REGISTERED POST

Ref No. 14/239

15/09/2014

Bogue Pigs C/o Paraic Fay C.L.W. Environmental Planners Ltd The Mews 23 Farnham St Cavan

APPLICATION:

PERMISSION to demolish all existing pig houses, with the exception of 4 existing pig houses which will remun in situ, and to construct 5 no. pig houses, and an extension to 1 no. existing pig house, in accordance with animal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development will be submitted with this application. This application relates to a development, which is for the purposes of an activity requiring a licence under part IV of the Environmental Protection Agency (Licensing)

Regulations 1994 to 2013

LOCATION:

Finaway Ballyjamesduff Cocavan

A Chara,

With reference to the above application Jam to inform you that the information submitted is not adequate to enable a decision to be made.

In accordance with the provisions of Article 33 of the Planning and Development Regulations 2001 – 2002 you are hereby requested to submit the further information as set out on the attached page.

The information requested is essential in order to fully assess the proposal and until this further information is received your application cannot be further considered.

Please note that the above application will be considered to be withdrawn after a period of 6 months from the date of this letter if the further information has not been submitted.

You are advised that you shall be required to give notice in an approved newspaper under article 35(1)(c) of the above Regulations that if the further information received is considered to contain significant additional data, and that, in such circumstances, the 4 week period for determining the application will run from the date the notice is published in the approved newspaper.

Senior Staff Officer.

Consent of copyright owner required for any other use.

4

FURTHER INFORMATION REQUEST

PLANNING REFERENCE NO: 14/239

- 1. Submit a detailed contents page for the EIS, which allows ease of reference for the report and highlight any amendments as a consequence of reply to this request for further information.
- 2. Submit a full and detailed response to the issues raised in the submission by the Inland Fisheries Ireland Shannon River Basin District, submission in response to the planning application and EIS. In particular, the further information shall address:
- The potential impact of this development in the context of the management, storage and disposal of pig slurries from this development and their potential to pollute the watercourses nearby and close to the spreadlands of the Lough Sheelin and the Mount Nugent River Catchment;
- Proof of consultation with Inland Fisheries Ireland in relation to the proposed activity;
- The EIS should present and describe baseline data on the relevant environment and demonstrate that potential Environmental impacts have been mitigated against;
- Revisit the EIS and provide a full description of the aquatic environment and assessment of potential impacts and appropriate mitigation measures in terms of the requirements of the EIS Regulations as follows:
 - '3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
 - 4. A description(1) of the likely significant effects of the proposed project on the environment resulting from:
 - the existence of the project.
 - the use of natural resources.
 - the emission of pollutants, the creation of nuisances and the elimination of waste, environment.
 - 5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
- The potential impacts from this development and associated activities should be considered in the context of the Water Framework Directive. This should include the interpretation of water quality data presented in Appendix 10 of the EIS.
- Provide an analysis of the existence of fish, aquatic life or inverterbrates which are present in the Mount Nugent River and its tributaries, including potential impacts of the proposed development;
- Provide an analysis of and interpretation of the Mount Nugent River water quality data, its tributaries and streams and that of the waters of Lough Sheelin.

- Provide a more detailed analysis of the third parties spreadlands and the potential for poor practice to impact on Lough Sheelin and other River catchments. In other words, the development should be considered in a more holistic sense and then mitigation measures should be proposed. The applicant should demonstrate how it is intended to ensure that third parties meet all the requirements of the Regulations S.I. 31 of 2014.
- Reference to the Cavan County Development Plan and the amenity value of Lough Sheelin should be recognized and discussed in the EIS.
- Proposals in relation to storm water discharges details of the separation systems and water drainage systems should be provided. (Refer to Further Information Item 2)
- Section 9.2 of the EIS concerning weekly monitoring of stormwaters is inadequate and should be redressed.
- The reference within the EIS to the reduction in stock numbers (e.g. in section 7.1.3 and section 4.2) is incorrect as currently there is no livestock on the subject site. This should be redressed in the text.
- The issue of the presence of drains and tributaries of the Mount Nugent River and their capacity to act as a vector to Lough Sheelin downstream from the site is not addressed in the EIS. Provide a detailed analysis of the above. Please redress this issue in the Appropriate Assessment Screening report and submit suitable qualifications of persons carrying out the AA screening report.
- Section 9.3 of the EIS refers to the designated areas in a general sense and are not specifically referred to or interpreted in the report, this should be redressed in detail.
- The potential impacts identified in section 1.1 of the Appropriate Assessment Screening Report are not carried through into the EIS. This should be redressed in detail.
- The IFI has concerns regarding the underground anks and monitoring of same, freeboard and sufficient capacity, particularly in relation to sub-terrainean flow of effluents, especially given the nature of pig slurry, tanks must be well constructed according to the Department of Agriculture Specifications, well maintained and tested at appropriate intervals. This should be clearly demonstrated with no discharges of contaminated waters to ground or surface waters from this development. A complete separation of gutter and uncontaminated roof waters from any contaminated water.
- Provide full details of surveys carried and works to be carried out to ensure that those structures that will not be replaced, particularly regarding effluent and slurry storage, measures to be put in place to ensure that any potential impacts are reduced.
- Provide full details of the silt trap and petrol interceptor to be installed on the site.
- Provide full details of storage and management of any feed stuffs on site should also be provided as animal feeds can be a potential source of pollution.
- Provide full details regarding the demolition of existing units and construction of new
 units and the potential for pollution to occur at this stage, particularly in terms of run off
 of suspended solids, concrete for tanks, the potential for infiltration of ground water to
 excavations and contingency for same and settlement.
- Provide an estimate of Total pig numbers within the EIS along with clear calculations in relation to the amount of slurry generated.
 - 3. Submit revised drawings and supporting details which fully demonstrate the proposed surface water drainage system to serve the proposed development, including infrastructure serving same (e.g. silt traps) as well as all discharge points to waters. Provide confirmation that the disposal and or disturbance of any asbestos utilised in the existing farm building structures or dwelling shall only be carried out in accordance with the appropriate regulations and under the supervision of an appropriately qualified person.

- 4. Submit a detailed survey which addresses the following: Identify and quantify the extent of ACM's (Asbestos Containing Materials) and describe what appropriate measures are put in place to ensure that ACM's are dealt with appropriately in terms of removal and handling, temporary storage of roof sheeting prior to removal off-site/reuse. This should include details of appropriate precautions to be taken in the removal, handling, packaging and disposal of this material.
- 5. Submit a detailed response to the objectors' concerns regarding anticipated noise levels and air pollution (odour) eminating from the site.

Planning Advice: The Planning Authority wishes to advise that in terms of consultation in relation to the preparation of the Environmental Impact Statement, the applicant should consult with Inland Fisheries Ireland (IFI) for the Shannon River Basin District and the Department of Arts, Heritage & the Gaeltacht – National Parks & Wildlife.

In addition, you are required to ensure that the EIS report and any amendments, are in accordance with the Advice Note on Current Practice in the preparation of Environmental Impact Statements. (September, 2003)

Senior Staff Officer.

Please submit10 no. copies of all documentation and drawings.

3

Consent of copyright owner required for any other use.

PLANNING AND DEVELOPMENT ACTS, 2000 - 2004

Chief Executive's Order No:

PL 94, 221

Reference Number:

14/239

Name of Applicant:

Bogue Pigs

Address:

C/o Paraic Fay

C.L.W. Environmental Planners Ltd

The Mews 23 Farnham St

Cavan

Nature of Application:

PERMISSION to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ, and to construct 5 no. pig houses, and an extension to 1 no. existing pig house, in accordance with animal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development will be submitted with this application. This application relates to a development, which is for the purposes of an activity requiring a licence under part IV of the Environmental Protection Agency (Licensing) Regulations

1994 to 2013 Consei

Location of Development: Finaway Ballyjamesduff Co Cavan

ORDER:

I hereby order that pursuant to the provisions of the Planning and Development Acts, 2000 -2004 and Article 33 of the Planning and Development Regulations, 2001 to 2002, the further information set out on the attached schedule be requested from the applicant.

SENIOR STAFF OFF

15/09/2014

Consent of copyright owner required for any other use.

FUR HER INFORMATION REQUEST

PLANNING REFERENCE NO: 14/239

- 1. Submit a detailed contents page for the EIS, which allows ease of reference for the report and highlight any amendments as a consequence of reply to this request for further information.
- 2. Submit a full and detailed response to the issues raised in the submission by the Inland Fisheries Ireland Shannon River Basin District, submission in response to the planning application and EIS. In particular, the further information shall address:
- The potential impact of this development in the context of the management, storage and disposal of pig slurries from this development and their potential to pollute the watercourses nearby and close to the spreadlands of the Lough Sheelin and the Mount Nugent River Catchment;
- Proof of consultation with Inland Fisheries Ireland in relation to the proposed activity;
- The EIS should present and describe baseline data on the relevant environment and demonstrate that potential Environmental impacts have been mitigated against;
- Revisit the EIS and provide a full description of the aquatic environment and assessment of potential impacts and appropriate mitigation measures in terms of the requirements of the EIS Regulations as follows:
 - '3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
 - 4. A description(1) of the likely significant effects of the proposed project on the environment resulting from:
 - the existence of the project,
 - the use of natural resources,
 - the emission of pollutants, the creation of nuisances and the elimination of waste, environment.
 - 5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
- The potential impacts from this development and associated activities should be considered in the context of the Water Framework Directive. This should include the interpretation of water quality data presented in Appendix 10 of the EIS.
- Provide an analysis of the existence of fish, aquatic life or inverterbrates which are present in the Mount Nugent River and its tributaries, including potential impacts of the proposed development;
- Provide an analysis of and interpretation of the Mount Nugent River water quality data, its tributaries and streams and that of the waters of Lough Sheelin.

