

The Secretary,
An Bord Pleanála,
64 Marlborough Street,
Dublin 1.

22/02/2022

RE Application for Substitute Consent for Agricultural Development

Dear Sir/Madam,

Emma Pillion Planning has been retained by Patrick Lalor of Ironmills, Ballinakill, Co. Laois, R32 HD40 to make an application for substitute consent on his behalf in respect of an agricultural development at Grennan, Attanagh, Co. Laois.

This cover letter is accompanied by a planning report which forms part of an application for substitute consent and has been prepared having regard to;

- Leave to make this substitute consent application under ref. ABP-307382-20, the Inspectors Report and Boards Order in this regard,
- The planning and development history of the site,
- The provisions of the Planning and Development Act, 2000, as amended, and associated Planning and Development Regulations 2001, as amended, made under Section 177 of the Act,
- The Surface Water Management Plan, Nutrient Management Plan, the rNIS, the design report,
- The nature and scale of the development the subject of this application and
- National guidance for the development and the designations for the site under the current Laois County Development Plan.

In February 2022, the undersigned sought and was kindly provided a without prejudice review by the Board of a description of development for statutory notices for this site that sought substitute consent for the completed part of the development, along with the completion of minor ancillary works. Following the Boards advices, the substitute consent proposal now before the Board seeks substitute consent only for the works completed on the subject site.

The application contains 6 no. hard copies of this cover letter, supporting documents and drawings, reports, application form and statutory notices. The application also contains 1 no. soft copy of the entire application for ease of reference for the Board. The application fee of €900 is supplied by cheque and has been calculated in accordance with Section 2, Schedule 9 of the Planning and Development Regulations 2001, as amended.

Yours sincerely,

Emma Pillion *MIPI*

DEVELOPMENT: RETAIN SLATTED TANK, ANIMAL HOUSING WHICH INCORPORATES CUBICLE AREA, CALVING BOXES, MILKING PARLOUR, DAIRY, OFFICE, PLANT ROOM, SLATTED FEEDING AREA, COLLECTING AREA, STEEL UPRIGHTS AT FEEDING AREA AND ALL ASSOCIATED ANCILLARY WORKS AND SERVICES

DEVELOPMENT ADDRESS: GRENNAN, ATTANAGH, CO. LAOIS

PLANNING AUTHORITY: LAOIS COUNTY COUNCIL

APPLICANT: PATRICK LALOR, IRONMILLS, BALLINAKILL, CO. LAOIS, R32 HD40

TYPE OF APPLICATION: APPLICATION FOR SUBSTITUTE CONSENT PURSUANT TO SECTION 177E OF THE PLANNING AND DEVELOPMENT ACT 2000, AS AMENDED

ABP REF.: ABP-307382-20 GRANT LEAVE TO APPLY FOR SUBSTITUTE CONSENT

1.0 Introduction

1.1 This is an application for Substitute Consent under Section 177E of the Planning and Development Act 2000, as amended.

1.2 The application seeks Substitute Consent for the retention of the following; Slatted tank, animal housing which incorporates cubicle area, calving boxes, milking parlour, dairy, office, plant room, slatted feeding area, collecting area, steel uprights at slatted feeding area; and all associated ancillary works and services.

1.3 In February 2022, the undersigned sought and was kindly provided a without prejudice review by the Board of a description of development for statutory notices for this site that sought substitute consent for the completed part of the development, along with the completion of minor ancillary works. Following the Boards advices, the substitute consent proposal now before the Board seeks substitute consent only for the works completed on the subject site.

2.0 Site Location and Description

2.1 The site is located 2.4km east of Durrow town and 8km south of Abbeyleix town in the midlands. The area is predominantly rural and the general landscape is one of an improved agricultural setting, with larger landholdings and the presence of modern agricultural farmsteads. The River Nore is located approximately 1km to the west and the Owenbeg River is located approximately 1.5km east of the subject development.

2.2 The site is in the townland of Grennan, Attanagh, approximately 0.95Ha in area and forms part of a traditional family landholding since the mid 1950's, which was extended through the purchase of other family lands in 2013. The site has a disused farm house, along with original stone outbuildings to the east of the site, between the applicant's farm and the original appellant's landholding. The site is accessed via a local public road, a cul-de-sac, which also serves the original appellant's house (Brennans), who are also dairy farmers who are farming and milking at this location. The Brennans' milking parlour is situated in between the Grennan farm and the Brennan residence.

2.3 There are a number of pre-existing agricultural buildings on the site, previously permitted, along with the original farmstead buildings and dwelling house. The original buildings and the permitted buildings sit between the complainants' lands and dwelling and the subject development seeking regularisation.

2.4 The subject development seeking regularisation, a slatted shed housing the dairy, the milking parlour and ancillary services lies to the most westerly point of the site and is 1,266sq.m. in area. The pre-existing farm buildings up to 2016 are stated as having a combined floor area of 708sq.m.

Site Location in Red



3.0 The Application for Substitute Consent

3.1 Application Consultants

The application was prepared by Emma Pillion Planning, Barnes Nolan & Associates Ltd., Panther Environmental Solutions Ltd., IE Consulting, Michael John Ryan Ltd. ACA, and Whitehill Environmental in conjunction with the applicant, Patrick Lalor.

3.2 Application Contents

The application includes, *inter alia*, the following documentation;

1. This Planning Report,
2. Surface Water Management Plan (SWMP),
3. Nutrient Management Plan (NMP),
4. Copy of Order to direct Patrick Lalor to apply for Substitute Consent,
5. A remedial Natura Impact Assessment (rNIA),
6. Copy of all historic files relating to the site,
7. Copy of all drawings,
8. Letters from applicant,
9. Noise Impact Assessment,
10. Odour Impact Assessment, and
11. Traffic Impact Assessment.

4.0 Planning History

4.1 Planning Application 82/425

Permission granted to Mr. Patrick Lalor for the construction of a bungalow, septic tank & associated site works at Ironmills.

4.2 Planning Application 87/481

Permission granted to Mr. Patrick Lalor to erect a slatted house and cubicles at Ironmills.

4.3 Planning Application 90/577

Permission granted to Mr. Patrick Lalor to erect a slatted house at Ironmills.

4.4 Planning Application 95/497

Permission granted to Mr. Patrick Lalor to erect a slatted cow unity & calf house at Ironmills.

4.5 Planning Application 02/625

Invalid application by Mr. Patrick Lalor to construct livestock accommodation over existing slats at Grennan.

4.6 Planning Application 02/721

Permission was granted to Mr. Patrick Lalor for the construction of a livestock accommodation over existing slats.

4.7 Warning Letter

A Warning Letter issued to the applicant on the 17/10/2016 requesting the cessation of any unauthorised works. The development was almost complete upon receipt of the Warning Letter and following a site inspection and advices from the Enforcement Officer from Laois County Council the development was completed with the intention to apply for retention permission.

4.8 Enforcement Notice

An Enforcement Notice issued to the applicant on the 07/03/2017 requesting the cessation of any unauthorised works and the demolition of any unauthorised structures with any waste generated disposed of via a licenced waste contractor by the 03/05/2017. The retention application 17/218 was lodged 02/05/2017.

4.9 Planning Application 17/218

Permission sought to retain and complete a slatted tank, animal housing which incorporates cubicle area, calving boxes, milking parlour, dairy, office, plant room, slatted feeding area, collecting area, steep uprights at slatted feeding area, and all associated ancillary works and services; permission to cut back steel uprights at slatted feeding area; and permission to construct new crush in collecting

yard. Submissions made by Ned and Jacinta Brennan in the initial 5-week period, and again following receipt of Further Information. A decision to grant with 13 Conditions issued on 01/11/2017.

Third party appeal by Ned and Jacinta Brennan to An Bord Pleanála was lodged on the 29/11/2017, following which a refusal issued by the Board on the 15/08/2018 for 2no. reasons.

