of 5% of the eligible area of the holding is used to grow crops other than grass or a derogation applies in respect of the holding.
[5]This table does not imply any departure from Article 20(1) which prohibits the application to land on a holding of livestock manure in amounts which exceed 170 kg Nitrogen per hectare per year, including that deposited by the animals themselves (or 250 kg in the case of a holding to which a derogation has been granted in accordance with the Nitrates Directive).
[6]An additional 15 kg of phosphorus per hectare may be applied on soils at phosphorus indices 1, 2, or 3 for each hectare of pasture establishment undertaken.

Table 14 Annual maximum fertilisation rates of available nitrogen on grassland (cut only, no grazing livestock on holding)

	Available nitrogen (kg/ha)
1st cut	112
Subsequent cuts	90
Hay	72

Table 15 Annual maximum fertilisation rates of phosphorus on grassland cut only

Phosphorus Index				
	1	2	3	4
	Available Phosphorus (kg/ha)[1,2,3]			
First cut	40	30	20	0
Subsequent cuts	10	10	10	0

[1]The fertilisation rates for soils which have more than 20% organic matter shall not exceed the amounts permitted for Index 3 soils, subject to the provisions in Article 16(3)(*f*).
[2] The fertilisation rates apply to grassland where there is no grazing livestock on the holding.
[3]The fertilisation rates in this table apply to those areas of farms where hay or silage is produced for sale off the holding on farms stocked <85 kg grassland stocking rate.

Table 16 Maximum fertilisation rates of nitrogen on tillage crops

Crop	Nitrogen Index			
	1	2	3	4
	Available Nitrogen (kg/ha)			
Winter Wheat [1,2]	210	180	120	80
Spring Wheat [1,2]	160	130	95	60
Winter Barley [1]	180	155	120	80
Spring Barley [1,3]	135	100	75	40
Winter Oats[1]	145	120	85	45
Spring Oats[1]	110	90	60	30
Sugar Beet	195	155	120	80
Fodder Beet	195	155	120	80
Potatoes: Main Crop, >120 days[4]	250	190	170	140
Potatoes: Maincrop/seed, 90-120 days[4]	270	230	210	180
Potatoes: Early, 60-90 days[4]	210	170	150	120
Potatoes: Salad, <60 days[4]	140	120	100	60
Maize	180	140	110	75
Field Peas/Beans	0	0	0	0
Oil Seed Rape	225	180	160	140
Linseed	75	50	35	20
Swedes/Turnips	90	70	40	20
Kale	150	130	100	70
Forage Rape	130	120	110	90

[1]Where proof of higher yields is available, an additional 20 kg N/ha may be applied for each additional tonne above the following yields:
Winter Wheat — 9.0 tonnes/ha Spring Wheat — 7.5 tonnes/ha
Winter Barley — 8.5 tonnes/ha Spring Barley — 6.5 tonnes/ha
Winter Oats — 7.5 tonnes/ha Spring Oats — 6.5 tonnes/ha
The higher yields shall be based on the best yield achieved in any of the three previous harvests, at 20% moisture content.

[2]Where milling wheat is grown under a contract to a purchaser of milling wheat, an extra 30 kg N/ha may be applied.

[3]Where malting barley is grown under a contract to a purchaser of malting barley, an extra 20 kg N/ha may be applied where it is shown on the basis of agronomic advice that additional nitrogen is needed to address a proven low protein content in the grain.

[4]Length of growing season

Table 17 Maximum fertilisation rates of phosphorus on tillage crops

Crop	Phosphorus Index			
	1	2	3	4
	Available Phosphorus (kg/ha)[1]			
Winter Wheat [2,3,5]	45	35	25	0
Spring Wheat [2,3]	45	35	25	0
Winter Barley [2,3,5]	45	35	25	0
Spring Barley [2,3]	45	35	25	0
Winter Oats [2,3,5]	45	35	25	0
Spring Oats [2,3]	45	35	25	0
Sugar Beet	70	55	40	20
Fodder Beet	70	55	40	20
Potatoes: Main Crop	125	100	75	50
Potatoes: Early	125	115	100	50
Potatoes: Seed/Salad	125	115	100	85
Maize	70	50	40	20[4]
Field Peas	40	25	20	0
Field Beans	50	40	20	0
Oil Seed Rape	55	45	35	0
Linseed	35	30	20	0
Swedes/Turnips	70	60	40	40
Kale	60	50	30	0
Forage Rape	40	30	20	0

[1]The fertilisation rates for soils which have more than 20% organic matter shall not exceed the amounts permitted for Index 3 soils.

[2]Where proof of higher yields is available, an additional 3.8 kg P/ha may be applied on soils at phosphorus 1, 2, or 3 for each additional tonne above a yield of 6.5 tonnes/ha. The higher yields shall be based on the best yield achieved in any of the three previous harvests, at 20% moisture content.

[3]Where pH is greater than or equal to 7, 20 kg P/ha may be applied on soils at phosphorus index 4.

[4]Must be incorporated prior to or during sowing.

[5] For winter cereals on soils of P index 1 and 2, 20 kg of the maximum P fertilisation rate may be applied up to 31st October, which must be incorporated prior to or during sowing.