- Provide a more detailed analysis of the third parties spreadlands and the potential for poor practice to impact on Lough Sheelin and other River catchments. In other words, the development should be considered in a more holistic sense and then mitigation measures should be proposed. The applicant should demonstrate how it is intended to ensure that third parties meet all the requirements of the Regulations S.I. 31 of 2014.
- Reference to the Cavan County Development Plan and the amenity value of Lough Sheelin should be recognized and discussed in the EIS.
- Proposals in relation to storm water discharges details of the separation systems and water drainage systems should be provided. (Refer to Further Information Item 2)
- Section 9.2 of the EIS concerning weekly monitoring of stormwaters is inadequate and should be redressed.
- The reference within the EIS to the reduction in stock numbers (e.g. in section 7.1.3 and section 4.2) is incorrect as currently there is no livestock on the subject site. This should be redressed in the text.
- The issue of the presence of drains and tributaries of the Mount Nugent River and their capacity to act as a vector to Lough Sheelin downstream from the site is not addressed in the EIS. Provide a detailed analysis of the above. Please redress this issue in the Appropriate Assessment Screening report and submit suitable qualifications of persons carrying out the AA screening report.
- Section 9.3 of the EIS refers to the designated areas in a general sense and are not specifically referred to or interpreted in the report, this should be redressed in detail.
- The potential impacts identified in section 1.1 of the Appropriate Assessment Screening Report are not carried through into the EIS. This should be redressed in detail.
- The IFI has concerns regarding the underground tanks and monitoring of same, freeboard and sufficient capacity, particularly in relation to sub-terrainean flow of effluents, especially given the nature of pig slurry, tanks must be well constructed according to the Department of Agriculture Specifications, well maintained and tested at appropriate intervals. This should be clearly demonstrated with no discharges of contaminated waters to ground or surface waters from this development. A complete separation of gutter and uncontaminated roof waters from any contaminated water.
- Provide full details of surveys carried and works to be carried out to ensure that those structures that will not be replaced, particularly regarding effluent and slurry storage, measures to be put in place to ensure that any potential impacts are reduced.
- Provide full details of the silt trap and petrol interceptor to be installed on the site.
- Provide full details of storage and management of any feed stuffs on site should also be provided as animal feeds can be a potential source of pollution.
- Provide full details regarding the demolition of existing units and construction of new
 units and the potential for pollution to occur at this stage, particularly in terms of run off
 of suspended solids, concrete for tanks, the potential for infiltration of ground water to
 excavations and contingency for same and settlement.
- Provide an estimate of Total pig numbers within the EIS along with clear calculations in relation to the amount of slurry generated.
 - 3. Submit revised drawings and supporting details which fully demonstrate the proposed surface water drainage system to serve the proposed development, including infrastructure serving same (e.g. silt traps) as well as all discharge points to waters. Provide confirmation that the disposal and or disturbance of any asbestos utilised in the existing farm building structures or dwelling shall only be carried out in accordance with the appropriate regulations and under the supervision of an appropriately qualified person.

- 4. Submit a detailed survey which addresses the following: Identify and quantify the extent of ACM's (Asbestos Containing Materials) and describe what appropriate measures are put in place to ensure that ACM's are dealt with appropriately in terms of removal and handling, temporary storage of roof sheeting prior to removal off-site/reuse. This should include details of appropriate precautions to be taken in the removal, handling, packaging and disposal of this material.
- 5. Submit a detailed response to the objectors' concerns regarding anticipated noise levels and air pollution (odour) eminating from the site.

Planning Advice: The Planning Authority wishes to advise that in terms of consultation in relation to the preparation of the Environmental Impact Statement, the applicant should consult with Inland Fisheries Ireland (IFI) for the Shannon River Basin District and the Department of Arts, Heritage & the Gaeltacht – National Parks & Wildlife.

In addition, you are required to ensure that the EIS report and any amendments, are in accordance with the Advice Note on Current Practice in the preparation of Environmental Impact Statements. (September, 2003)

Senior Staff Officer.

Please submit10 no. copies of all documentation and drawings.

3

Consent of copyright owner required for any other use.

MEMORANDUM

From

Eve Harrison

To

Marice Galligan

A/Senior Planner **Planning Section**

Executive Planner

Date

15th September 2014

Planning Reg. No:

14/239

Applicant:

Bogue Pigs

Type of Application:

Permission

Development Description:

to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ, and to construct 5 no. pig houses, and an extension to 1 no. existing pig house, in accordance with animal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development will be submitted with this application. This application relates to a development, which is for the purposes of an activity requiring a licence under part IV of the Environmental Protection Agency (Licensing)

Regulations 1994 to 2013.

Engineering Area:

Cavan

SITE LOCATION AND DESCRIPTION

Proposed site is located on local secondary road in the townland of Finaway (Finishing Site), The proposed development is located within a long established Ballyjamesduff, co. Cavan. pig farm complex.

A site notice was erected on date of site inspection and was visible and legible from the public road.

DEVELOPMENT PLAN POLICY

Proposed site is located in a rural area outside of any designated town/village.

The policy regarding agricultural development, as contained in the current Cavan County Development Plan (2014-2020), Chapter 3 – Economic Development, Section 3.4 – To consider, facilitate and encourage the sustainable development of agricultural enterprises, agri-tourism projects and farm diversification and other suitable proposals that support the development of alternative rural enterprises.

PLANNING HISTORY:

06/2449: Maguire Pig Farms - decommission 3 no existing pig fattening house and construct 2 no replacement pig fattening houses in order to aid compliance with the incoming nitrates directive, together with all ancillary structures and associated site works on the site of existing pig farm. (development granted but not commenced)

07/710: Maguire Pig Farms - decommission 4no.existing pig fattening houses and construct Ino. replacement pig fattening house in order to aid compliance with the incoming Nitrates directive, together with all ancillary structures and associated site works on the site of existing pig farm. (development granted but not commenced)

PRE-PLANNING:

A meeting was held with the A/Snr. Planner – Marice Galligan; Assistant Planner – Ms. Laura Nulty and the applicants' agent – Pauric Fay, on the 10/06/2014.

The pre-planning discussions concerned the need for the applicant to undertake the preparation of an EIS.

SUBMISISONS:

Submission from Environmental Protection Agency EPA noted. Following comments made:

It appears that the location to which the planning application 14/238 relates, may be associated with the following licence issued by the EPA.

Mr Bernard Maguire was issued an IPPC Licence (Register No. P0427-01) on the 3rd January 2001 for pig rearing activities at Drumscadden, Crosserlough, co. Cavan and Duffcaste, Crosserlough, County Cavan.

On the basis of the information provided, the activity proposed in the planning applications will require a new licence under the EPA Acts (1992), as amended, and/or review of the licence mentioned above. The licensee has not yet applied to the Environmental Licensing Programme for a determination in this regard.

It is noted on the basis that the planning applications were accompanied by an EIS. The EIS appears to address the key points in relation to the environmental aspects of the proposed activity which relate to the matters that come within the functions of the Agency. It also appears to address the direct and indirect effects of the development on the aspects of the environment listed in Section 83(2A) (a) of the EPA Acts (please refer to the EU (Environmental Impact Assessment) Integrated Pollution Prevention Control) Regulations 2012 (S.I. No. 282 of 2012).

As part of it consideration of any licence or review application that may be received, the Agency shall ensure that before the licence or reviewed licence is granted, the licence application will be made subject to an Environmental Impact Assessment as respects the matters that come within the functions of the Agency and in accordance with Section 83(2A) and Section 87(1G)(a) of the EPA Acts. In addition, consultation on the planning application and EIS will be carried out in accordance with Section 87 (1B) to (1H) of the EPA Acts.

If and when a licence application is received by the Agency, all matters to do with emissions to the environment from the activities proposed, the licence application documentation and EIS will be considered and assessed by the agency.

Where the Agency is of the opinion that the activities, as proposed, cannot be carried, or cannot be effectively regulated under a licence then the Agency cannot grant a licence for such a facility. Should the Agency decide to grant a licence in respect of the activity, as proposed, it will incorporate conditions that will ensure that appropriate National and EU standards are applied, and that Best Available Techniques (BAT) will be used in the carrying on to the activities.

You are advised of the following documents:

- BREF on Intensive rearing of Poultry & Pigs
- National legislation regarding emissions.

In accordance with EPA Acts, the Agency cannot issue a Proposed Determination on a licence application relating to the development until a planning decision has been made – requested to provide the documentation relating to the EIA carried out to the Agency under Section 173A(4) of the Planning & Development Acts 2000, as amended.