4.10 Planning Application 19/200

Permission sought 1). to retain and complete slatted tank, animal housing which incorporates cubicle area, calving boxes, milking parlour, dairy, office, plant room, slatted feeding area, collecting area, steel uprights at slatted feeding area; and all associated ancillary works and services; 2). for permission to cut back steel uprights at slatted feeding area; and 3) for permission to construct new crush in collecting yard. Submissions made by Ned and Jacinta Brennan in the initial 5-week period, and again following receipt of Further Information. A letter issued on the 25th May 2020 advising that the Planning Authority could not consider the application as an AA was required.

4.11 Leave to Apply Substitute Consent S177 LS11.307382

An application for Leave to Apply for Substitute Consent was made on the 19th June 2020 with a description as follows: *Retain and complete as necessary for a slatted tank, animal housing which incorporates cubicle area, calving boxes, milking parlour, dairy, office, plant room, slatted feeding area, collecting area, steel uprights at feeding area and all associated ancillary works and services.* This was granted on the 1st December 2021 and an application for substitute consent was required to be submitted by 4th March 2022.

5.0 Statutory Provisions

Section 177 of the Planning and Development Act 2000, as amended

5.1 Section 177E of the Planning and Development Act 2000, as amended, (hereafter referred to as 'The Act') sets out the procedure for making an application for substitute consent.

5.2 This application is made following receipt of a grant for leave to apply for substitute consent under Section 177D of The Act, pursuant to Section 177E(2)(a) of The Act.

The application is made having entered into consultations with the Board prior to lodging the application pursuant to Section 177E(1A) of The Act.

5.3 In compliance with Section 177E(2)(b), 177E(2)(d), 177E(2)(e), 177E(2)(f), and 177E(2)(g) of The Act, the applicants name is Patrick Lalor of Ironmills, Ballinakill, Co. Laois, R32 HD40, this application is accompanied by a rNIS and by the appropriate fee of €900 (1,266sq.m. x €3 = €3,798, subject to a max. of €900). The application complies with Part 19 of the Planning and Development Regulations 2001, as amended. The application is within the specified period and is accompanied by all the relevant reports and assessments which the applicant and his consultants consider would be of assistance to the Board in making a decision in relation to the application.

5.4 Section 177E(2A) does not apply to this case as the Leave to Apply for Substitute Consent was permitted under Section 177D(1)(b). Section 177E(4) does not apply as the application for substitute consent is being made within the specified time period.

5.5 Sections 177E(4A) and 177F do not apply as a rEIA is not required to be submitted as part of this application.

5.6 Section 177G(1)(a), 177G(1)(b), 177G(1)(c) have been complied with in the rNIS. Regarding Section 177G(d) there is no statement of imperative reasons of overriding public interest and no compensatory measures proposed on behalf of the applicant.

Part 19 of the Planning and Development Regulations 2001, as amended

5.7 In accordance with Article 223(1) of the Planning and Development Regulations 2001, as amended, (hereafter referred to as 'The Regs'), the newspaper notice and the site notice are included as part of this application and have been published in the newspaper and erected on site as per The Regs. The application does not require a rEIAR, so there is no requirement to set out details in the portal.

5.8 The application was made in advance of the last date and so compliance with Article 223(2) has been achieved.

5.9 Article 223(3) and Articles 223A do not relate to the subject application.

5.10 Article 224 regarding the newspaper notice has been complied with in full and copies are attached as part of the application.

5.11 Article 225 regarding the site notice has been complied with in full, copies are attached as part of the application and pursuant to Article 226 the site notice will remain in situ until the Board have reached a decision on the substitute consent application.

5.12 The application form accompanies the application and complies with Article 227(1).

5.13 In accordance with Article 227(2) the application also contains a full copy of the newspaper notice, site notice, site location map with required details identified, 6 copies of all plans, the rNIS and will comply with any further request for additional copies which the Board may make in accordance with Article 227(4).

6.0 Policy Context

6.1 Laois County Development Plan 2017-2023 governs the policy for the subject site and identifies the site as being within 'Zone C' which is made of a mix of lowland farmland and settlements that benefit from links to Strategic Transportation Corridors and other key development areas. The

Development Plan predicts strong growth in the agricultural sector in these areas, with diversification and intensification expected to help the areas to prosper further.

6.2 Section 5.10 outlines the policies for 'Rural Economic Activities', *inter alia*, as follows;

- RUR1 Support the expansion, diversification and intensification of agriculture and the agri-food sector by facilitating appropriate related development subject to environmental and planning considerations
- RUR6 Reconcile the need for resource-based economic activities to conduct a reasonable operation and the needs of residents in rural areas to access a good quality of life and access to rural areas

6.3 Chapter 8 of the County Development Plan outlines, amongst other topics, the 'Development Management Standards' for 'Agricultural Development' in DM33 which states;

"General Consideration for agricultural buildings:

Agricultural developments have the potential to impact on the environment and the 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 major visual impacts. In dealing with applications for agricultural developments the Planning Authority will have regard to the following:

- 1) Require that buildings be sited as unobtrusively as possible and that the finishes and colour used will blend the development into its surroundings.*
- 2) The proposed developments shall meet with the requirements of the Department of Agriculture with regard to storage and disposal of waste.*
- 3) The Council accepts the need for agricultural buildings and associated works (walls, fences, gates, entrances, yards) to be functional but they will be required to be sympathetic to their surroundings in scale, material and finishes.*
- 4) Buildings should relate to the landscape. Traditionally this was achieved through having the roof a darker colour than the walls.*
- 5) Appropriate roof colours are dark grey, dark reddish brown or a very dark green. Where cladding is used on the exterior of the farm buildings dark colours should be used.*
- 6) All agricultural buildings should be located an adequate distance from any watercourse to reduce the risk of contamination."*

6.4 Natura 2000 Designations

While the subject site is not located within a designated Natura 2000 site, it is however, within 700m of the River Barrow And River Nore SAC (Site Code 002162) and 1km from the River Nore SPA (Site Code 004233). A rNIS accompanies this application for substitute consent, wherein the development in its built form is assessed in terms of any existing or proposed impact it may have on the Natura 2000 sites, whether directly or indirectly.

7.0 Concerns Raised by Planning Authority, ABP and Complainants

7.1 Planning Authority 17/218

- Animal numbers to be accommodated on the farm,
- Traffic,
- Surface water, and
- Third party issues.

These issues were addressed by way of Further Information and the application was granted permission by Laois County Council on the 01/11/2017.

7.2 Inspectors Report ABP-300315-17

A third-party appeal to An Bord Pleanála on 17/218 resulted in the following concerns raised in the inspector's report:

- Questions re stock numbers,
- Increase in scale of farming,
- Residential amenity,
- Alternative locations within landholding,
- Surface water management concerns,
- Traffic,
- Noise,
- Odour, and
- Potential to impact the Natura 2000 sites.

These issues will be addressed in this report, relying on information and reports contained in the wider substitute consent application.

7.3 Inspectors Report ABP-307382-20

A leave to apply for substitute consent to An Bord Pleanála resulted in the following matters raised by the inspector:

- Stage 2 appropriate assessment required,
- Land-spreading amounts,
- Potential mitigation measures, and
- It is possible to remedy any adverse effects on the European Site(s).

These issues will be addressed in this report, relying on information and reports contained in the wider substitute consent application.

7.4 Third Party Submissions

Adjoining neighbours and dairy farmers have been active on all files associated with the subject site and their concerns are outlined as:

- Scale of the Development,
- Disturbance,
- Assessment of alternative locations,
- Noise,

- Traffic/Alternative Access,
- Odour,
- Residential Amenity,
- Impact on Owenbeg River,
- Disposal of Soiled Surface Water,
- Soakpit is waterlogged, and
- Potential to damage road surface.