Table 18 Maximum fertilisation rates of nitrogen on vegetable crops

Crop	Nitrogen Index				Maximum additional supplementation (Top dressing)
	1	2	3	4	
	Available Nitrogen (kg/ha)				
Asparagus (Establishment)	140	115	95	70	
Asparagus (After harvest)	0	0	0	0	70
Broad Beans	0	0	0	0	
French Beans	90	85	75	70	
Beetroot	140	125	105	90	
Brussels Sprouts	120	115	105	100	180
Spring Cabbage	50	35	15	0	250
Other Cabbage	150	135	115	100	100
Broccoli	120	115	100	90	120
Cauliflower (Winter and Spring)	75	50	25	0	150
Cauliflower (Summer and Autumn)	120	85	65	40	120
Carrots	90	70	40	0	
Celery	120	85	65	50	180
Courgettes	140	125	105	90	
Leeks	150	130	100	80	150
Lettuce	100	90	80	70	50
Onions	70	60	50	40	70
Scallions	90	80	70	60	60
Parsley	100	80	60	40	150
Parsnip	100	85	70	50	70
Peas (Market)	0	0	0	0	
Rhubarb	100	90	80	70	200
Spinach	140	125	105	90	100
Swede (Horticultural)	70	45	25	20	30
Swede (Transplanted crops)	90	60	30	0	

Table 19 Maximum fertilisation rates of phosphorus on vegetable crops

Crop	Phosphorus Index			
	1	2	3	4
	Available Phosphorus (kg/ha)[1]			
Asparagus (Establishment)	65	45	35	20
Asparagus (After harvest)	27	22	15	10
Broad Beans	65	45	35	20
French Beans	65	45	35	20
Beetroot	65	45	35	20
Brussels Sprouts	65	45	35	20
Spring Cabbage	65	45	35	20
Other Cabbage	65	45	35	20
Broccoli	65	45	35	20
Cauliflower (Winter and Spring)	65	45	35	20
Cauliflower (Summer and Autumn)	65	45	35	20
Carrots	65	45	35	20
Celery	88	65	55	28
Courgettes	65	45	35	20
Leeks	65	45	35	20
Lettuce	80	60	40	20
Onions	65	45	35	20
Scallions	65	45	35	20
Parsley	65	45	35	20
Parsnip	65	45	35	20
Peas (Market)	65	45	35	20
Rhubarb	65	45	35	20
Spinach	65	45	35	20
Swede (Horticultural)	70	60	45	35
Swede (Transplanted crops)	70	60	45	35

[1]The fertilisation rates for soils which have more than 20% organic matter shall not exceed the amounts permitted for Index 3 soils.

Table 20 Annual maximum fertilisation rates of nitrogen on fruit/soft fruit crops

	Available Nitrogen (kg/ha)
Apples (Dessert)	125
Apples (Culinary)	125
Pears	50
Cherries	70
Plums	70
Blackcurrants	80
Gooseberries	40
Raspberries	60
Strawberries	50
Redcurrants	60
Loganberries	50
Blackberries	50

Table 21 Annual maximum fertilisation rates of phosphorus on fruit/soft fruit crops

	Phosphorus			
Index	1	2	3	4
	Available			
Phosphorus (kg/ha)[1]				
Apples (Dessert)	25	16	12	8
Apples(Culinary)	20	12	10	8
Pears	16	8	4	0
Cherries	16	8	4	0
Plums	16	8	4	0
Blackcurrants	20	16	12	8
Gooseberries	20	16	12	8
Raspberries	20	16	12	8
Strawberries	16	8	4	0
Redcurrants	20	16	12	8
Loganberries	20	16	12	8
Blackberries	20	16	12	8

[1]The fertilisation rates for soils which have more than 20% organic matter shall not exceed the amounts permitted for Index 3 soils.

SCHEDULE 3

Articles 10, 11, 13 and 16

STORAGE PERIODS FOR LIVESTOCK MANURE

1. The storage period specified for the purposes of Articles 10(2), 11(2), 13 and 16(5)(*b*) is—

(a) 16 weeks in relation to holdings in counties Carlow, Cork, Dublin, Kildare, Kilkenny, Laois, Offaly, Tipperary, Waterford, Wexford and Wicklow;

(b) 18 weeks in relation to holdings in counties Clare, Galway, Kerry, Limerick, Longford, Louth, Mayo, Meath, Roscommon, Sligo and Westmeath;

(c) 20 weeks in relation to holdings in counties Donegal and Leitrim, and

(d) 22 weeks in relation to holdings in counties Cavan and Monaghan.

1. Where 20% or more of a holding lies within one or more counties of higher storage requirement as specified in paragraph 1, the holding shall be deemed for the purposes of this Schedule to lie wholly within the county in relation to which the longest storage period is specified.

SCHEDULE 4

Articles 14, 17 and 19

PERIODS WHEN APPLICATION OF FERTILISERS TO LAND IS PROHIBITED

1.In counties Carlow, Cork, Dublin, Kildare, Kilkenny, Laois, Offaly, Tipperary, Waterford, Wexford and Wicklow, the period during which the application of fertilisers to land is prohibited in the period from—

(a) 15th September to 26th January in the case of the application of chemical fertiliser and not withstanding sub-paragraph (4)

(b) 8th October[11] to 12th January in the case of the application of organic fertiliser (other than farmyard manure) and not withstanding sub-paragraph (5)

(c) 1st November to 12th January in the case of the application of farmyard manure.

---

[11] From 1st January 2023 the date for beginning of prohibited period will be 1st October

2. In counties Clare, Galway, Kerry, Limerick, Longford, Louth, Mayo, Meath, Roscommon, Sligo and Westmeath, the period during which the application of fertilisers to land is prohibited is the period from—

(a) 15th September to 29th January in the case of the application of chemical fertiliser and not withstanding sub paragraph (4)

(b) 8th October[6] to 15th January in the case of the application of organic fertiliser (other than farmyard manure) and not withstanding sub-paragraph (5)

(c) 1st November to 15th January in the case of the application of farmyard manure.

3. In counties Cavan, Donegal, Leitrim and Monaghan, the period during which the application of fertilisers to land is prohibited is the period from—

(a) 15th September to 14th February in the case of the application of chemical fertiliser and not withstanding sub-paragraph (4)

(b) 8th October[6] to 31st January in the case of the application of organic fertiliser (other than farmyard manure) and not withstanding sub-paragraph (5)

(c) 1st November to 31st January in the case of the application of farmyard manure.