Inland Fisheries Ireland - Shannon River Basin District: Submitted the following response: In response to the referral of the application for the above development and having considered the content Inland Fisheries Ireland (IFI) has the following points to make:

Inland Fisheries Ireland is a statutory agency with responsibility under the provisions of the Fisheries Acts for the protection, management and conservation of Ireland's inland fisheries resource. The fisheries resource is also protected under national and EU-legislation.

The existing pig unit at this site is located in the Sheelin eatchment, close to tributaries of the Mount Nugent River, with the Finaway River, a tributary of the Mount Nugent flowing through the site. The site is currently derelict and has been for a number of years now. Lough Sheelin is a trout fishery located in counties Cavan, Meath and Westmeath, with a surface area of 1855 ha, and a total catchment area of c.24,900 ha. The catchment of characterised by intensive agriculture and the soils in the Lough Sheelin catchment have a poor hydraulic infiltration capacity, surface run-off is frequent causing manures and fertilisers to be washed off to surface water streams. ability to retain phosphorus. The lake has shown signs of eutrophication since the early 1970s.

Lough Sheelin and the catchment area it drains is an important natural resource with significance for fisheries, angling, tourism, amenity use and nature conservation. IFI are committed to the continual monitoring and the introduction of measures to improve and work towards restoring the water quality status of Lough Sheelin and endeavour to achieve the restoration of the lake as a premium trout fishery. Sheelin is also one of the few waterbodies identified in the Water Framework Directive (WFD) monitoring programme as a river lake interaction site to measure the nutrient loading to some major lakes (EPA, 2006).

The lake is amongst the twelve lakes in Western Europe capable of supporting substantial stocks of large wild brown trout (O'Grady, 2000). The high pH of this limestone lake, combined with its low average depth profile gives it a unique trout producing potential.

Studies have shown that the Mount Nugent River and its tributaries is one of the major contributors of nutrients to Lough Sheelin (Lough Sheelin and its catchment, Water Quality Status and Nutrient Loadings 1998-2005, Kerins *et al*, 2007)

In the late 1990's the Shannon Regional Fisheries Board conducted fisheries enhancement works in the Finaway River, to increase the carrying potential in relation to juvenile trout stocks by improving nursery habitat in the Finaway River. These juvenile fish are an important component of the Lough Sheelin trout fishery, with the Mount Nugent River being one of the major spawning arteries of the

Sheelin trout fishery. The works cost in the region of €40,000 and were carried out from the R194 (upstream of this development site) through the site and downstream covering a 1.5 km stretch.

IFI is seriously concerned about the suitability of this site for intensive agriculture, given that the Finaway River runs through the site.

Notwithstanding the comment above IFI's is also highly concerned in relation to management, storage and disposal of pig slurries from this development and their potential to pollute watercourses nearby and close to the spreadlands. It is noted that Inland Fisheries Ireland were not consulted at the scoping stage despite the presence of the Finaway River within the site. And the potential for the development to impact negatively on water quality and fisheries within the Mount Nugent River and Lough Sheelin through spreading of slurry.

In general IFI would welcome the upgrade of facilities based on animal welfare requirements, once all environmental aspects of the development were satisfactory and IFI were satisfied with the EIS. The works on this site represent the construction of some new pig production units and there is no longer one in operation on site. An adequate EIS must be produced to present and describe baseline data on the relevant environment and demonstrate that potential Environmental impacts have been mitigated against.

Environmental Impact Statement and description of water quality, fish stocks and aquatic

With regard to the Environmental Impact Statement (EIS) IFI contends that the description of the current environment and all waters which may be impacted on in terms of all fish species, fisheries habitat and spawning grounds and aquatic habitat including the sparian zone is inadequate. The Environmental Impact Statement forms a legal document, the EIS supplied in this instance is lacking in specific description of the aquatic environment and assessment of potential impacts and appropriate mitigation measures. The EIS regulations require:

- 3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
- 4. A description(1) of the likely significant effects of the proposed project on the environment resulting from:
- the existence of the project,
- the use of natural resources.
- the emission of pollutants, the creation of nuisances and the elimination of waste,

and the description by the developer of the forecasting methods used to assess the effects on the environment.

5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.

At the very minimum a desktop study should have been conducted, the relevant data should have gathered together and interpreted to compile a picture of and commentary on the Water Quality status, fisheries and aquatic habitat. The potential impacts from this development and associated activities should have been considered in the contact of the Water Framework and meeting targets under the Water Framework Directive. The water quality data presented in appendix 10. is not interpreted or integrated in any way to the EISs or discussed in the

context of this application and wfd status. It would have been appropriate to obtain data gathered at the site as part of the previous IPC licence and interpret this.

Fish are an indicator species under the Water Framework Directive and the presence and abundance of fish species forms part of a waterbodies status under the WFD, particularly in relation to lakes, such as Lough Sheelin. It is therefore imperative that the fisheries status or the lake and its tributary streams is protected and conserved.

The monitoring carried out by IFI or other agencies is not a substitute for the monitoring and sampling which should be carried out by the applicant under the terms and conditions of any IPC licence. The author of the EIS is clearly aware of sampling taking place within the area, why then does he not make any attempt to comment on the presented water quality data for the Mount Nugent stream. (See Appendix 10.)

There is no mention of fish, aquatic life or invertebrates either within the Finaway River or the Mount Nugent River. This is entirely inappropriate as both the Finaway and Mount Nugent Rivers are salmonid watercourses.

The Finaway River has shown excellent spawning in recent years with excess of 100 wild brown trout spawning redds were recorded in the Finaway River adjacent to and upstream of the piggery in the winter 2013/2014.

There are no comments on or specific interpretation of the Mount Nugent River water quality data, its tributary streams or Lough Sheelin, just a mass of general data about the water framework directive and trends in County Cavan.

P 52 does recognise that the farm is within the Sheelin catchment, it fails to recognise the link between the watercourse, the Finaway River flowing through this site, the Mount Nugent Stream and Lough Sheelin.

The statement made on p. 2, third parate: pig numbers at the farm is misleading as there are currently no pigs at the farm, the numbers refer to those previously at the farm or within the IPC licence.

Inadequate consideration is given to third parties spreadlands and the potential for poor practice to impact on Sheelin and other River catchments. There is a need for the development to be considered in a holistic sense, comments made on p.71 do not demonstrate any recognition that poor spreading practices could impact negatively on water quality, and consequently no mitigation measures or controls are proposed, other than making sure that parties organic wastes are aware of the Nitrates Directive. It is not clear how the applicant intends to ensure third parties meet all requirements of SI 31 of 2014.

In relation to the comment made regarding Cavan County Development Plan and amenity areas, this is misleading, see details below (from the Cavan County Development Plan) regarding the amenity value of Lough Sheelin, this should be recognised and discussed within the EIS.

Major Lakes and Lake Environs

There are nine major lakes and environs. These lakes have amenity value due in part to their size and location within a scenic landscape and their recreational value.

Major Lakes & Environs

Landscape Character Area No.

I.	Lough McNean	Area 1 Cuilcagh-Anierin Uplands
2.	Lough Sillan	Area 4 Drumlin Belt & Uplands of E. Cavan
3.	Lough Sheelin	Area 3 Lake Catchments of South Cavan
4.	Lough Ramor	Area 3 Lake Catchments of South Cavan
5.	Lough Skeagh	Area 5 Highlands of East Cavan
6.	Lough Nadreegel	Area 3 Lake Catchments of South Cavan
7.	Lough Oughter	Area 2 The Lakelands
8.	Lough Gowna	Area 2 The Lakelands
9.	Bracklev Lough	Area I Cuilcagh-Anierin Uplands

In relation to proposals for monitoring and sampling of surface water quality in the Finaway River and storm water discharges these are not sufficiently detailed. In fact no proposals are presented in relation to sampling of the Finaway River. IFI requires that details of the monitoring programme referred to in section 9 be supplied in advance of any grant of planning, giving sampling locations, frequencies and parameters tested. The proposal in Section 9.2 regarding visual weekly monitoring of storm waters is inadequate.

Para 3 clearly states that activities at this site have not had any adverse impact on any of these sites (Sheelin), impacts have been detected in the Finaway River, which in turn would impact on the nutrient loading in Lough Sheelin and its water quality status. Comments made on p.52 (3rd paragraph) and section 7.13. are incorrect and fail to recognise that, following a fish kill on the Finaway River in 1992 the previous owners of this site were successfully prosecuted for Water pollution at this site. Therefore Water Quality has been impacted upon in the past by piggery operations at this site. This is a real risk and must be assessed and mitigated against to prevent a future re-occurrence.

Contrary to the statement in section 7.1.3 the applicant is not reducing stock numbers, as the farms are currently derelict.

It is stated that the pig farm is located a reasonable distance from any such areas, however again the presence of the Finaway River (and its capacity to act as a vector to Lough Sheelin downstream) within the site seems to have been completely overlooked. Appendix 6 shows that many of the spread lands are in the Mount Nugent catchment.

In relation to the designation of Lough Sheelin as a Natural Heritage area and SPA in section 9.3 these designations are not specifically referred to or interpreted within the EIS in the context of this development, they are just shown on a general map showing all in Cavan copied from Cavan county development plan.