These concerns have all been taken into account, assessed and are responded to in Section 8 of this report in detail.

8.0 Application for Substitute Consent

8.1 Facts of the Case

8.1.1 The Lalor family farm from the subject site (referred to by the family as Grennan Farm) and from a second landholding in Ironmills (referred to by the family as Ironmills Farm). Patrick and his wife live on Ironmills Farm and John, Patrick's son, and his wife live on Grennan Farm.

Grennan Farm to Ironmills Farm



Source: Google Maps 2021

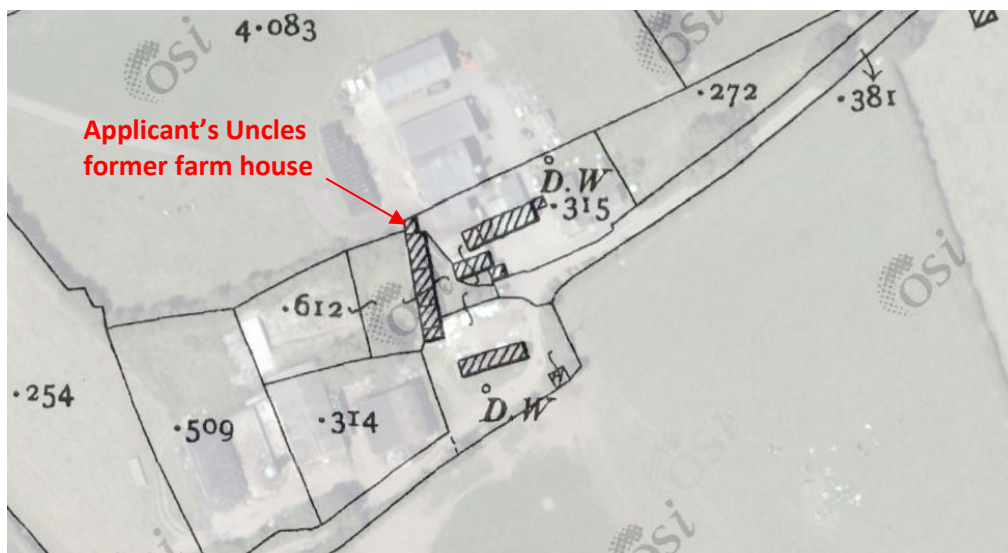
8.1.2 The farms are one holding, in that their herd number (K1040787) covers both farmholdings, an approach which is a common and modern approach to farming. This means that stock can be transferred between the family farmsteads without needing to notify the Dept. of Agriculture of animal movement, however there is still a need to comply with Dept. of Agriculture Guidelines and best practice at all times and the Lalors are fully compliant in this regard.

8.1.3 The transfer of stock between Ironmills and Grennan farms is necessitated for example because winter milking of 50-60 cows approximately is taking place in Ironmills farm at present. The remaining dairy cows were dried off before calving down. As the stock of cows calve down and milking recommences in Grennan, cows will need to be split for milking and therefore will be moved over to Grennan for the summer milking season. These types of events occur on farms and the movement of animals between Grennan and Ironmills is perfectly legitimate and authorised by the Department. The farms have ample capacity in terms of housing and storage and the movement between them therefore should not be seen in planning terms to be anything but the efficient operation of a family farm. In addition, the movement of animals between Grennan and Ironmills has always historically taken place on the farm, as stock numbers will show.

8.1.3 As both yards have their own facilities, all calculations used in this substitute consent application are the totals for both yards, based on the total number of cows to be milked. Previous applications showed Grennan details only for the most part, as requested by Laois County Council. This application was prepared as showing both farmsteads, on the advices of Michael J Ryan, the applicant's agricultural advisor, in the interests of giving the full picture on how the farm operation works and the Board are welcome to inspect both farmyards, if they so wish.

8.1.4 The Lalor family have been farming in Grennan since the 1940's, when Patrick's uncle gifted him the farm and Patrick has farmed alongside the adjoining neighbours (The Brennans) for all these years. Patrick's uncle lived in the house directly adjacent to the Brennans' home, which can still be seen on the subject site, although is no longer in use since Patrick's uncle passed away.

1888-1913 OSI Map Overlain the Current Aerial Photograph for Reference



8.1.5 Essentially farming is a long-held tradition in this area and many families still survive solely on the income derived from farming. Farming has taken place on these lands by the Lalors, some twenty years before the inception of the Planning Acts and whilst modernisations have heralded a new type of farming practice, it is still an 80-year-old tradition on these lands for the Lalors.

8.1.6 The Lalor family farmyard has remained within the original landholding and the only difference to the farm is additional lands purchased for grazing and spread lands throughout the years so as to comply with Dept. of Agriculture legislation as farming practices modernised and became more regulated.

8.1.7 The Brennan family, adjoining the subject site, still farm to this day and their farm is also an active dairy farm. In fact, the Brennans and the Lalors milk collections are carried out by Glanbia on the same trip. In order for the milk lorry to get access to collect Brennan's milk they need to drive into Lalor's yard first and reverse into Brennan's yard to collect Brennan's milk (an auto track of this manoeuvre is shown on the enclosed Surface Water Management Plan drawing just by way of additional information). The milk lorry then drives back into Lalors, collected their milk and pulls off. Milk is collected every second day by Glanbia from February to Oct, with collections occurring every three days from Nov – January to serve the Brennan farm only during this time. The Lalors only milk a small number of cows approx. 50-60 through the winter, typically in Ironmills, so a milk collection is not normally required from Nov – January at Grennan by the Lalors.

8.1.8 It is noted from the 1888-1913 OSI Map, that the Brennan farm complex has also expanded over the years, no doubt to comply with the same suite of changes in the agricultural sector as that of the Lalors.

8.1.9 The subject development seeking regularisation, a slatted shed housing the dairy, the milking parlour and ancillary services lies to the most westerly point of the site and is 1,266sq.m. in area. The pre-existing farm buildings up to 2016 are stated as having a combined floor area of 708sq.m.

8.1.10 The stock numbers for the Grennan and Ironmills farms are set out hereunder and have been taken from the NMP, which is informed by Patrick Lalor and his son John Lalor.

Animal Type	Grennan	Ironmills	No. of Animals
Dairy Cow	100	164	264
Cattle Over 2yrs	25	0	25
Cattle 1-2yrs	0	85	85
Cattle 0-1yrs	0	90	90
Total	125	339	464

8.1.11 As outlined by Michael Ryan in the NMP, stock numbers and spreading land ratio's change yearly on most farms. As calving season commences each year, there will be an increase in stock numbers as calves are born and are awaiting the paperwork to sell them on, or as replacements are reared and older cows await transfer to the factory. There is nothing unusual or non-compliant about this and is best described by the agricultural advisor as follows *"Stock numbers and spreading land ratio's interchange on most farms yearly. This particular holding is run as a single unit under a single trading name and a single herd identifier number and is no different to most farms in adapting to the changes brought about as opportunities arise for stock and land additions, or removals/losses. There have been changes almost every year on this farm with stock numbers, land area and cropping regime undertaken as the business reacts to the opportunities presented to it."*

8.2 The Nutrient Management Plan (NMP)

8.2.1 The NMP confirms that in the past the applicant did not need to export slurry and no organic manures have been or will be spread on SAC/Natura 2000 lands.

8.2.2 The NMP also confirms that, despite to the need to export slurry this year in order to comply with the requirement to keep the stocking rate for the whole farm below 170kg org N/Ha (as required by law), the applicant has more than adequate housing facilities for all the animals within his care and has adequate facilities for the storage of organic manures and for the storage of soiled water as required under the Nitrates Regulations.

8.2.3 In 2021, the need arose to export slurry occurred due to the provision of additional cereal and crops grown on the land.