4. In relation to the prohibited periods for spreading chemical fertiliser, the Minister shall by 1st September 2022, following consultation with the Minister for Agriculture, Food and the Marine, publish criteria for the application of slurry from the 15th January. The spreading of all chemical fertiliser shall be in accordance with these criteria from the 15th January.

5. In relation to the commencement of the closed period for slurry application, the Minister shall by 1st September 2022, following consultation with the Minister for Agriculture, Food and the Marine, publish criteria for the application of slurry from 1st October to the 15th October. The spreading of all slurry shall be in accordance with these criteria from the 8th October to the 15th October 2022 and from 1st October to the 15th October in subsequent years.

L.S.

GIVEN under my Official Seal,
9 March, 2022.

DARRAGH O'BRIEN,
Minister for Housing, Local Government and Heritage.

EXPLANATORY NOTE

(*This note is not part of the Instrument and does not purport to be a legal interpretation*)

These Regulations, which give effect to Ireland's Fifth Nitrates Action Programme, provide statutory support for good agricultural practice to protect waters against pollution from agricultural sources and include measures such as

- periods when land application of fertilisers is prohibited
- limits on the land application of fertilisers
- storage requirements for livestock manure, and
- monitoring of the effectiveness of the measures in terms of agricultural practice and impact on water quality.

The Regulations give further effect to several European Directives including Directives in relation to protection of waters against pollution from agricultural sources ("the Nitrates Directive"), dangerous substances in water, waste management, protection of groundwater, public participation in policy development and water policy (the Water Framework Directive).

The Regulations revoke the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2017 and other subsequent amending regulations.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
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IE-037 Country Crest

Production Capacity:
Biomethane Production/year 4.778.951 Nm^3/y
Biomethane Production/hour 546 Nm^3/h

BIOGEST®

Production
Yearly CH_4 4.469.239 Nm^3/y
Hourly CH_4 510 Nm^3/h

Grid Injection

GUU
1.000 Nm^3/h

0,5% losses

Dual fuel Boiler
460 kW

Biogas consumption
Backup peak demands

CO_2 Liquefaction

Production
Yearly CO_2 6.314 t/y

Production
Yearly biogas 8.794.070 Nm^3/y
Hourly biogas 1.004 Nm^3/h
Yearly CH_4 4.778.951 Nm^3/y
Hourly CH_4 546 Nm^3/h

Dual fuel Boiler
460 kW

Biogas consumption
528.156 Nm^3/y

Heat required
AD plant: 1.233 MWh_{th}/y
PAS: 1.350 MWh_{th}/y

Electricity required
AD plant: 5.359 MWh_{el}/y

Reject line

Feedstock	
Grass silage	24.500 t/a (DM 35%)
Slurry	17.080 t/a (DM 10%)
Whole crop silage	10.000 t/a (DM 32%)
Water	8.000 t/a
Poultry litter	7.000 t/a (DM 40%)
onsite generated waste water treatment sludge	1.300 t/a (DM 10%)
Cattle manure	1.080 t/a (DM 25%)
Vegtable processing byproducts	650 t/a (DM 18%)
Draff Grains	400 t/a (DM 21%)
Food processing byproducts	100 t/a (DM 38%)

PowerRing 45/26/8 m
Primary digester: 7.792 m^3
Secondary digester: 3.9822 m^3

Raw digestate
61.215 t/a (DM 9.1%)

Post digester 33/6 m
4.533 m^3

Raw digestate
59.387 t/a (DM 8.9%)

Separator

Liquid digestate
49.045 t/a (DM 6.5%)

Solid digestate
9.342 t/a (DM 22%)

Earth lagoon

Liquid digestate
49.045 t/a (DM 6.5%)

The Secretary

An Bord Pleanála

64 Marlborough Street

Dublin 1

Country Crest

True to nature

18th March 2025

RE: **The Development of an Anaerobic Digestion (AD) Facility to produce a renewable biomethane gas for direct injection into the national gas grid, at Collinstown, Lusk, Co. Dublin. Planning Reference: F24A/1162E**

Dear Sir/Madam,

We refer to the above application to Fingal County Council that is now the subject of this appeal to An Bord Pleanála. In addition to our consultants documents, we wish to give you some background context to Country Crest and the proposal under appeal.

Gabriel and I grew up on our small family farm at Rathmooney, Lusk, Co. Dublin. We are fourth generation farmers. Over the last 40 years we have changed from a very simple farming model to today's modern state of the art business model, employing 500 staff. We now farm potatoes, onions, cereals in combination with cattle rearing in counties Dublin, Kildare, Meath and Louth. We have moved from primary production to value added storage, grading and packing of fresh produce to supply retail multiples across Ireland and in recent years we have developed a ready prepared meals business on our lands that are now zoned as Food Park. Sustainable farming is at the heart of everything that we do and the AD proposal that is the subject of this appeal is a further extension of this philosophy.

We have been told by Government and the world that we are facing a climate crisis. Ireland's National Biomethane Strategy, (May 2024) maps the strategy for the role that AD projects can contribute to addressing climate change and it notes that the strategy "will be agri-led and farmer-centric". We in Country Crest want to play our part in addressing this climate change crisis and we see this AD project as being an important strategic step for our farming and food business, while also playing a role in Ireland's climate change national plan.

We note that the Fingal Development Plan 2023-2029, while stating that it "seeks to assist in the diversification of renewable energy provision in the County", refused our AD

Rathmooney, Lusk, Co. Dublin, Ireland.
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Fax: +353 1 843 9492
Email: info@countrycrest.ie
www.countrycrest.ie

Company Registration No. 214260. Vat No. IE82142600. Directors. Michael Hoey, Gabriel Hoey.