The potential impacts identified in section 1.1 of appropriate assessment not carried forward to EIS.

The statement made in section 4.2 regarding a reduction in overall activity on the site is not accurate as there are currently no pigs on either site.

Site layout, Management and Construction

Given the close proximity of this site to the Finaway River, IFI would have concerns about underground tanks and monitoring of same, freeboard and sufficient storage capacity.

IFI has concerns about sub-terrainean flow of effluents, especially given the nature of pig slurry, tanks must be well constructed according to Department of Agriculture Specifications, well maintained and tested at appropriate intervals.

There should be no discharges of contaminated waters to ground or surface waters from this development. There must be complete separation of gutter and uncontaminated roof waters from any contamination waters.

There are no details provided on surveys and works to be carried out on those structures which will not be replaced, particularly regarding effluent and slurry storage to ensure any potential impacts are reduced.

The existing structures are situated close to the watercourse and with inadequate buffer zones. The new structures should be constructed to allow a suitable buffer zone between the development and the Finaway River. A 25 metre wide buffer zone should be in place for any new buildings with a raised grassed berm between the units and river. This buffer zone will protect biodiversity within the river corridor. The riparian zone along the river will facilitate the planting of trees and shrubs to provide shading for fish and habitat for macro-invertebrates, birds and insect life. The use of a berm will allow for potential containment for run off from the site. A large silt trap and petrol interceptor should also be installed on site.

Details of storage and management of any feed stuffs on site should also be provided as animal feeds can be a potential source of pollution.

The details supplied regarding the demolition of existing units and construction of new units show no awareness of the potential for pollution to occur at this stage. Particularly in terms of run off of suspended solids, concrete for tanks, the potential for infiltration of ground water to excavations and contingency for same and settlement. At the Fina way site, consideration will need to be given to the timings of works in close proximity to a sampanid watercourse. Construction and associated works with a high risk of suspended solids pollution should not be carried out between the 1st October and the end of April without prior consultation with Inland Fisheries Ireland in order to protect spawning and juvenile trout.

Environmental mitigation measures should be provided in relation to construction at Finaway and a method statement for works at Finaway sites should be agreed with IFI in advance of demolition/construction.

An estimate of Total pig numbers should be provided within the EIS along with clear calculations in relation to the amount of slurry generated.

Notwithstanding IFI comments on site suitability, IFI requires that an Environmental Monitoring programme for this sites be agreed with IFI in advance of any grant of planning.

The EIS does not give sufficient details of the proposals to monitor the impact on all watercourses from the development, in terms of measurement to be taken and frequency of monitoring.

In summary it is IFI's view that serious consideration should be given to whether or not this site is suitable for intensive agriculture. IFI requires that the concerns, deficiencies and issues raised above should be dealt with in the form of a new application or a revised EIS and IFI given further opportunity for comment before this planning application should proceed any further.

OBJECTIONS: One letter of objection was received: Mrs Rita Tierney – Keenagh, Ballyjamesduff.

Objects to a piggery at Finaway, Ballyjames duff on the following grounds:

- 1. Air Pollution
- 2. Spreading of Slurry.

REPORTS

Area Engineers report: No report submitted.

Environment report noted. Following comments made:

This planning application is for facility that requires an Industrial Emissions Directive licence from the EPA.

There was previously an IPPC licence for this facility (679 & 427).

The applicant (potential purchaser) proposes to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ. The applicant proposes to construct 5 no. pig houses and to construct an extension to 1 no. pig house, in accordance with animal welfare and the nitrates Regulations, together with all ancillary structures and all associated site works on the site of the existing pig farm at Finaway, Ballyjamesduff, Co. Cavan.

The existing facilities have a footprint of 6085m² and the proposed facilities will have a footprint of 5900.64m².

The water supply for this facility will be an existing/new connection to a bored well and according to the EIS submitted as part of the application, the public water supply will also be available as a backup.

It is proposed to house 1250 pigs at this facility (fattening unit) which will come from the breeding site at Drumscrudden, crosserlough, Co. Cavan (14/238). The two sites will operate as an integrated pig farm. The two facilities are located 2.7kms from each other. According to the application documents based on the herd size and the proposed storage facilities, there will be capacity for 14 months of slurry storage.

The customer farmers are not named and specific addresses are not given. Appendix No. 1 and No. 6 detail that there are approximately 20 customer farmers resulting in landbank availability of circa. 1800ha. the landbanks are located in counties Cavan, Meath, Westmeath and Longford.

In relation to the landbanks in Cavan the following table details the Water Framework Directive ecological status information in relation to the customer farm locations for the organic fertiliser produced at this proposed development site.

Customer	Farm	Water Body Code,	Current Ecological	Target	date to
Number		Water Management	Status	achieve	at least
		Unit & River Basin		Good	Ecological
		District		Status	
19		SH 26 3738, Inny	Moderate	2021	5.
		& Shannon			
-0.082		International River			

. 4600	1	r	
	Basin District		
19	SH_26_2984, Inny	Good	Maintain
	& Shannon		
	International River		
	Basin District		
7 & 9	SH_26_2742, Inny	Moderate	2021
	& Shannon		
	International River		
	Basin District		
9	EA_07_991,	Poor	2027
	Blackwater North		
	Water Management		
	Unit & Eastern		
	River Basin		
	District		
9	EA_07_1536_1,	Poor	2021
	Blackwater North		,
	Water Management		
	Unit & Eastern		
	River Basin	, se	
	District	glitet 1158	

The application documents detail that all surface waters will discharge to adjacent waters via one or more discharge points. One of the maps provided with the application documents make reference to a silt trap. The receiving waters is a tributary of the Mountnugent River which flows into Lough Sheelin.

The applicant should be requested to demonstrate the proposed storm water/surface water separation, collection and drainage system to serve the proposed development including infrastructure serving same as well as all discharge points(s) to waters.

Having assessed the Cavan Groundwater Protection Scheme Maps, prepared for Cavan County Council by the Geological Survey of Ireland, it is evident that proposed development is located in an area designated as a Poor Aquifer with Moderate Vulnerability.

The proposed development is located in the Shannon International River Basin District, in the Inny Water Management Unit; the water body is classed as Moderate Ecological Status. This status must be improved to at least Good Ecological Status by 2021 in accordance with the requirements of the Water Framework Directive.

The report concludes with a recommendation that the Environmental Protection Agency (EPA) and Inland Fisheries Ireland (IFI) should be notified regarding the details of this application; and

Recommendation that further information is required on point of details of surface water layout and drainage provisions on the site; and

Confirmation on the proposed disposal and disturbance of any asbestos on the site.

Waste Management Section report:

It is proposed to demolish 12 existing pig houses, with the exception of 4 existing pig houses which will remain in-situ and to construct 5 pig houses and an extension to 1 existing pig house, together with all ancillary structures and all associated site works on the site of an existing pig farm.

One of the critical issues associated with older piggeries concerns the type of roofing material that was traditionally used on pig houses and associated structures. In any development proposals concerning such structures it is of critical importance that ACM's (Asbestos Containing Materials) are identified at an early stage, quantified and that appropriate measures are put in place to ensure that ACM's are dealt with appropriately in terms of removal and handling, temporary storage of roof sheeting prior to removal off-site/reuse. Should asbestos be found to be present appropriate precautions to be taken in the removal, handling, packaging and disposal of this material.

ACM's that are removed from buildings should not be reused under any circumstances.

It is recommended that, in the event that planning is granted, 3 no. conditions regarding waste be issued.

PLANNING ASSESSMENT

Site Description & Description of Development:

The site is 2.52 ha in extent and comprises an existing pig farm which has been vacant (since 2012), and is located on a Local Secondary road 12-7074-0

The proposed development comprises gross floor space of existing buildings (c. 6085m²), gross area for demolition (c. 3813m²) and proposed new works is (c.5,900m²).

Application is for the following:

The existing buildings and structures which will remain on the site after demolition and redevelopment buildings are as follows:

- Proposed Pig House Area 1: 1573.89m²
- Proposed Pig House Area 2: 1573.89m²
- Proposed Pig House Area 3: 1573.89m²
- Proposed Pig House Area 4: 589.60²
- Proposed Pig House Area5: 589.60m²

Total Floor Area: c.5900m2

Environmental Impact Statement

Thresholds for EIS -Planning & Development Regulations 2001, as amended, Schedule 5, Development for the purposes of Part 10, Part 1 17 (b) 3,000 places for production pigs (over 30kilograms), or (c) 900 places for sows.

Part 2 1 Agriculture, Silviculture and Aquaculture, (e) (ii) Installations for intensive rearing of pigs not included in Part 1 of this Schedule which would have more than 2,000 places for

production pigs (over 30 kilograms) in a finishing unit, more than 400 places for sows in a breeding unit or more than 200 places for sows in an integrated unit."