8.2.4 The NMP states that *"This plan demonstrates that the applicant does not need to spread organic manures on the SAC/Natura Lands and that the requirement to respect buffer zones, where required, is also independent of the rate of application of manures in the rest of the individual plots concerned. The limiting factor in the amount of organic manures to be spread is the availability of same, not the ability of the land to take the manure loading permitted."*

8.2.5 The NMP report is clear and sets out unequivocally that the applicant has not and does not need to use his lands within the SAC or those lands directly adjoining it, for use as spread lands. It also sets out in precise terms the basis of the operation of the farm, to allow the rNIS to assess potential impacts resulting from the subject development.

8.3 Assessment of Alternative Locations

8.3.1 The Lalor family has been farming at Grennan for over 80 years, Patrick inherited this farm from his uncle and now John, his son, is farming alongside him. The existing livestock sheds, holding tanks, cattle crush, feeding silos, silage slabs, ESB and water connections were all based in the existing farm complex at Grennan.

8.3.2 During consultations with regard to the design of the new shed, it made sense from an agricultural and best farming practice to consolidate facilities at this location. Given that the applicants did not know that planning was even required for the shed and having regard to the existing facilities at this location, there was no doubt in their minds that this was the best site upon which to locate the subject development.

Layout Showing Neighbours Farm & Residence in Context of Proposed Development



Source: Google Images ©2022

8.3.3 In designing the shed, the open faces for feeding and collecting were designed to be on the south and west elevations, which were the furthest point from the neighbours. This was done to ensure that any possibilities of noise, odour or disturbance were eliminated.

8.3.4 When deciding on the location of the shed within the existing farm complex, the Lalor family chose the furthest point within the complex from their neighbours. The neighbours' house is separated from the subject shed by their own existing farm complex, Patrick's uncles two-storey farm house, a significant tree stand, and the Lalor's existing farm complex.

8.3.5 In the Further Information response to Laois County Council (Ref 19200), a report by Barnes Nolan explored the brownfield possibilities on the landholding and concluded that the shed complex at John Lalor's house consisted of old stone sheds and an old barn, none of which were capable of housing the stock numbers that the existing farm complex at Grennan farmyard could. In addition, moving the farmyard closer to John's house, also meant bringing the farm complex closer to the rivers on a greenfield site with no existing infrastructure, which was not seen to be preferable. Given that the existing farmyard at Grennan was outside the SAC and had existing modern infrastructure, the applicant was assured that he was making the right choice in relation to the location of the subject shed.

8.3.6 The Lalors switched from beef farming to dairy in 2017 and up to then had been out-wintering far higher livestock numbers on this farm (see table of stock numbers below prepared by Barnes Nolan). The current stock numbers are 464 so the numbers have been decreasing since the changeover to dairy farming. It is contended that the housing of fewer stock numbers inside, in a far more contained and managed setting within an existing farm complex, represents a far more preferable arrangement in planning, farming, environmental and residential amenity terms.

Summary of Total Stock Numbers from 2010 – 2019 on Lalors Farmsteads

Year	Total Stock Numbers	Comment
2010	520	Rented Lands @Mountrath
2011	534	Rented Lands @Mountrath
2012	639	Rented Lands @Mountrath
2013	683	Rented Lands @Mountrath
2014	608	51 acres purchased and farm converted from beef to dairy (2017)
2015	759	
2016	706	
2017	707	
2018	586	
2019	487	
2020	540	
2021	464	

8.4 Surface Water Management Plan (SWMP)

8.4.1 A SWMP has been prepared by IE Consulting, Water, Environmental and Civil Engineers setting out the current situation on site with regard to runoff from external hard-standing areas and from roof drainage.

8.4.2 Section 7.4.2. of the Inspectors Report (ABP-300315-17) states: *“Through the PAs assessment of the proposed development, an issue in relation to the management of surface waters arising at the site was raised. I would note that there are discrepancies and omissions in the plans and particulars submitted in support of the proposed development. Notably, the concrete and hard-core areas are not clearly identified. In addition, the Board will note that the original proposal to deal with surface water was to discharge to a watercourse. It was at the request of the Planning Authority, that the applicant proposed a soakway. Access to the area of the proposed soakway was restricted on the date of my inspection.”* The SWMP is accompanied by a Surface Water Management Plan Layout, prepared by Barnes Nolan which shows the concrete/hard core areas, the location of the soakway (which was not constructed prior to receipt of the Warning Letter in October 2016) which is now recommended to be installed by the SWMP and by the rNIS by way of a mitigation measure.

8.4.3 The collection of clean, uncontaminated water from the roof of the subject shed is proposed by both the SWMP and the rNIS to be collected by rainwater goods (gutter and pipe drainage system) and discharged to the soakway, originally proposed, but not constructed prior to enforcement proceedings and now recommended as a mitigation measure by the SWMP and the rNIS and will not adversely impact the Natura 2000 sites or any other water courses in the vicinity.

8.4.4 Given that the external feeding area/collecting area is enclosed by a concrete surround and that all soiled water is discharged to the slatted tanks, which is then spread as per the NMP and Dept. of Agriculture Code of Practices and Specifications, the SWMP concludes that *“any potentially soiled surface water runoff from the facility structure for which substitute consent is sought will not result in an adverse or detrimental impact to the existing hydrological regime of the area.”*

8.4.5 Section 7.4.3. of the Inspectors Report (ABP-300315-17) states: *“In terms of the potential impacts of the development on the integrity of the Natura 2000 site, the Board will note that a number of the conservation objectives for the site relate to the chemistry and mineral content of the groundwater necessary to support the qualifying interests of the European Site. The subject site is located within an area which has been identified as a Regionally Important Aquifer - Karstified (diffuse) which has an extreme groundwater vulnerability. Having regard to the location of the site, together with the topography of the area, and the lack of clarity in terms of the management of surface water disposal, I have serious concerns that the development has the potential to have a significant effect on the European site, in view of the sites conservation objectives.”* This concern raised by the inspector has now been addressed in full by both the SWMP and the rNIS and both reports conclude that the development has resulted in and will not give rise to adverse impacts on the Natura 2000 sites.

8.4.6 The SWMP also outlines that *“all clean or uncontaminated surface water runoff shall discharge to an appropriately designed and constructed soakaway system. No surface water runoff generated from the facility structure shall discharge directly to any receiving surface watercourse. Although beyond the scope of this particular assessment, surface water runoff from the existing farm structures as illustrated in Figure 1 above discharge to existing soakaway systems. In this regard surface water*

runoff from these existing structures will not adversely impact the facility structure for which substitute consent is sought."

8.4.7 The SWMP concludes by stating that *"In this regard, surface water runoff generated from the facility structure for which substitute consent is sought would not result in an adverse impact to any Natura 200 site, Special Area of Conservation or any other European site. The Surface Water Management Plan that shall be incorporated is therefore considered to be appropriate from a hydrological perspective."* The SWMP report and drawing have been taken into account in the preparation of the rNIS, which will be assessed hereunder.

8.5 Remedial Natura Impact Statement (rNIS)

8.5.1 The rAA screening identifies potential impacts as follows:

"These effects may have occurred in the past, they may be ongoing or they could arise in the future.

- 1. Deterioration in water quality in designated areas arising from pollution due to the initial construction of the unauthorised structures and the ongoing and continuation of farm activities within the application site itself. Inappropriate surface water management in the farm yard may lead to impacts upon the River Nore and Barrow SAC and the River Nore SPA. Negative impacts upon local groundwater resources and subsequent effects on the Natura 2000 sites have also been considered.*
- 2. Potential impacts on water quality within the River Barrow and Nore SAC / River Nore SPA arising from the use of manure produced on the farm in the past, present and future. Negative impacts upon local groundwater resources and subsequent effects on the Natura 2000 sites have also been considered.*
- 3. Cumulative impacts."*

The report then continues to assess these in detail, addressing the potential for impacts during construction, during operation to date and the continued operation of the subject development.