Origin Green IRELAND

proposal on grounds of zoning, visual and road safety. Our consultants will address all these matters as part of the appeal. We note that the planner analysis of the AD proposal sought to construe t he project as being "industrial" and used this as the basis for condition 1 of refusal . In 2006 we sought the direction of Bord Pleanála to adjudicate on a similar matter (PL 06F:.22 0291) when Fingal County Council sought to designate our onion store facility as "industrial/commercial" and the Board determined that the onion store facility was an agricultural building. The current AD proposal represents agricultural buildings and utility installation that are permissible under the RU Rural zoning. We now again ask the direction of the Board to approve this AD proposal subject to relevant conditions.

Subject to approval by the Board, Country Crest will seek to develop the new AD project with immediate effect and we will play our part in the delivery of the National Biomethane Strategy.

Yours sincerely

Michael Hoey

Director

Country Crest

Gabriel Hoey

Director

Country Crest

Irish Fiscal Advisory Council and the Climate Change Advisory Council; A colossal missed opportunity Ireland's climate action and the po tential costs of missing targets. March 2025

Country Crest ULC - Anaerobic Digestor – Positive benefits to the locality and National Strategic plans

1. Energy security

Country Crest (CC) prides itself on being a fully integrated agri food business. We operate a business where a primary farming enterprise feeds produce through to our potato and onion packing operations, which in turn feeds produce through to our food business, Ballymaguire Foods, in the form of fresh potatoes to be used in the meals we produce, a true 'farm to fork' operation. The electrical demand for our site is offset by electricity directly created onsite through our 800KW wind turbine. A second 2.3MW turbine will be introduced in July this year. We installed a 234KW PV solar project on the new Ballymaguire Foods factory extension in 2022. From Q3 2025, CC Group will have over 3MW's of installed electrical energy generation capacity onsite, enough energy to make the site wholly self-sufficient in onsite generated green electrical energy needs. The production of biomethane through an AD facility onsite would allow us to process our current food production byproducts as feed stock onsite, currently this is being collected and sent to other AD plants by our waste service provider. The AD development will also make a positive contribution to the government biomethane strategy to deliver 5.7TW of biomethane to the national grid by 2030. Every kilowatt of biomethane injected into the national grid will directly offset fossil fuel imported natural gas helping to deliver on the government's climate target strategies.

2. Local farming families

This AD project is going to give many local tillage farming families and indeed our own farming enterprise the opportunity to diversify their farms and give them the control to sell produce from their farms which is not dictated by world market prices for commodities. Local cereal growers would have the opportunity to supply feedstock to the AD plant, to establish a forward contract price with CC in order to ensure the profitability of their family farms. This would also allow these farmers the opportunity to use the digestate from the AD plant as an organic fertiliser on their lands, offsetting the cost of chemical fertiliser inputs in the process and bring all the soil benefits which come with the use of digestate in terms soil health, increased biological activity, nutrient management and retention, increase soil organic matter levels, biodiversity – the list is endless. Each kilo of organic nutrient created will directly offset cheical fertiliser use which will have the direct environmental effect of not having to produce or transport it in the first place.

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Company Registration No. 214260 Vat No. IE8214260O Directors: Michael Hoey, Gabriel Hoey

3. Carbon

Carbon use will form the basis of all enterprise going forward, companies who are early adopters and progress on the transition from carbon use will hopefully find themselves with a first mover advantage. 'Net zero' is a goal on many boardroom tables around the globe and we feel that our AD project will help Ireland Inc. in terms of supplying green sustainable sourced biomethane to the gas grid to offset traditional fossil fuel gas. It is hoped that we could enter a power purchase agreement with our existing customer base as a buyer for the biomethane produced, this would play a vital part of their scope 2 carbon emissions use and their own goals to get to Net Zero. Being able to bind ourselves to our customers in such a way gives us leverage to use this bind to protect our supply contracts. If we protect and build our supply lines with our retail partners, we automatically will protect and create more jobs in the locality.

4. Local economy

CC Group currently employ approx. 500 people on our site in Rathmonney, Lusk. We pay approx. €500,000 in wages every week. €500,000 which is spent in the local area, supporting families, paying mortgages, supporting local shops, clubs and services, the list is endless. We feel that CC as a business has developed to such a scale with careful, well managed and planned business objectives which at all times has kept us to the forefront in terms of sustainability and the environment. We feel this AD project will further enhance our business, allows us to manage our food process byproducts onsite, build a solid foundation for our farming enterprise, all while enacting government legislation in terms of the National Strategic Plan for biomethane production needed by 2030.

List of Sustainable Awards Received:

Country Crest Origin Green certificate 2025

Country Crest Arable
Fully compliant and independently audited to the following Horticultural standards

- Bord Bia – Sustainable Horticulture Assurance Scheme (SHAS)
- Global Gap – Assurance scheme in relation to good agricultural practice
- Tesco Nurture – Compliance with eco-friendly standards for Tesco grown agricultural produce
- Tesco LEAF Marque accreditation – Linking Environment and Farming – One of the first produce suppliers in the country to achieve this standard

Country Crest Livestock

- Bord Bia – Beef and Lamb Quality Assurance Scheme (BLQAS)

Country Crest Awards – Sustainable/Produce categories

Blas Na hEireann Award 2024 Gold for Tesco Finest Rooster Potatoes quality
Fingal Chamber Award2023 Best in Climate Action
JCI Friendly Business Awards 2019 Eco-Friendliness Award
Fingal Dublin Business Excellence and CSR Awards 2016 Large Company Employer - CSR Award
Tesco annual Conference 2016 Fresh Supplier Award
Fingal Dublin Business Excellence and CSR Awards 2015 Business Growth Excellence Award
Fingal Chamber Award2012 Clean & Green Business Excellence Award
Bord Bia Food and Drink Industry Award 2011 Sustainability Category winner
Ulster Bank 2010 Business Achievers Award

Project: AD PLANT, COLLINSTOWN, LUSK Co. DUBLIN

Project No: 22221

Transmittal Type: T: For Tender | I: For Information Only | A: For Approval | G: General Issue | C: For Construction | P: Planning | M: please return marked-up comments