The subject application is in excess of the above thresholds and therefore, an EIS has been prepared and submitted with this application. The subject application is lodged by the same applicant – Bogue Pigs, in tandem with the application 14/238 at Drumscrudden Td., Ballyjamesduff, for the redevelopment of the second, but inter-dependent pig farm site. An joint EIS has been prepared for Pl. Ref. 14/238 and the subject application as this constitutes an integrated facility. The applicant states that in order to properly assess the potential impact of the proposed developments it was determined that this would best be addressed by the completion of one Environmental Impact Statement, to appropriately address the cumulative impact of the overall development, as well as the interaction of these sites with other aspects of the environment

The proposed developments are above the threshold as detailed in Schedule 5 Part 2 of the Planning and Development Regulations 2001, i.e. class 1(e) (ii) activity, "Installations for intensive rearing of pigs not included in Part 1 of this Schedule which would have:

- More than 2000 places for production of pigs over 30 kilograms in a finishing unit;
- More than 400 places for sows in a breeding unit, or
- More than 200 places for sows in an integrated unit.

These sites/this farm previously operated as a c. 1,510 Sow integrated unit. Sow numbers as specified in Licence No. P0427-01 issued by the E.F.A. on 3rd January 200. It is the applicant's intention to re-develop these sites and operate the farm as a c. 1,250 Sow Integrated unit, therefore, as stated: 'it must be borne in mind that the currently proposed developments will not allow for any further intensification of activities on the farm(s) and will provide for a c. 15% reduction in sow numbers.'

An outline of the EIS is summarized as follows:

Description and purpose of the development

The proposed developments will involve the demolition of a significant portion of the structures on both pig farms site and their replacement with modern, purpose designed pig farm buildings. The applicant states that the proposed development will result in a reduction in stock numbers on the farm from c. 1,510 sows to c.1,250 sows.

The applicants' statement to support the purpose of the redevelopment of the site is: 'to achieve improved efficiencies from all of the investments on-site and in order to ensure the future viability and competitiveness of the farm and to improve production efficiencies and performance which are dependent on the provision of adequate top quality housing and welfare in tandem with modern feeding and ventilation.

The structures for which the permission is being sought incorporate modern design concepts in the areas of animal welfare, labour efficiency, manure storage, insulation,

Wastes generated on-site

All wastes generated on site, such as animal tissue waste, veterinary waste, general
packaging etc. will be stored and disposed of/recovered in accordance with applicable
regulations and in accordance with Council and/or EPA requirements

Population/employment

- Pig farm will employ 4 people directly (increase from 3 currently) including applicant, leading to indirect employment nationally of c. 18-20 people – additional employment during construction
- No adverse effect on tourism in the area of the site due to good environmental management practices operated on the farm, the farms rural location and its long tradition as a pig farm
- Within county the pig industry is a key component of the agricultural economy

Cumulative effects

- Proposed development will not lead to a negative cumulative impact on the local environment
- Proposed intensification of activities will result in an increase in the amount of organic fertilizer produced, however, it is significantly below that required by the customer farmers to maintain optimum soil fertility - it will have no significant adverse impact within the local area and/or county at large

Difficulties encountered in compiling required information

No particular difficulties encountered

Summary

- nmary
 Replacement of existing aged structures with modern pig accommodation and the provision of improved manure storage facilities should be seen as a positive development and an improvement in the attributes of the existing farm
- Proposed development will operate under the conditions imposed as part of any grant of planning permission and in line with Department of Agriculture requirements, specifically outlined in SI 31 2014 and SI 14 2008 and will operate under the conditions imposed as part of any licence for this farm issued by the EPA

Information contained in Appendix of EIS

- Appendix. No. 11Construction and Demolition Waste Management Plan
- Appendix no. 13 Screening report Appropriate Assessment

APPROPRIATE ASSESSMENT Screening Report - Article 6(3) & (4) of the Habitats Directive 92/43/EEC Appropriate Assessment of a Proposed Project

The Appropriate Assessment Screening Reprot of a proposed redevelopment of an existing pig farm located on two geographically separate sites Drumscruden, Crosserlough, co. Cavan and Finaway, Ballyjamesduff, co. Cavan has

Natura 2000 sites identified:

- The Lough Sheelin SPA (NPWS Site Code 004065
- Lough Kinale and Derragh Lough SPA (NPWS Site Code 004061)
- The River Boyne and Blackwater SAC (NPWS Site Code 002299)
- The nearest designated Natura 2000 site to the existing farm, and the site of the proposed developments, is the Lough Sheeln SPA (NPWS Site Code00461) which is

located approximately 3.85km to the south west of the existing farm. Lough Kinnale and Derragh Lough SPA (NPWS Site Code 004061) is located 12.5km also to the southwest. The River Boyne and Blackwater SAC (NPWS Site Code 002299) is located 14.1km from the subject site at its closest point.

Other sites located some bit further from the pig farm is the Lough Oughter Complex SPA (NPWS Site Code 00007) which is located approximately 16.4km form the subject sites at its closest point and is considered outside the zone of potential impacts for the purpose of this Appropriate Assessment Screening

Assessment of likely effects:

- The current proposal does not allow for an increase in pig production on site, rather will see a reduction form 1,510 sows integrated as currently permitted to 1,250 sows integrated.
- There is a corresponding reduction in organic fertilizer generated on site.
- There is a significant increase in organic manure storage facilities on site with a significant increase in storage capacity.
- Newly constructed manure storage tanks built to Dept. of Agriculture Specifications will replace older tanks.
- There is therefore a significant reduction in potential for point source discharges to surface or ground water.
- The replacement of the existing animal housing facilities on site will result in secure containment of all organic fertilizer produced in these houses.
- To mitigate against any potential impact form this site, all organic fertilizer generated will be exported off site to farms which meet the requirements under S.I. 31 of 2014 European Communities (Good Agricultural Practice for Protection of Waters)
 Regulations. As a result the export and management of this material will not have an impact on water quality as the nutrients will be recycled as a fertilizer for grass and/or crop production. This is based on the assumption that the farm continues to operate in accordance with S.I. 31 of 2014 it is not considered that there will be any secondary indirect adverse impact on any Natura 2000 sites as a result of the proposed development.

Assessment of in combination effects:

- Given the location of this site within co. Cavan it is likely that there are other pig farms located upstream of this existing farm which might, in combination with the subject farm, increase the potential risk to the surface water in the area.
- The proposed development seeks to replace a significant amount of structures on site
 with modern purpose build pig houses completed in line with Cavan co. co.,
 Department of Agriculture, Food and the Marine and EPA standards and
 requirements. The development will see a reduction in the overall activity on site and
 consequently will result in an overall improvement in manure management.

- As per normal practices, this fertilizer will all be stored and distributed in accordance with S.I. 31 of 2014 European Communities (Good Agricultural Practice for Protection of Waters) Regulations (2014)
- It is conclude that any existing developments in combination with the subject facility will not result in any additional direct or indirect impacts on the aforementioned Natura 2000 sites.

Summary of conclusions of appropriate assessment screening

- The conclusions on the completion of the Appropriate Assessment Screening Report is that it is considered that full Stage 3 Appropriate Assessment is not required for the granting of a planning permission for the re-development of this pig farm at Drumscuddan and Finaway, Ballyjamesduff, co. Cavan. It is felt that.
 - Given the considerable distance of the proposed project from the identified Natura 2000 sites,
 - The proposed development relates to the replacement of existing structrures on the farm,
 - The proposed development will see an overall reduction in intensity from 1,510 sows integrated to 1,250 sows integrated
 - All organic fertilizer, existing and proposed, will be allocated for use in accordance with S.I. 31 of 2014, and It is concluded that the proposal will not have a significant effect on the conservation objective of these sites and as such appropriate assessment is not required.

PLANNING AUTHORITY'S COMMENTS:

- Site inspections were undertaken on Friday the 5th of September 2014 to inspect site notices at both sites (14/238 and 14/239). The gates to both sites were locked and access could not be gained. The notices were inplace and were clearly legible and visible from the public road.
- A second site inspection was undertaken with the applicants' agent Mr.
 Pauraic Fay, this entailed a full walk around each of the abovementioned subject sites.
- The subject site is a vacant piggery with all existing old buildings and
 infrastructure intact. The subject site is accessed from the local
 secondary road and there is an established entrance onto the site. The site
 is surrounded by mature trees and landscaping and cannot be viewed from
 the surrounding lands.
- The area is predominantly rural residential, with the nearest house being c.200m from the existing piggery buildings agricultural farmlands.
- Notwithstanding the existing piggery /agricultural units and ancillary buildings and infrastructure on the site, this planning application is

- assessed de novo, as the piggery ceased operations in 2012 and the application is to demolish and construct new units on the site.
- The Planning Authority agrees that the proposed re-development of this site is unlikely to affect any of the following designated sites – Protected views; areas of high amenity and archaeological sites, as identified in the Cavan County Development Plan (2014-2020).
- From a planning point of view, the site has operated as an agricultural
 activity since the 1960s and there is no immediate concern raised in terms
 of impact on: cultural heritage, archaeological heritage and material
 assets.
- In terms of the policies and objectives for agriculture, as contained in the current Cavan County Development Plan (2014-2020), the principle of the proposed redevelopment of the site at this location is considered to be in compliance with general landuse and economic development of agricultural uses.
- This application is subject to the policies and objectives planning on natural heritage as contained in the County Development Plan and the Authority must satisfy itself that the requirements of the EIA Directive have been met.
- I have noted that there is an objection lodged in responses to the public notices. The grounds of the objection are: noise and air pollution (smell) eminating from the proposed facility.