8.5.2 The rNIS considers the Site-Specific Conservation Objectives (SSCOs) for the River Barrow and River Nore SAC and describes the Qualifying Interests (QIs) that had and have the potential to be impacted upon from the application. In terms of potential impacts on the SAC, the following were identified:

- "Pollution of water in the River Nore and its tributaries at points close to the application site arising from poor surface water management on the farm;*
- Pollution of groundwater at points close to the farm yard due to inappropriate management of surface waters and farms structures;*
- Pollution of surface water or groundwater arising from the land-spreading of the manure produced on the farm."*

The rNIS takes these possible impacts, assesses the development as constructed and operated in the context of Site Specific Conservation Objectives (SSCOs) and continues to rule out a considerable number of potential impacts whose SSCOs have not and would not be impacted by the subject development as constructed and operated.

8.5.3 The rNIS considers that while there are no Site-Specific Conservation Objectives (SSCOs) for the SPA *“the main target of this SPA would be to protect the numbers and habitats of the kingfisher. Records held by the National Biodiversity Data Centre for this species confirm its presence along the River Nore within the Zone of Influence of the application site and its spread lands.”* The rNIS outlines that *“The main threat to this species would arise from deteriorations in water quality arising from poor surface water management on the farm yard and from inappropriate land-spreading. A deterioration in water quality further may affect the ecological integrity of the River Nore and subsequently on the food chain that this bird depends on.”*

This section of the rNIS then goes on to identify any of the potential risks, in the context specifically of the subject development.

8.5.4 The rNIS assesses the deterioration in water quality in the SAC/SPA arising from the initial construction and subsequent farmyard operations and surmise’s that *“as there are no watercourses or drains within or adjacent to the application site that lead to the SAC/SPA, then the source-pathway-receptor link between the application site itself and the SAC / SPA is weak and therefore this risk is considered to be insignificant and it may only arise in the absence of mitigation and during periods of very heavy rainfall.”*

This potential deterioration in water quality is then ruled out by virtue of the manner in which the development was carried out, by buffers on the ground created by the existing ditches and treelines surrounding the farm complex and by the time of year the majority of the ground works were carried out in.

8.5.5 The rNIS assesses the groundwater vulnerability of the site and states that *“Any structural weaknesses in the effluent tanks on the site, along with poor management of the surface water on the site could lead to impacts upon groundwater in the locality. Groundwater quality can impact upon surface water quality as these two resources mix at the hyporheic zone, which is the region just under a river or stream bed where there is a mixing of ground water and surface water. Therefore, in the absence of mitigation, risks to the SAC / SPA arising from deteriorations in groundwater locally cannot be excluded.”*

The subject development was carried out in accordance with the Dept. of Agriculture Regs, with mitigation measures and best practice techniques in place. These are discussed at length in the rNIS report in the section entitled mitigation.

8.5.6 The rNIS considers the impacts of land-spreading and states that *“As the applicant has lands within areas that are of high – extreme vulnerability, therefore it cannot be ruled out that land-spreading in these areas would not lead to direct or indirect impacts upon the River Barrow and Nore SAC, the River Nore SPA, their qualifying interests and the targets and attributes that are required to either maintain or restore these interests in good conservation condition.”*

The rNIS later goes on to explain that the applicant has not spread on these lands since the development commenced and the NMP highlights that there is no requirement to spread there from a spreadlands management perspective as the applicant has more than enough lands outside of these extremely vulnerable areas to satisfy the spreadlands requirements.

8.5.7 In terms of the in-combination effects, the rNIS acknowledges that the *“The current application for permission to retain and complete the structures at the farm in Grennan, Attanagh, Co. Laois will have no significant effects upon The River Barrow and Nore SAC or the River Nore SPA when considered in-combination with the other permitted developments in the area.”*

The subject development is located in a rural area, where agriculture is the dominant landuse. Given the applicants ability to avoid spreading on areas of high-extreme vulnerability, the mitigation measures employed by the applicant, even when he was of the opinion that planning permission was not required, demonstrates the applicant’s nature in terms of compliance and consideration for parameters outside his own immediate landholdings.

8.5.8 The rNIS outlines a series of mitigation measures regarding the construction phase including, but not limited to the installation of rainwater goods on the building directed to a suitably designed soak pit. These are items that were sought for in the 2017 application, but didn’t get completed when the reality of the planning issue began to unfold.

8.5.9 The rNIS sets out the mitigation measures for the operational phase, including activities previously carried out. Land spreading was avoided in land-banks within the SAC/SPA since the development and according to the NMP, Patrick Lalor has no need to spread on the lands in or near the SAC/SPA. The rNIS also recommends a series of best practice mitigation measures for the ongoing operation of the development, all of which Patrick Lalor will take full responsibility for in the event that the Board grant the substitute consent.

8.5.10 The rNIS identifies *“mitigation measures that were in place which have, are and will continue to ensure avoidance of these effects; so that the structure and functions of the SAC and SPA are not affected, thus demonstrating that mitigation was sufficient to avoid adverse impact throughout the time periods of the development assessed.”*

The rNIS takes full account of the compliant nature of the applicants attention to detail in the development of the shed and due to Patrick Lalor’s care for the environment, any potential impacts to date on the farm were mitigated against.

8.5.11 The rNIS concludes with *“The implementation of these control measures on site means that it can be concluded in the light of best scientific knowledge, that there has been and will be no significant effects, either individually or in combination with other plans or projects adversely affecting the conservation interests or conservation objectives of the River Barrow and Nore SAC / SPA, i.e. the integrity of these, or any other Natura 2000 sites.”*

8.5.12 The rNIS has addressed the concerns of the inspector set out in Section 7.4.4 of ABP-300315-17 with regard to potential impacts on the River Barrow And River Nore SAC, Site Code 002162, and River Nore SPA, Site Code 004233, or any other European site, in view of the site’s Conservation Objectives. In addition, concerns raised by the Inspector in Section 6.3.3 of ABP-307382-20 with regard to mitigation measures which could not be taken into account in screening for appropriate assessment. We confirm, as highlighted by the Inspector in Section 6.4.4 of ABP-307382-20 that:

“6.4.16. The applicant makes the case that given that the spread lands closest to the SAC have not been used since the development was undertaken in 2016 the impacts on the environment to date have been limited. The applicant also contends that future impacts could be remediated by the preparation of a surface water management plan and the use of alternative spread lands. In my opinion these issues are all potential mitigations that could be incorporated into any remedial NIS submitted and could be considered by the Board in its appropriate assessment and the draft Stage 2 Appropriate Assessment report submitted and on file incorporates a number of such mitigations that lead to the conclusion of no adverse effect on the integrity of any European sites.”

These points all made by the inspector have been addressed in full during the course of the NMP, the SWMP and the rNIS and the conclusions are that there has been, and subject to continued mitigation, there will be no adverse effects on the integrity of the European Sites.

8.5.13 In conclusion, on the basis of the material available to the undersigned in the substitute consent application, the SWMP, the NMP and the rNIS have remedied any adverse effects on the conservation interests or conservation objectives or the integrity of the River Barrow and Nore SAC / SPA, or any other Natura 2000 sites.

8.6 Scale & Nature of Development

8.6.1 There is a long history of farming of the site of the development and OS maps (copies submitted with the application) indicate the fact that there has been a historic presence of farmyards on both the applicants land and the adjoining farm holding owned by the appellant in the previous case (Ref. ABP-300315-17) since the 1800's.

8.6.2 These maps show that the Lalor farmyard has not extended beyond the original field boundaries or what might reasonably be expected in terms of the natural expansion of a business which is two centuries old and in spite of the fact that now the farm supports two generations of Lalor families.