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Environmental Consultant	: Panther Environmental Solutions Ltd.
Landscape Arch	: Griffin Landscape Architects

TITLE	No.	SIZE / COLOUR		
Site Layout	1001	A0	Col	C
Existing and Proposed Floor Areas	1002	A0	Col	/
Diagram for Trucks Entering the Site	1020	A1	Col	/
Drainage Plan	1150	A0	Col	A
Swept Path Analysis	1152	A1	Col	A
Contigous Elevation	1173	A0	Col	A
Proposed Long Term Bicycle Shelter GA	1216	A1	Col	/

Title: **STAGE 1 ROAD SAFETY AUDIT**

For;

Proposed Anaerobic Digestion Plant, Collinstown, Lusk, Co. Dublin

Client: **Country Crest ULC**

Date: **March 2025**

Report reference: **2606R01**

VERSION: **FINAL (18-3-2025)**

Prepared By:

Bruton Consulting Engineers Ltd

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BRUTON CONSULTING ENGINEERS

CONTENTS SHEET

Contents

1.0 Introduction

This report was prepared in response to a request from Mr .Eoin Reynolds, NRB Consulting Engineers Ltd on behalf of Country Crest ULC for a Stage 1 Road Safety Audit for the proposed development associated with an anaerobic digestion plant at the Country Crest facilities in Lusk, Co. Dublin.

The Road Safety Audit Team comprised of;

Team Leader:	**Norman Bruton**, BE CEng FIEI, Cert Comp RSA.
	TII Auditor Approval no: NB 168446
Team Member:	**Owen O'Reilly,** B.SC. Eng Dip Struct. Eng NCEA Civil Dip Civil. Eng CEng MIEI
	TII Auditor Approval no: OO 1291756

The Road Safety Audit comprised an examination of the drawings provided and a site visit by the Audit Team, together on the 7th of March 2025.

The weather at the time of the daytime site visit was dry and the road surface was also dry.

This Stage 1 Road Safety Audit has been carried out in accordance wi th the requirements of TII Publication Number GE-STY-01024, dated December 2017.

The scheme has been examined and this report compiled in respect of the consideration of those matters that have an adverse effect on road safety. It has not been examined or verified for compliance with any other standards or criteria.

The problems identified in this report are considered to require action in order to improve the safety of the scheme for road users.

If any of the recommendations within this safety audit report are not accepted, a written response is required, stating reasons for non-acceptance. Comme ntsmade within the report under the heading of Observation are intended to be for information only. Written responses to Observations are not required.

A location map showing where each problem occurs is provided in **Appendix A.**

A list of the documents provided to the Audit Team is provided in **Appendix B.**

The feedback form is provided in **Appendix C.**

2.0 Background

It is proposed to construct an anaerobic digestion plant at the existing Country Crest facilities outside Lusk in county Dublin. The development will include an access road branching off an existing access road to the farm area.

This access road will then split at an internal priority junction.

Heavy goods vehicles will be travelling to the site from external sources.

It is proposed to provide office space for staff and other ancillary buildings (which are to be accessed by staff from the internal pedestrian zone rather than the access road) and to provide bicycle parking.

A pedestrian link is proposed to the internal pedestrian network within the facility which connects back to the main car park and reception area.

The speed limit within the Country Crest facility from the initial security hut after entry from the L1155 is 15km/hr.

This audit is based on updated drawings from those submitted at planning stage whereby facilities for vulnerable road users in particular have been enhanced including the provision of raised table crossings at pedestrian desire lines with suitable warning signage for drivers.

The site location is shown below .

3.0 Issued Raised in This Road Safety Audit.

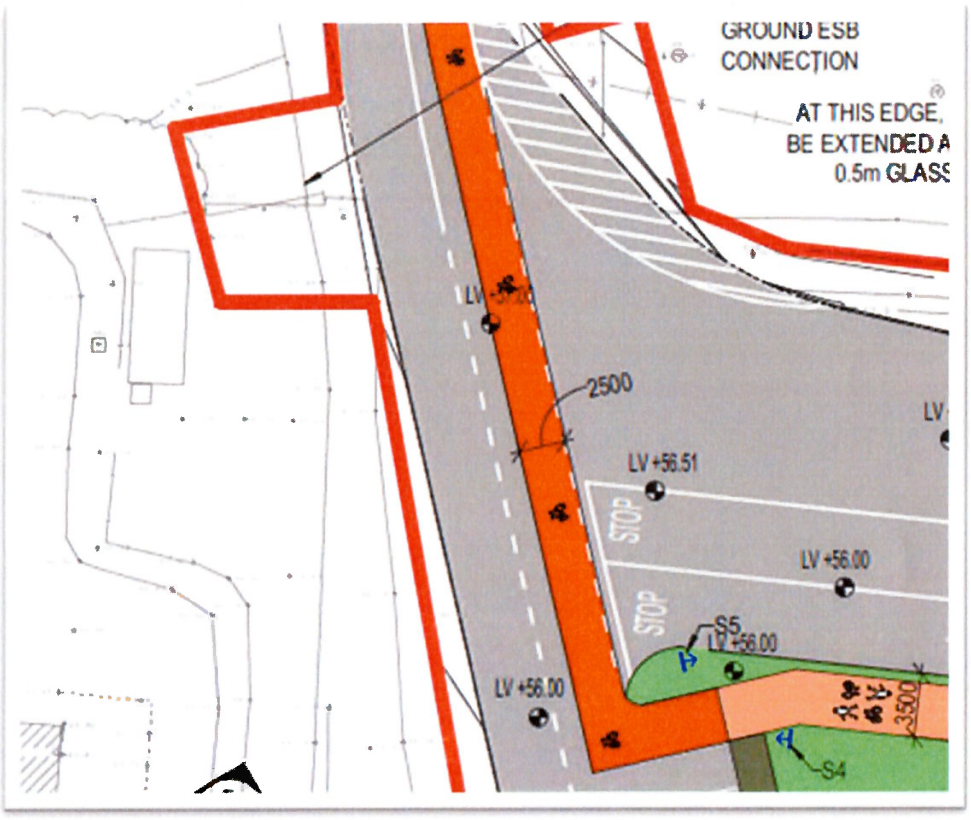
3.1 Problem

Location.