Environmental Impact Assessment (Effects) by the Planning Authority:

Section 171A of the Planning and Development Act 2000 (as amended) requires that:

- (1) In this Part-
- (2) Environmental impact assessment means an assessment, which includes an examination, analysis and evaluation carried out by a planning authority or the Board, as the case may be, in accordance with this Part and regulations made thereunder, that shall identify, describe and assess in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of the Environmental Impact Assessment Directive, the direct and indirect effects of a proposed development on the following:
- (a) Human beings, flora and fauna,
- (b) Soil, water, air, climate and landscape
- (c) Material assets and the cultural heritage, and
- (d) The interaction between the factors mentioned in paragraphs (a), (b) and (c).

Synopsis of the finding of the EIS

- The EIS concludes to significant impact on human beings, flora & fauna as all habitats within these lands such as wooded areas, scrubland etc. would be

excluded from receiving organic fertilizer from the farm due to the requirements of S.I. 31 of 2014- Nitrates Directive. The development will have no adverse impact on flora and fauna in the immediate area.

- The existing site and adjoining area has been an agricultural farmyard for a number of years and the applicant contends that the surrounding lands have a poor level of plant diversity and are therefore, not of significant ecological importance.
- The EIS concludes that in terms of impact on soils, surface water and ground water, air & climate; cumulative impacts, flora & fauna there is a general assumption that there will be no significant impacts on the fact that there is an existing development on the site which has operated historically for the past 45 50 years and which did not have a negative impact on the environment.
- The applicant contends that the replacement of existing aged structures on the site with modern pig accommodation and the provision of improved manure storage facilities with leak detection facilities should be seen as a positive development and an improvement in the attributes of the existing farm.

This EIS is considered to be generally informational and is based on assumptions rather than a full technical analysis of the likely significant effects on the environment.

CONCLUSIONS & RECOMMENDATIONS

Having regard to the submissions by the Environmental Protection Agency (EPA), the Environment Section of Cavan County Council; the Inland Fisheries Ireland (Shannon River Basin District) and the Waste Management section of Cavan County Council, Assessment by the Planning Authority, it is necessary in order for the Planning Authority to carry out the Environmental Impact Assessment(EIA), it is necessary to request the submission of Further Information:

The Planning and Development Act (2000, as amended) specifies that:

Section 172(D) requires the Planning Authority or the Board to consider whether any EIS submitted identifies and describes adequately, the direct & indirect effects on the environment of the proposed development.

Where it considers that EIS does not do so, the Planning Authority or the Board must require the applicant to furnish such further information as it considers necessary to remedy such a defect.

Section 172(IE) provides that the competent authority must require the applicant to furnish any further information considered necessary to enable it to carry out an EIA.

I recommend the following Further Information is sought as follows:

FURTHER INFORMATION:

- 1. Submit a detailed contents page for the EIS, which allows ease of reference for the report and highlight any amendments as a consequence of reply to this request for further information.
- 2. Submit a full and detailed response to the issues raised in the submission by the Inland Fisheries Ireland Shannon River Basin District, submission in response to the planning application and EIS. In particular, the further information shall address:
- The potential impact of this development in the context of the management, storage and disposal of pig slurries from this development and their potential to pollute the watercourses nearby and close to the spreadlands of the Lough Sheelin and the Mount Nugent River Catchment;
- Proof of consultation with Inland Fisheries Ireland in relation to the proposed activity;
- The EIS should present and describe baseline data on the relevant environment and demonstrate that potential Environmental impacts have been mitigated against;
- Revisit the EIS and provide a full description of the aquatic environment and assessment of potential impacts and appropriate mitigation measures in terms of the requirements of the EIS Regulations as follows:
- A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
 - 4. A description(1) of the likely significant effects of the proposed project on the environment resulting from:
 - the existence of the projects
 - the use of natural resources.

environment.

- the emission of pollutants, the creation of nuisances and the elimination of waste,
- 5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
- The potential impacts from this development and associated activities should be considered in the context of the Water Framework Directive. This should include the interpretation of water quality data presented in Appendix 10 of the EIS.
- Provide an analysis of the existence of fish, aquatic life or inverterbrates which are
 present in the Mount Nugent River and its tributaries, including potential impacts of the
 proposed development;

- Provide an analysis of and interpretation of the Mount Nugent River water quality data, its tributaries and streams and that of the waters of Lough Sheelin.
- Provide a more detailed analysis of the third parties spreadlands and the potential for poor practice to impact on Lough Sheelin and other River catchments. In other words, the development should be considered in a more holistic sense and then mitigation measures should be proposed. The applicant should demonstrate how it is intended to ensure that third parties meet all the requirements of the Regulations S.I. 31 of 2014.
- Reference to the Cavan County Development Plan and the amenity value of Lough Sheelin should be recognized and discussed in the EIS.
- Proposals in relation to storm water discharges details of the separation systems and water drainage systems should be provided. (Refer to Further Information Item 2)
- Section 9.2 of the EIS concerning weekly monitoring of stormwaters is inadequate and should be redressed.
- The reference within the EIS to the reduction in stock numbers (e.g. in section 7.1.3 and section 4.2) is incorrect as currently there is no livestock on the subject site. This should be redressed in the text.
- The issue of the presence of drains and tributaries of the Mount Nugent River and their capacity to act as a vector to Lough Sheelin downstream from the site is not addressed in the EIS. Provide a detailed analysis of the above. Please redress this issue in the Appropriate Assessment Screening report and submit suitable qualifications of persons carrying out the AA screening report.
- Section 9.3 of the EIS refers to the designated areas in a general sense and are not specifically referred to or interpreted in the report, this should be redressed in detail.
- The potential impacts identified in section 1. For the Appropriate Assessment Screening Report are not carried through into the EIS. This should be redressed in detail.
- The IFI has concerns regarding the underground tanks and monitoring of same, freeboard and sufficient capacity, particularly in relation to sub-terrainean flow of effluents, especially given the nature of pig slury, tanks must be well constructed according to the Department of Agriculture Specifications, well maintained and tested at appropriate intervals. This should be clearly demonstrated with no discharges of contaminated waters to ground or surface waters from this development. A complete separation of gutter and uncontaminated roof waters from any contaminated water.
- Provide full details of surveys carried and works to be carried out to ensure that those structures that will not be replaced, particularly regarding effluent and slurry storage, measures to be put in place to ensure that any potential impacts are reduced.
- Provide full details of the silt trap and petrol interceptor to be installed on the site.
- Provide full details of storage and management of any feed stuffs on site should also be provided as animal feeds can be a potential source of pollution.
- Provide full details regarding the demolition of existing units and construction of new
 units and the potential for pollution to occur at this stage, particularly in terms of run off
 of suspended solids, concrete for tanks, the potential for infiltration of ground water to
 excavations and contingency for same and settlement.
- Provide an estimate of Total pig numbers within the EIS along with clear calculations in relation to the amount of slurry generated.
 - 3. Submit revised drawings and supporting details which fully demonstrate the proposed surface water drainage system to serve the proposed development, including infrastructure serving same (e.g. silt traps) as well as all discharge points to waters.

Provide confirmation that the disposal and or disturbance of any asbestos utilised in the existing farm building structures or dwelling shall only be carried out in accordance with the appropriate regulations and under the supervision of an appropriately qualified person.

4. Submit a detailed survey which addresses the following:

Identify and quantify the extent of ACM's (Asbestos Containing Materials) and describe what appropriate measures are put in place to ensure that ACM's are dealt with appropriately in terms of removal and handling, temporary storage of roof sheeting prior to removal off-site/reuse. This should include details of appropriate precautions to be taken in the removal, handling, packaging and disposal of this material.

5. Submit a detailed response to the objectors' concerns regarding anticipated noise levels and air pollution (smells) eminating from the site.

Planning Advice: The Planning Authority wishes to advise that in terms of consultation in relation to the preparation of the Environmental Impact Statement, the applicant should consult with Inland Fisheries Ireland (NFI) for the Shannon River Basin District and the Department of Arts, Heritage & the Gaeltacht – National Parks & Wildlife.

In addition, you are required to ensure that the report and any amendments, are in accordance with the Advice Note on Current Practice in the preparation of Environmental Impact Statements, (September, 2003)

PLANNER SIGNATURE

Consent of copyright owner required for any other use.