8.6.3 The farming activities on the subject site have consolidated in recent years, the switch to dairy farming having led to a reduction in stock numbers and the housing of older cattle indoors during winter months in the subject development.

8.6.4 Whilst the subject shed may appear to some as an increase in scale, the stock numbers clearly show a reduction in livestock, while the shed represents efficiencies and improvements in farming practices in recent years. The shed also limits the number of livestock wintering outdoors and results in environmental improvements in terms of increased surface water management controls and a reduction in soiled water production.

8.6.5 If consideration is given to the change to dairy farming on site, along with the required standards this brings and the reduction in stock numbers is considered (table shown in Section 8.3.5 of this report), the development actually represents improved farming techniques and a reduction in overall livestock on the subject site. It also reduces significantly the traffic movements on the lane, as prior to

changing, the beef enterprise was considerably busier with the trucks for meal and cattle movement to the factory.

8.6.6 The inspectors report (ABP-300315-17) states: *“7.2.2. On the date of my inspection, the Board will note that all slatted houses were filled with animals. It is clear that the figures provided by the applicant in this instance do not include all the animals housed within the yard.”* It is quite difficult to ascertain how the inspector determined if the slatted houses were ‘filled with animals’, however, as outlined earlier in the report, with full disclosure the Lalors have welcomed the Inspector to both Grennan and Ironmills to assess the overall operation of the farm and outlined in this application the entire farming operation and stock numbers over both farms.

8.6.7 Numbers of stock on farms can vary depending on the season, affected by parameters such as livestock loss, new calf numbers, awaiting transfers of stock sold and stock awaiting access to the factory. This is part of everyday operations on a farm, as supported by the NMP and the Agricultural Advisor, Michael J Ryan in his plan.

8.6.8 Having prepared stock numbers for the farm for the past 10 years from 2010, it was quite disappointing for those consultants involved in the application to read Section 7.2.2 of the Inspector’s report (ABP-300315-17) which states *“Overall, the scale of the farming enterprise at this site has dramatically increased in my opinion, with the erection of the building, the subject of this retention application.”* It contradicts the actual proof in terms of stock numbers and the pre-2017 situation on site wherein the cattle were out-wintered because there was insufficient housing on site to accommodate them.

8.6.9 Also in ABP-300315-17, the inspector states *“7.2.3. The application indicates that 110 animals can be accommodated within the building the subject of this retention application. The application form indicated that the development will accommodate 55 dairy cows and 55 young cattle. This is not actually the case however as it is further indicated that the calving boxes can accommodate a further 38 livestock units. Livestock units equates to 38 animals over 2 years old or up to 63 animals under 2 years old. As indicated above, I am concerned the existing numbers of animals have not been included in the figures, and in this regard, I consider that the scale of the operation at this location gives rise to significant concerns, and in particular, how it impacts on the existing residential amenity of the residents in the immediate area.”* This substitute application declares the livestock situation on site at the time of making this application.

8.6.10 However, as calves are born, numbers will temporarily increase on site, however farms are dynamic environments wherein numbers fluctuate routinely and the NMP reflects the stock numbers tested by the Department of Agriculture in 2021. In addition, the NMP has considered the storage capacity and the housing capacity on site also takes account of this.

8.6.11 Having regard to the foregoing and to the dynamic nature of farming, it is contended that the routine stock numbers on site in February of 464 is considerably less than stock numbers held in the

previous ten years (759 at its peak in 2015 before the Lalors switched to dairy farming), that the development represents the consolidation of an existing farmyard and improvements in animal husbandry and advances in farming practices in recent years.

8.6.12 The impact of the removal of the shed would have a detrimental impact on the operation of the farm and therefore the livelihood of the two families who rely upon the farm for their income. The scale of the farm, both Ironmills and Grennan, reflect modern advancements in technology, farming and Dept. of Agriculture minimum standards and the fact that two families rely on the farm for income. It is not an industrial-scale development, it is a family farm upon which John Lalor and his family live and work.

8.7 Proximity to Adjoining Neighbours

8.7.1 The subject farmyard has been in situ, alongside the Brennans' farmyard, as long as it's been in the ownership of the Lalor family, over the generations. The Brennan's house is over 110m as the crow flies from the subject shed and is located at the furthest point from their home, within the existing farm complex.

8.7.2 The Brennans' complaints and appeal during the earlier planning processes, make claim to the fact that the subject site has intensified operations on the farm, but they make no reference to the fact that it has been proven by the stock records, which are formalised by the Dept. of Agriculture under the herd number process, that stock numbers have reduced considerably on Grennan and Ironmills since the changeover to dairy, which coincides with the construction of the subject shed. The beef farming at Grennan gave rise to significantly more meal lorries, transportation of stock etc. and the Brennan family acknowledged this in the 17218 file.

8.7.3 As shown in an aerial image of the farmyard and the adjoining Brennan farmyard in section 8.3.3 of this report, the shed is separated from the Brennans' home by a myriad of existing tall farm structures, a significant tree line, Patricks uncle's two storey farmhouse and their own dairy, milking parlour and cubicle sheds.

8.7.4 The fact of the matter stands that nuisance from their own sheds, milking machine and dairy, in such close proximity to their home would have a much greater impact on their own home, than the Lalors' shed ever could just by virtue of their locations. In addition, the Brennans' milking machine would be considerably louder than the Lalor's as the Brennans' machine is an old one.

8.7.5 Not only is there numerous buildings between the Brennan's house and the subject shed, the shed cannot even be seen from the Brennans premises owing to the height and placement of the existing farm structures and the old farmhouse in the Lalors' farmyard.

8.7.6 The subject shed was designed to keep open feeding areas and collecting areas away from the elevations closest to the Brennans yard. There are no active external areas i.e. feeding areas on the

eastern elevation or northern elevation and the shed was designed so that any potential disturbances possible, would occur as far away from the Brennan's yard and house.

8.8 Noise

8.8.1 A Noise Impact Assessment (NoIA) was carried out by Panther Environmental Solutions Ltd. for the 2019 application to Laois County Council and is relied upon for the subject development and substitute consent application as there have been no changes to farming operations since that time i.e. the dairy farming had commenced some 2 years prior to the NoIA and had a noise reducer fitted to the milking machine at the time.

8.8.2 A 24hr noise monitor was set up at the entrance to the Lalors' farmyard, along with 6 noise source monitors. The closest monitor to the Brennans' house was the 24hr noise monitor.

8.8.3 The subject site was assessed for 'Quiet Area Screening' and it was classified as not being in a "Quiet Area", but would be considered a "low background noise area".

8.8.4 The report notes that routine traffic to the Lalor's farmyard would continue as it would've if they were still operating a beef farm on site i.e. John Lalor would still access the farm daily, as he would always have done to feed cattle, the milk lorry attends the Brennan farm anyhow, so this would be considered a shared service between the yards, however the beef demands on meal and the movement of stock would have been far greater than the current dairy operation.

8.8.5 The report determines that intermittent new traffic could be expected in terms of bringing calves to the mart, for repairs/servicing of equipment on site or visits from the vet due to illness. The report also argues however that trips to the mart and trips from the vet, the meal lorry and some traffic associated with silage were also part of the existing operations on the beef farm at this location for many years prior, particularly given that beef farming is far more intensive from a traffic perspective.

8.8.6 Increased traffic was anticipated in relation to the transporting slurry to spreadlands, however slurry generated in Grennan is not transported out of the farm, it is spread on the lands adjoining the Grennan farm, outside the SAC and so generates no noise concerns for the neighbours. The collection of and bringing the silage into the pit during harvest will continue as it has always been, however, silage harvesting occurs over short periods and would not be a daily occurrence. The Brennans' farm operations would give rise to similar types of traffic on the laneway during these times also.