Drawing 2221-1101 Rev B, Cycle lane across the internal junction.

Problem.

The proposed red coloured cycle lane across the internal junction is shown to be 2.5m wide. This may be mistaken for a traffic lane as it only leaves a remaining lane width of 1.25m. the lane is only one way across the junction mouth and the number of cyclists using it will be low.



Recommendation

It is recommended that the cycle lane be reduced in width to as not to confuse drivers and to maintain a suitable width driving lane.

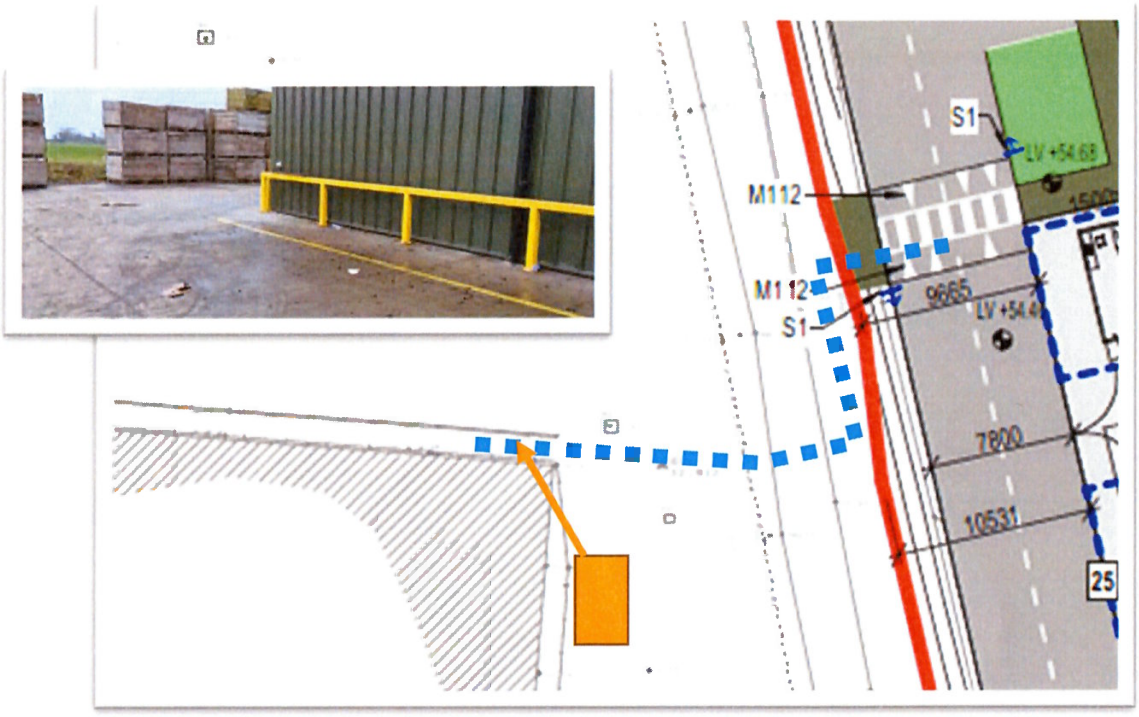
3.2 Problem

Location.

Drawing 2221-1101 Rev B, Pedestrian link to the existing pedestrian facilities at the potato store.

Problem.

During the site visit the Audit Team observed vehicular movements beside the potato store, fort lift trucks were travelling down the eastern side of the store house. If pedestrians cross this area the forklift drivers may not expect them and may not slow.



Recommendation

It is recommended that the dedicated pedestrian route be made continuous with the proposed crossing within the site and that some measures be provided to ensure forklift drivers have visibility to crossing pedestrians.

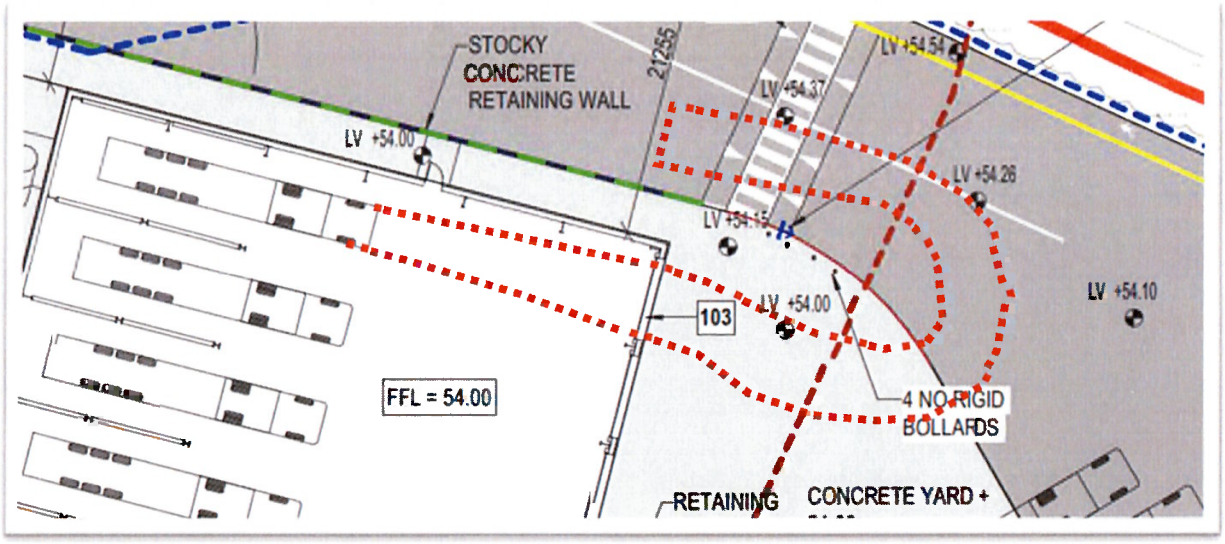
3.3 Problem

Location.