REGNANCY SCANNING OWS, and heters. Contact ohn Reynolds. hone 0436681947/ 86 3369496 (\$2.5)

A SPEEDY DI Animal Solvice. Service. 14 (14) 338133 (T)

For Rent three bay slatted touse, Castletara area. 187 6346676

Shorthorn Heifer due in anuary to Limousin bull also springing cows due dec, jan, eb. 087-6527860

HOME HELP/CARER

A DOMESTIC REPAIRS. lepairs to all types of Vashing Machines, Fridges, reezers, Cookers, Dryers, tc. 049-5552017 9am-6pm(T)

or general house repairs, ainting, power washing, ardening, carpentry, small ling jobs and all DiY tasks. leasonable rates. 87-8568832

TOP SMOKING NOW. The asiest way, one visit. Private ppointments. Derek Cobbe, onsultant Hypnotist, Earl St., ongford. 043-334-5912(T)

PERSONAL

re you over 40? Like to neet someone special, new latch making service. Call, 85 1565835 lidlandmatchmaking@gmail.com

irst Class Dating. Want to neet someone special. veryone welcome. Ring lebble on 087-3809991.

you are single, over 40 and rould like a relationship. contact Midland Middle Age tatchmaking.087 7753994

MOTORS & MACHINERY

IF 590 For sale also 4 red reanling heifers. 086 3272197

ELE

ollie Pups, free to good ome. Please ring after .30pm. Contact: 86-3252074 making a decision on this application. The Planning Authority may grant permission subject to or without conditions or may refuse to grant permission. Niall Mc Kenna B Sc Eng

Cavan County Council Further Information / Revised Plans Bogue Pigs have submitted significant further information / revised plans, in relation to a planning application for development at Finaway, Ballyjamesduff, Co. Cavan. Planning Ref. No. 14/239. The further information/revised plans may be inspected/purchased, at a fee not exceeding reasonable cost of making a copy, at the offices of the planning authority during its public opening hours. A submission or observation in relation to the further information/revised plans may be made in writing to the planning authority on payment of €20 (except in the case of a person or body who has already made a submission or observation) within the period of 5 weeks beginning on the date of receipt by the planning authority of the newspaper and site notice. Any such submissions or observations will be considered by the Planning Authority in making a decision on the application. The Planning Authority may grant permission subject to or. without conditions, or may refuse to grant permission. Paraic Fay Signed: of the C.L.W. B.Agr.Sc.C/o Environmental Planners Ltd. The Mews, 23 Famham St., Cavan.

Cavan County Council Planning Permission sought for new agricultural shed in complex farm existing incorporating cubicles, slatted area with underground slurry storage tank , dry pens, feeding passage and ancillary site development works at Corraneary, Cootehill, Co. Cavan by John O'Reilly. This application may be inspected, or purchased at a fee not exceeding the reasonable cost of making a copy, at the of making a core at the offices of Cavan County Council February Dentre, Familiant street, Cavan during its out to pening the make to the authority in the make to the authority of 600. on payment of €20 iting whin a period of 5 weeks beginning of the date of receipt by Al phontring authority of the application. authority of Thomas Flynn, Signed:-Deredis Upper, Butlersbridge, Co. Cavan (087) 6684135

refuse to grant permission. Signed: Paraic Fay B.Agr.Sc. C/o C.L.W. Environmental Planners Ltd., The Mews, 23 Farnham St., Cavan.

Cavan County Council

Planning permission is sought to construct a bungalow type dwelling with a detached domestic garage, install a proprietary wastewater treatment unit and form new entrance from the public laneway at Edenburt, Virginia, Co. Cavan on behalf of Seamus Cahili.

The planning application may be inspected, or purchased at a fee not exceeding the reasonable cost of making a copy, at the offices of the planning authority during its public opening hours and that a submission or observation in relation to the application may be made to the authority in writing on payment of the prescribed fee within the period of 5 weeks beginning on the date of receipt by the authority of the application, and such submissions or observations will considered by the planning authority in making a decision on the application. The planning authority may grant permission subject to or without conditions, or may College

Hanten BOR Actisectural Consultants, Cloughbally LEWAE Mullagh, Co Cavany

2 3 JAN 2015

TR DATED COUNTY COUNTY Planning permission is sought territore to front and rear of existing bungalow dwelling, conversion of attached domestic garate to habitable space with alterations to floor plans/ elevations and associated site works at Bawnboy village, Bawnboy, Co. Cavan. The planning application may be inspected, or purchased at a fee not exceeding reasonable cost of making a copy, at the offices of the Pareing authority during its public chaning hours and that a completion or observation in relation to the application may be made to the authority in writing on payment of the prescribed file within the period of 5 weeks beginning on the date of receipt by the authors of the application.

Sonsek Thomas and Sinead Rourke, C/o Micheal Maguire Architects, MRIAI, Conall Building, Main Street, Ballyconnell. (049) 9526899, 087-4188329.

permission subject to or without conditions or may refuse to grant permission. Niall Mc Kenna B Sc Eng

Monaghan County Council Seamus Treanor intends to apply to Monaghan County council for Planning Permission for the following. Permission to erect a new poultry unit adjacent to existing poultry houses and insert a new holding tank at Doogarry Tydavnet Co. Monaghan. Plans and details can be inspected or purchased at a fee not exceeding reasonable cost of making a copy from the Planning Department of Monaghan County Council at The Glen Road, Monaghan. Open hours 9.15 to 5.00 Monday to Friday (excluding bank holidays). A submission or observation in relation to this application can be made to the above planning authority in writing on payment of the prescribed fee within the period of five weeks beginning on the date of receipt of this application by the Planning Authority, any such submission observation will be considered by the planning authority in making a decision on this application. The Planning Authority may grant permission subject to or without conditions or may grant permission. Miall Mc Kenna B Sc Eng

Cavan County Council:-Planning dermission is sought for conservatory extension to side of existing dwelling and associated site works at Drummary, Killeshandra, Co. Cavan The planning application may be inspected, or purchased at a fee not exceeding the reasonable cost of making a copy, at the offices of the planning authority during its public opening hours and that a submission or observation in relation to the application may be made to the authority in writing on payment of the prescribed fee within the period of 5 weeks beginning on the date of receipt by the authority of the application. Signed:-Billy Murphy, Micheal Maguire Architects, MRIAI, Conall Building, Main Ballyconnell. 9526899, 087 4188329,





FURTHER INFORMATION / REVISED PLANS

Bogue Pigs have submitted further information/revised plans in respect of Planning application Ref. No. 14/239, seeking planning permission to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in-situ, and to construct 5 No. pig houses, and an extension to 1 No. existing pig house, in accordance with animal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm at Finaway, Ballyjamesduff, Co. Cavan.

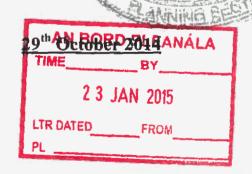
This application relates to a development, which is for the purposes of an activity requiring a Licence under part IV of the Environmental Protection Agency (Licensing) Regulations 1994 to 2013.

The further information/revised plans may be inspected/purchased, at a fee not exceeding the reasonable cost of making a copy, at the offices of the planning authority during its public opening hours. A submission or observation in relation to the further information/revised plans may be made in writing to the planning authority on payment of £20 (except in the case of a person or body who has already made a submission or observation) within the period of 5 weeks beginning on the date of receipt by the planning authority of the newspaper and site notice. Any such submissions or observations will be considered by the Planning Authority in making a decision on the application. The Planning Authority may grant permission subject to or without conditions, or may refuse to grant permission.

Signed. (on behalf of applicant)

Paraic Fay B.Agr.Sc., C/o C.L.W. Environmental Planners Ltd., The Mews, 23 Farnham St., Cavan.

Date of erection of Site Notice:



MEMORANDUM

From

To

Planning Section

Allison Treanor, Environment Section Sean Guider,

Waste Management Section

Date:

24th, October, 2014.

Subject:

Planning Reg. No. 14/239 – Bogue Pigs for permission to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ, and to construct 5 no pig houses and an extension to 1 no. existing pig house, in accordance with animal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development will be submitted with this application. This application relates to a development which is for the purposes of an activity requiring a licence under Part IV of the Environmental Protection Agency (Licensing) Regulations 1994 – to 2013 at Finaway, Ballyjamesduff, Go. Cavan.

Reg. No. 14/239.

With reference to the above application for planning permission, I now attach the following:

- 1. Copy of our letter requesting further information together with applicant's response.
- 2. Copy of Planner's report

Please have same examined and let me have your report and recommendation.

Senior Staff-Officer.

MEMORANDUM

From

Tο

Planning Section

Allison Treanor, Environment Section Sean Guider,

Waste Management Section

Date:

24th. October, 2014.

Subject:

Planning Reg. No. 14/239 – Bogue Pigs for permission to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ, and to construct 5 no pig houses and an extension to 1 no. existing pig house, in accordance with animal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development will be submitted with this application. This application relates to a development which is for the purposes of an activity requiring a licence under Part IV of the Environmental Protection Agency (Licensing) Regulations 1994 – to 2013 at Finaway, Ballyjamesduff, Co. Cavan.

Reg. No. 14/239.

With reference to the above application for planning permission, I now attach the following:

- Copy of our letter requesting further information together with applicant's response.
- 2. Copy of Planner's report

Please have same examined and let me have your report and recommendation.

Senior Staff Officer

24th, October, 2014.

The Manager,
Development Applications Unit,
Department of Arts, Heritage & the Gaeltacht,
National Parks & Wildlife Service,
Newtown Road,
Wexford

Re: Application for planning permission to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ, and to construct 5 no. pig houses and an extension to no. existing pig house, in accordance with animal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development will be submitted with this application. This application relates to a development, which is for the purposes of an activity requiring a licence under Part IV of the Environmental Protection Agency (Licensing) Regulations 1994 – to 2013 at Finaway, Ballyjamesduff, Co. Cavan.

Reg. No. 14/239.

A Chara.

I refer to the above application for planning permission which was forwarded to you on the 7th. August, 2014.