8.8.7 The NoIA outlines *"It should be noted that the Lalor farm has been in operation for many years prior to the construction of the buildings to which this retention application applies. Therefore, due to synergies with existing operations, there is not a direct pro-rata correlation between the increased numbers of animals housed and an increase in noise generated."* This is a very important point to note. Traffic already associated with the permitted part of Lalors' farmyard such as tractor movement, the meal lorry, vet visits, transportation of animals between

Grennan and Ironmills, silage and livestock for sale alongside the noise generated within the Brennan farmyard is actually the baseline for this area, as farming is a long-held tradition on both sites.

8.8.8 The report also states *“The adjacent residence is associated with a similar dairy farming hub, and identical operations and traffic types would continue to occur in the access lane. Therefore, while there may be an increase in some types of farm traffic, the noise character would remain the same.”*

8.8.9 The principal change to the baseline noise background is the milking equipment. Milking is done twice daily by John Lalor, morning and evening and is turned off at all other times. In this regard the report outlined findings that *“Noise from the operating equipment was not audible at the farm entrance near the closest noise sensitive receptor (SN6) and monitoring showed no significant influence upon existing average noise levels. The negligible influence during the assessment period are due to the intervening farm buildings blocking noise, and distant noise from traffic and tractors operating in fields. A tractor operating in the vicinity of the adjacent third-party farmyard intermittently added to the noise environment in the area.”* (own emphasis)

8.8.10 The report sets out *“Taking into account the distance between the milking parlour and NSR1 and barrier attenuation from intervening buildings, it has been predicted that noise from milking equipment would result in a noise level of 28 dB L_{A,r,T} at NSR1. During times of low background noise, it is predicted that milking parlour noise would range from 5 dBA to 0 dBA below background noise levels during the day-time, evening and night-time. At these noise levels, it would be anticipated that the milking parlour would be lowly audible at external locations to the west and south of the NSR1 residence.”* The impact of the milking parlour on the adjoining residence is negligible and would not be audible at all if the milking parlour door was closed during operation. Patrick Lalor and his family undertake to keep the milking parlour door closed during milking, in order to ensure that the milking parlour gives rise to no impact on their neighbours.

8.8.11 The noise report assumes that higher stock numbers in the change to dairy will occur, but the details submitted with this application have proven that stock numbers have decreased as a result of the change to dairy farming on site. In any event the report sets out that *“Therefore, it is considered that the operation of tractors at the new development would not significantly alter the existing noise environment of the area.”*

8.8.12 The report concludes the assessment on tractor activity by stating *“As tractor activity was an established part of the noise environment prior to the proposed development and predicted internal room noise levels at NSR1 are in compliance with the BS8233 noise standard, it is considered that noise from farmyard tractors would not have a significant impact upon the noise sensitive receptor.”*

8.8.13 The report assesses the noise impacts from pass-by traffic on the access lane, outlining the opportunity to divert agricultural traffic inside the ditch on a farm track to the south of the cul-de-sac,

approximately 15m from the centre of the road, thereby moving traffic further from the noise sensitive receptor, a decrease of 9 dBA from existing levels. This is an option available to the Board, along with the option to require the installation of farm speed bumps on this track, if the Board consider it is warranted. However it is considered that given traffic movements have reduced considerably on the lane since changing to dairy farming, there should be no need to alter the access arrangements for less traffic than the Lalors have permission to operate at.

8.8.14 The report concludes that *“there would be no significant change in the existing noise environment as a result of traffic from the retention of the proposed development as it is currently constructed, as the frequency of use of the lane would not change significantly and the character of the traffic noise would be similar.”* The report outlines that the option of diverting Lalor’s farm vehicle traffic to a farm track just south of the ditch bounding the cul-de-sac is an option, but noise levels would still exceed recommended noise levels due to tractors and lorries accessing the Brennans’ own farmyard behind the noise sensitive receptor (NSR1).

8.9 Traffic

8.9.1 A traffic survey of the subject cul-de-sac serving the Lalors’ farmyard and the Brennans’ dwelling and farmyard was carried out by Traffinomics and all vehicle movements on the cul-de-sac were recorded from 17/09/19 to 24/09/19.

8.9.2 The total number of vehicle movements attributed to the applicants farm over the 8 day period was 15, this is less than 2 per day.

8.9.3 The total number of vehicle movements attributed to the Brennans farm over the 8 day period was 164, this is an average of 20 per day.

8.9.4 The average number of traffic movements on the lane during the survey period was 22 per day, of which 20 arose from the Brennan’s own premises. The survey shows that the traffic movements on the public road are on average insignificant.

8.9.5 The Traffinomics survey shows the movements of the milk lorry on the public road and the route it takes. The milk lorry attended 4 trips to both the Brennan and Lalor farms between 3am and 4am on the 17/09, 19/09, 21/09 and 23/09.

8.9.6 The route of the milk lorry is shown to be as follows: drives towards Lalors farm, opens the gate, drives into the Lalor yard just enough to be able to reverse into the Brennan yard for their collection. The milk lorry then drives into Lalors yard, collects their milk, closes the gate and drives back out the cul-de-sac.

8.9.7 Given that the same milk lorry collects from both farmsteads in the same trip, the traffic impact on the Brennan family is negligible.

8.9.8 In the event that the shed is refused substitute consent and the Lalor family have to revert to beef farming, the historic pattern with regard to the much higher volumes of traffic associated with the operation of the beef farm will resume on site.

8.9.9 The change of use from beef to dairy, the associated milking parlour and milk collections have had no significant impact on the traffic volumes generated by the Lalor farm. It is accepted that during silage harvesting there is a temporary increase in traffic on the laneway, but would not exceed the traffic generated by the Brennan farmyard and house adjoining the subject site.

8.10 Odour

8.10.1 An Odour Impact Assessment Report (OIAR) was carried out by Panther Environmental Solutions Ltd. in February 2019 and three Odour Sensitive Locations (OSLs) were chosen namely the boundary with the Brennan's lands, a residence to the north-east and a residence to the south-east.

8.10.2 The report sets out that *"Odour sources at the new development area seeking retention were found to be of lower or similar intensity and persistence to the existing farmyard area. While the new development would increase the in-combination effect of odour generation from the farmyard, it is considered that this would only be a notable deviation from the existing conditions at the site in the event of poor housekeeping standards, or during annual removal of slurry/manure."*

8.10.3 The OIAR outlines that at the OSL closest to the Brennans' house, there was no odour persistence and no odour intensity as no odours were detected. *"The closest residential location to the development proposed for retention is 113m east-north-east (OSL3). On the day the assessment was undertaken no odour, of persistence or intensity was detected from the development to be retained was perceived at OSL3."*

8.10.4 In fact the report sets out that *"No odours related to the on-site sources were detected at any of the three odour sensitive locations (OSL's), which during the monitoring periods, one was crosswind, one was down/cross wind and one was downwind of the principal odour sources."*

8.10.5 The OIAR concludes that *"Therefore, facility related odours detected at odour sensitive locations off-site were below the "threshold that could indicate nuisance" as per the EPA AG5 Guidance methodology."* In this regard, the concerns of the third party and the inspector have been assessed and it has been proven that the subject shed does not give rise to an odour nuisance for any of the three nearest neighbouring dwelling houses and a number of recommendations were set out in the report, which were all employed by the Lalors as best practice activities on a farmyard, in advance of the report being commissioned.

8.11 Residential Amenity

8.11.1 The subject shed seeking substitute consent is part of a well-established overall farm holding, in an area where agriculture is the dominant land use. John Lalor's home is located on this farm complex, should the dairy shed have to be removed, he will be in grave danger of losing his home. The Lalors' farm at Grennan was a busy beef enterprise prior to changing to dairy in 2017 and they have fallen foul, through no fault of their own, of the planning system and the European Sites, despite their best efforts to ensure their development was in the best interests of all necessary considerations. Their own residential amenity has been seriously affected as a result of this deleterious planning error.