Drawing 2221-1101 Rev B, Rigid bollards at pedestrian crossing.

Problem.

It is proposed to provide rigid bollards to ensure segregation between pedestrians and reversing HGVs into the loading/unloading bays. There is a risk that the trailing wheel s of HGVs exiting the loading bays may collide with those bollards as the driver attempts to turn left to exit the area.



Recommendation

It is recommended road marking guidance be provided for drivers as to what route to take to avoid getting close to the bollards.

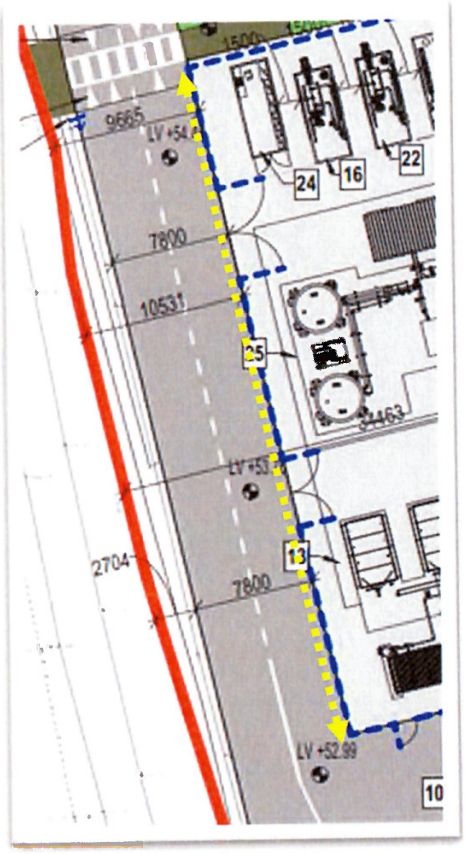
3.4 Problem

Location.

Drawing 2221-1101 Rev B, Ancillary buildings along access road.

Problem.

The ancillary buildings are at the edge of the carriageway. They could be scraped by wing mirrors or overhanging loads, despite the wide lane, if drivers are not given sufficient guidance.



Recommendation

It is recommended that a carriageway edge road marking be provided to give a buffer hardstrip between the buildings and the traffic lane.

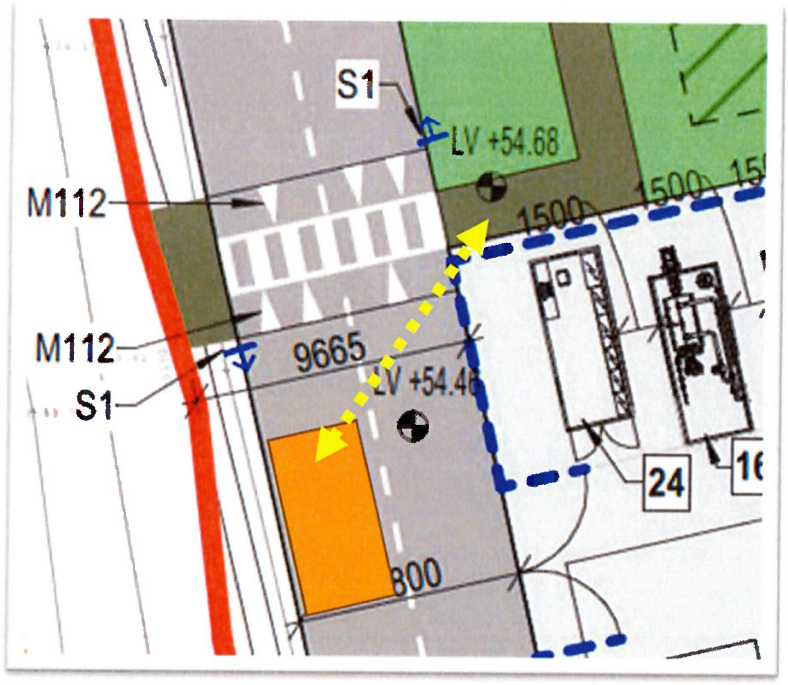
3.5 Problem

Location.

Drawing 2221-1101 Rev B, Pedestrian crossing of the access road.

Problem.

The proposed pedestrian crossing is very close to the fence (dashed blue line). It is unclear how much intervisibility will be provided between approaching vehicles and crossing pedestrians. A lack of intervisibility could lead to collisions.



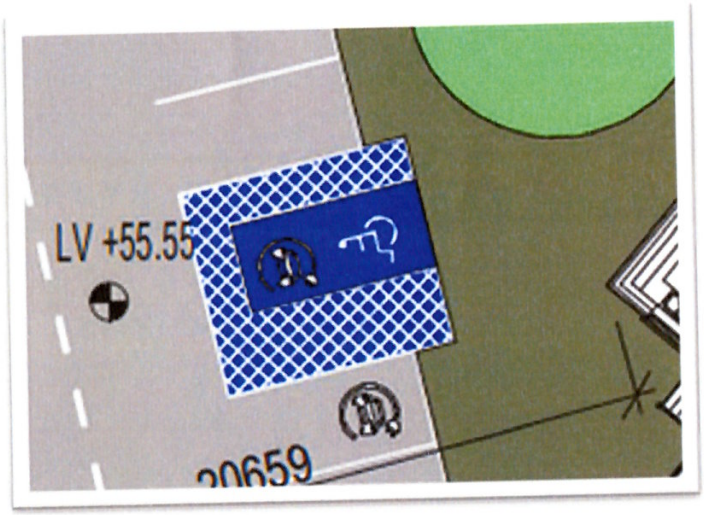
Recommendation

It is recommended that suitable visibility be provided. The crossing may need to move north a short distance or a chamfer be provided in the fencing.

4.0 Observations

4.1 Observation

It is assumed that the electric vehicle chargers will not block the footpath for mobility impaired users.



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5.0 Audit Statement

We certify that we have examined the material provided and the site. The examination has been carried out with the sole purpose of identifying any aspects of the design which could be added, removed or modified in order to improve the safety of the scheme.

The problems identified have been noted in this report together with associated safety improvement suggestions which we would recommend should be studied for implementation. The audit has been carried out by the persons named below who have not been involved in any design work on this scheme as a member of the Design Team.

Norman Bruton **Signed:** Norman Bruton

(Audit Team Leader) **Dated: 18-3-2025**

Owen O'Reilly **Signed:** Owen O'Reilly

(Audit Team Member) **Dated: 18-3-2025**

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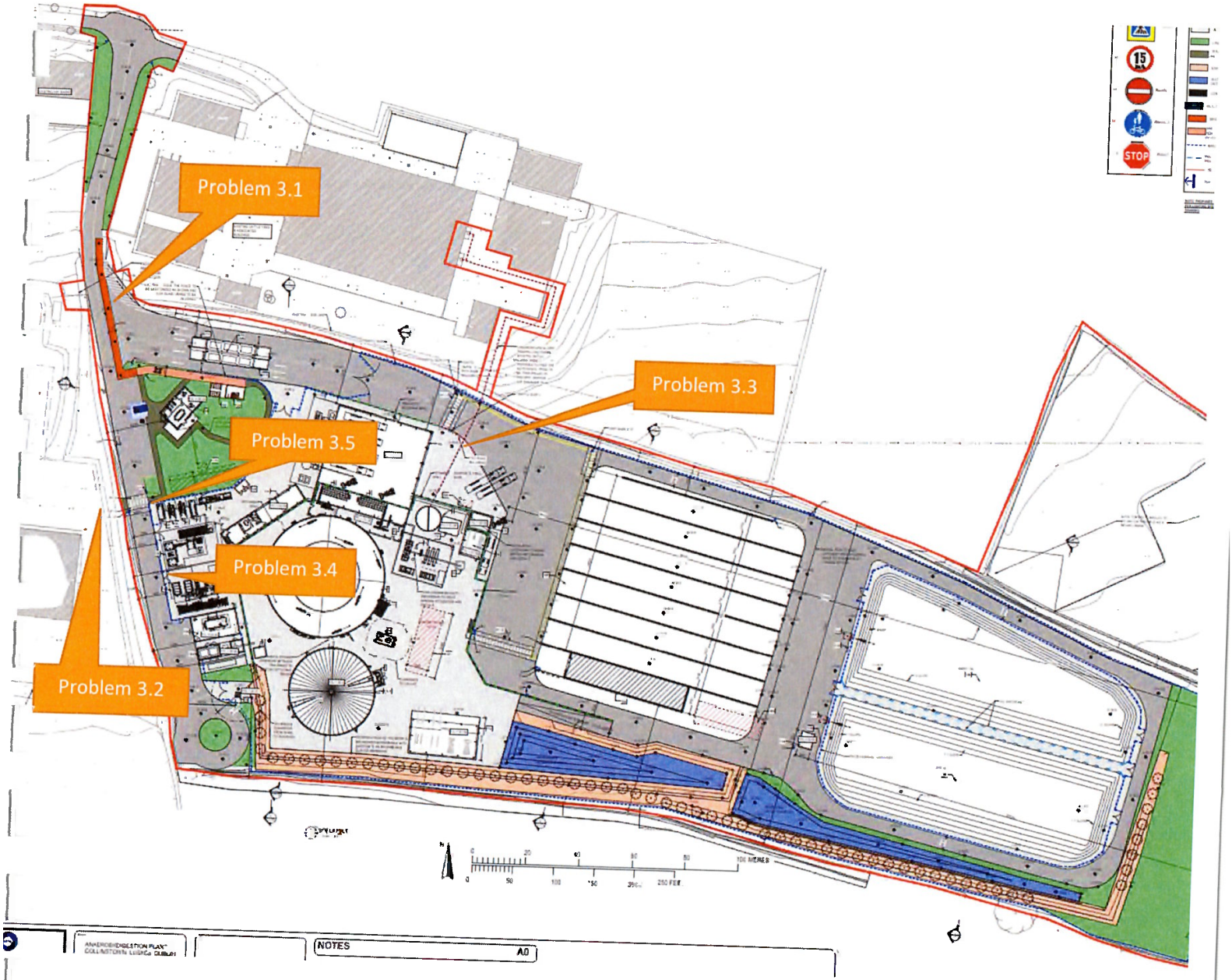
Appendix A – Problem Location Plan



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Appendix B – Information Provided

Information Supplied to the Audit Team

- Drawing 2221-1101 Rev B
- Site Location Map
- Swept path analysis
- Bicycle store details

For Information

- Drawing 2221-1101 Rev -

Appendix C – Feedback Form

Feedback Form

SAFETY AUDIT FORM – FEEDBACK ON AUDIT REPORT

Scheme: Country Crest, Anaerobic Digester
Stage: 1 Road Safety Audit
Date Audit (Site Visit) Completed: 7-3-2025

Paragraph No. in Safety Audit Report	Problem accepted (yes/no)	Recommended measure accepted (yes/no)	Alternative measures (describe)	Alternative measures accepted by Auditors (Yes/No)
3.1	YES	YES		
3.2	YES	YES		
3.3	YES	YES		
3.4	YES	YES		
3.5	YES	YES		

Signed Emmet Finegan **Date**...13/03/2025.....
Design Team Leader

Signed..... **Date**.13-3-2025.....
Audit Team Leader

Signed..... **Date**.13-3-2025.....
Employer/Developer