8.11.2 The adjoining neighbours, the Brennan family, are dairy farmers themselves and their dairy, milking parlour and sheds are situated between their own house and the Lalor's subject development.

8.11.3 Having regard to the contents of this report thus far, stock numbers on the Lalor's farm are lower than when they were beef farming and it is evident that the works carried out improve the efficiency and viability of the farm and actually reduce the possibility of negative environmental effects.

8.11.4 The subject development is located as far away from the Brennan dwelling as possible within the Lalors' existing farm complex and cannot be seen from the Brennans' home and is therefore does not visually detract from their established amenity.

8.11.5 Noise, odour and traffic assessments have all been carried out and each of these assessments analyse any possible negative impact on the Brennans' residential amenity, prior to the construction of the subject shed. It was concluded that, having regard to the established dairy farm at the Brennan home, the baseline in terms of agricultural traffic on the cul-de-sac, and the nature of the established farming activities at the Lalor farm complex, the retention via substitute consent of the subject shed has not and would not detract from the Brennans' residential amenity in any significant manner.

8.11.6 As regards other potential negative impacts on residential amenity, the established nature of this farm complex and the agricultural character of the immediate area where there is a tradition of farming practice with associated farm buildings and structures is noted. In addition, regard has been taken to the extant agricultural buildings on the Lalor farm in closer proximity to the Brennans' lands, the beef farm run on the subject site since the 1940's and the associated practices already established on Lalors' farm at Grennan.

8.11.7 It is considered that no significant increased loss of residential amenity or other nuisance arises as a result of the operation of the subject shed, particularly when taken in the context that the Brennan family are operating a dairy farm also, which immediately adjoins their own home and acts as buffer between the Brennan landholding and the subject shed. It is considered that, subject to continued good farm management and practices, along with the recommendations made by the various reports attached to this application, no significant negative amenity impacts are likely to detract from the Brennans' established residential amenity.

9.0 Conclusion

9.1 The subject development has been assessed in terms of its impacts during construction, impacts arising from the operation of the development and those into the future if operations on site could continue in the shed.

9.2 The Lalor family, given their existing farm practices on site and the stock levels accommodated within the farm complex up to this juncture, were never in any doubt that the consolidation of the existing farmyard in the change to dairy farming was the right location for the development. The existing farmyard at Grennan had sheds, slurry storage, a feeding silo, power and water, whereas nowhere else on the Grennan farm had an established working farmyard, within which there would be synergies from existing facilities on site.

9.3 The Lalor family, despite doing everything right, have become a victim of the planning system and have lost 5 years of their life to the fear of the unknown, the cost of trying to make things right and the concern that they might lose the farm and their home at Grennan because of misinformation provided to them, mistakes on the part of the Planning Authority and the length of time it has taken to even get to this stage of making amends. The Lalor family are a law-abiding, compliance-driven, hard working country family who have never set a foot wrong and are deeply troubled by the entire process and the fear of the unknown for their future.

9.4 A SWMP has been carried out in terms of assessing the potential for run-off to give rise to any impacts on the local biodiversity and in turn the Natura 2000 sites, however the shed was constructed with a surround, which feeds all soiled run-off into the tanks below. The clean surface water is to be piped and discharged to a soakpit within the existing farm complex. The SWMP concludes that the subject development would not result in an adverse impact to any Natura 200 sites or any other waterbodies in the area.

9.5 The NMP is emphatic in its assessment of the farm operations and stock numbers on site, that the retention of the shed will not give rise to the need to spread slurry within the SAC or those lands directly adjoining it. The NMP provides clarity on stock numbers, the ability of the farm holding to facilitate changes in the numbers of stock between Grennan and Ironmills and gives full details on the slurry, soiled water and surface water management, which has then been assessed in the rNIS.

9.6 The rNIS has, through the analysis of the detail provided in the SWMP, the NMP and the facts set out by the operation of the farm i.e. spreadlands, export of manure from Ironmills etc., along with recommendations contained therein, have facilitated the proposed mitigation measures in the rNIS which ruled out any adverse effects on the conservation interests or conservation objectives or the integrity of the River Barrow and Nore SAC / SPA, or any other Natura 2000 sites.

9.7 Having regard to the foregoing, it is contended that the routine stock numbers on site in the herd test of 2021 of 464 is considerably less than stock numbers held in the previous ten years, that the development represents the consolidation of an existing farmyard and advances in farming practices

in recent years and is acceptable in terms of its scale, particularly in the context of the established farm activities on the site and adjoining and neighbouring land uses.

9.8 The NoIS outlines that the noise from the milking equipment and tractor activity in the farmyard (which was an established part of the noise environment prior to the proposed development) would not have a significant impact on the Brennan home. It also outlines that existing maximum pass-by traffic noise along the lane would remain unaltered, due to tractors and lorries accessing the Brennan farmyard and so no change in the noise levels would result from the retention of the proposed development.

9.9 The proximity of the subject shed to the Brennan landholding was the maximum distance the Lalors could obtain, while utilising the existing farm complex. The proximity of the shed, at more than 100m from the Brennans' home, benefits from barrier attenuation from intervening farm buildings in the Lalor farm complex, Patrick Lalor's uncles two-storey farmhouse, a significant tree stand and the Brennan's own dairy, milking parlour and animal housing sheds. In addition, noise, odours and disturbance is downwind to the northeast of the subject shed, which offers further protection to the Brennan family as the prevailing winds in the area are south-westerly, south and westerly.

9.10 The change of use from beef to dairy farming, the associated milking parlour and milk collections at Lalor's farm in Grennan has lessened traffic volumes generated by the Lalor farm. It is accepted that during slurry spreading and silage harvesting there is a temporary increase in traffic on the laneway, but would not exceed the traffic generated by the Brennan farmyard and house adjoining the subject site.

9.11 The OIAR outlines that odour resulting from the subject shed at the noise sensitive receptor established near to the farmyard and Brennan residence are unlikely to cause a nuisance as such odours would be *"synergistic with the ongoing farmyard operation at that location"*.

9.12 Having regard to the substantive consultants' reports attached to this application and the factual details contained in the application, it is considered that the development, if granted substitute consent, would not detract from the existing residential amenities of the residents living immediately adjacent to the site. Given the separation distance between the shed and the Brennan's home and the residential property, having regard to the access arrangements, together with the scale and established use at the farm yard, it is considered that the development can be accommodated without detracting from the existing residential amenities of the area.

9.13 Having regard to the foregoing and to;

- the nature, scale, and location of the proposed development which includes the collection and containment of all soiled water within the site and the separation of all clean surface water to a soak pit within the subject site, the elimination of the need to spread on lands within or adjoining the SAC and SPA, it is concluded that no Appropriate Assessment issues

arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site,

- the established use and scale of farming at Grennan for over 80 years,
- the compliant nature of the Lalor family, the misinformation provided to them in relation to planning, and the deleterious impact this process of retaining the shed has had on their lives,
- the history and continued operation of a dairy farm on the adjoining lands by the Brennan family,
- the surrounding farmlands and predominance of farming as an activity in the area,
- the elimination of traffic, noise, odour, disturbance, residential amenity and environmental concerns raised in previous applications, and
- the consolidation of the existing farm and reduction in stock numbers,

it is considered that, subject to compliance with the recommendations set out in the application and the mitigation measures set out in the rNIS, the proposed development seeking substitute consent would not seriously injure the amenities of the area or of property in the vicinity and would therefore be in accordance with the proper planning and sustainable development of the area.

Yours sincerely*,
*(*sent by email and accordingly bears no signature)*

Emma Pillion MIPI