Significant further information response in relation to the above application has been furnished to the Planning Authority. Copy of this further information is attached.

A submission or observation in relation to the further information received may be made in writing to the Planning Authority within five (5) weeks from the date of this notice.

wise ie meas,	
Senior Staff Officer.	

24th, October, 2014.

Environmental Protection Agency, Regional Inspectorate, Inniscarra. Co. Cork.

Application for planning permission to demolish all existing pig houses, with Re: the exception of 4 existing pig houses which will remain in situ, and to construct 5 no. pig houses and an extension to 1 no. existing pig house, in accordance with animal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development will be submitted with this application. This application relates to a development, which is for the purposes of an activity requiring a licence under Part IV of the Environmental Rightection Agency (Licensing) Regulations 1994 - to 2013 at Finaway, Ballyjamesduff, Co. Cavan. Consent of copyright on

Reg. No. 14/239.

A Chara.

I refer to the above application for planning permission which was forwarded to you on the 7th. August, 2014.

Significant further information response in relation to the above application has been furnished to the Planning Authority. Copy of this further information is attached.

A submission or observation in relation to the further information received may be made in writing to the Planning Authority within five (5) weeks from the date of this notice.

Mise le meas,	
Senior Staff Officer.	

24th, October, 2014.

Inland Fisheries Ireland, Drumsna, Carrick-on-Shannon, Co. Leitrim.

Re: Application for planning permission to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ, and to construct 5 no. pig houses and an extension to 1 no. existing pig house, in accordance with animal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development will be submitted with this application. This application relates to a development, which is for the purposes of an activity requiring a licence under Part IV of the Environmental Protection Agency (Licensing) Regulations 1994 – to 2013 at Finaway, Ballyjamesduff, Co. Cavan.

Reg. No. 14/239.

A Chara,

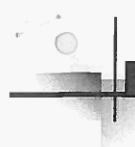
I refer to the above application for planning permission which was forwarded to you on the 7th. August, 2014.

Significant further information response in relation to the above application has been furnished to the Planning Authority. Copy of this further information is attached.

A submission or observation in relation to the further information received may be made in writing to the Planning Authority within five (5) weeks from the date of this notice.

ivilse le meas,	
Senior Staff Officer	

Planning Reg. No: Further Information Complete Significant Refer to (if any): ▶IFI → EPANO → Goviroment → Waste Nanagement Date 22-10-2014 Signed



The Mews, 23 Farnham Street, Cavan, Co. Cavan

Phone: 049-4371447/9 Fax: 049-4371451

E-mail: info@clwenvironmental.ie

Planning Department, Cavan County Council, Farnham Centre Farnham Street, Cavan.

20th October 2014

RE: Planning application for Bogue Pigs for development at Finaway, Ballyjamesduff, Co. Cavan.

Your Ref: 14/239

Dear Sir/Madame

I refer to the planning application for permission for development made on behalf of Bogue Pigs. for development at Finaway, Ballyjamesduff, Co. Cavan, and your subsequent correspondence in relation to same dated 15th September last.

Please find detailed below the response to the issues raised;

1. Contents Page

Please find same enclosed.

2. Response to Inland Fisheries Ireland Submission

The Inland fisheries Ireland submission and FI request from Cavan Co. Co., were both reviewed in the preparation of this response. Two points in the Inland Fisheries Ireland submission in particular deserve consideration prior to addressing the issues as outlined. These are:

- "IFI is concerned about the suitability of the site for intensive agriculture".
- "The statement made on p. 2, third para re: pig numbers at the farm is misleading as there are currently no pigs at the farm, the numbers refer to those previously at the farm or within the IPC Licence".

These comments appear to detail that IFI have viewed the application and E.I.S. from a baseline akin to a Greenfield site, whereby no consideration has been given to the existing authorised use of the farms and authorized scale of activity permitted therein. The existing buildings (subject to certain refurbishment) would still facilitate the resumption of pig farming on the site, however the applicant wishes to make significant investment and improvements to the site(s) prior to re-stocking.



The Mews, 23 Farnham Street, Cavan, Co. Cavan

Phone: 049-4371447/9 Fax: 049-4371451

E-mail: info@clwenvironmental.ie

The development description as detailed in the E.I.S. relates to "replacement pig accommodation". The current proposal seeks to construct replacement accommodation on existing pig farm sites, with a consequential reduction in authorized stock numbers. The E.I.S. has been developed taking into consideration this background/baseline, while also acknowledging the current activities on the farm(s).

The applicant's understanding of the proposed development appears to be in line with the views of Cavan Co. Co. and An Bord Pleanala, as expressed in planning report(s) in relation to other site(s) with similar development characteristics, and described in said reports as follows;

"It is considered that the principle of development at this site is acceptable having regard to the previously permitted use which was a similar activity and the brownfield status of the site. The site is currently in a derelict condition and proposed development will ensure that the buildings are refurbished and maintained which will result in an improvement on the current state of the site." (Source: Cavan Co. Co. Planning report 12/209).

Although this site was subsequently appealed to An Bord Pleanala, Cavan Co. Co.'s decision to grant permission was upheld and specific reference was made to the previous site history as follows, "given the planning history of the subject site concluded that the proposed development would be acceptable at this location."

And,

"a far greater level of information would be required, ... if this was a proposal for a new piggery or one substantially larger in scale than the existing one." (Source An Bord Pleanala, inspectors report into the demolition and replacement of buildings on another existing pig farm – PL04,241892)

While the E.I.S. acknowledges that the sites are temporarily destocked, the benefit of the permissions that previously existed on these sites has not been surrendered and the applicant is entitled based on these permissions, and subject to other statutory requirements, to operate pig farming activities on these sites. The applicant appreciates that if they were looking for an intensification of activities on the site over and above that previously permitted this would also have to form part of the project assessment as detailed in the E.I.S., however this does not apply in this instance. This does not negate the applicant's responsibilities to secure any other necessary permission such as the EPA licence etc.

While pig farming could recommence on these site in the morning (subject to any other statutory or other requirements, not including planning permission) the applicant wants to ensure that they have the facilities, structures, measures and other necessary infrastructure and facilities in place to ensure that this is carried out in a sustainable, welfare and environmentally friendly manner and to the satisfaction of Cavan Co. Co., E.P.A., I.F.I. and all concerned. This is the main focus of the replacement accommodation, and the applicant appreciates comments from IFI that they welcome the upgrade of facilities.

The response to the issues raised in the IFI submission (as detailed hereafter) will be addressed against the background of the existing site/land use, proposed development description, existing permissions and context within which the E.I.S. has been developed.



The Mews, 23 Farnham Street, Cavan, Co. Cavan

Phone: 049-4371447/9 Fax: 049-4371451

E-mail: info@clwenvironmental.ie

2(a) The potential impact of this development in the context of the management, storage and disposal of pig slurries from this development and their potential to pollute the watercourses nearby and close to the spreadlands of the Lough Sheelin and the Mount Nugent River Catchment;

Is should be noted that there will be no disposal of organic fertiliser from this farm. As clarified in European Court Judgements pig manure is not a waste but a valuable fertiliser that is to be used by customer farmers. A number of measures for the management, storage and utilization of pig manure/organic fertiliser from this farm have been detailed in the E.I.S. including;

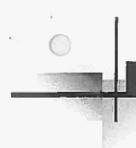
- The elimination of outside/external areas between pig buildings for stock movement. All pigs will
 now be moved on slatted passageways whereby any soiled water generated is collected in the manure
 storage tanks underneath.
- The replacement of the majority of the existing manure storage facilities with new manure storage tanks completed to Department of Agriculture, Food and The Marine Specifications with leak detection facilities underneath. It is anticipated that weekly inspection and Bi-annual monitoring of same will be completed in line with EPA requirements.
- Any remaining manure storage structures will be certified by an engineer prior to use.
- >13 months manure storage capacity to be provided (excluding the 200mm free board as required by S.I. 31 of 2014). This is well in excess of the 6 months required.
- All organic fertiliser will be alloeated to customer farmers for use in accordance with S.I. 31 of 2014.
 As Cavan Co. Co are aware these regulations place significant conditions on all farmers with regard to the application of fertilizers to land, including volumes, weather and ground conditions, bufferzones etc.

In addition to the above a detailed record will be kept by the applicant in relation to customer farmers and how much organic fertliser is allocated to them. This will be reported to the Department of Agriculture, Food and The Marine on an annual basis, who will then cross check this information with other details that they hold including CMMS data (On-farm stock numbers), land area, other organic fertilisers etc., to ensure that no farmers have breached the 170 Kg Organic N Limit as dictated by S.I. 31 of 2014. As Cavan Co. Co. will be aware there are significant financial penalties for any farmer breaching same.

This matter has been referred to in previous decision(s) by An Bord Pleanala (PL02.240879) as follows;

"The spreading of slurry on land does not require planning permission but would also be subject to the said law. It is not normally useful or appropriate for a planning decision to attempt to regulate matters for which a separate, specific regulatory regime has been established by statute. The board is also under a general obligation to assume that a person will comply with their lawful obligations.

2 D OCT 2014



The Mews, 23 Farnham Street, Cavan, Co. Cavan

Phone: 049-4371447/9 Fax: 049-4371451

E-mail: info@clwenvironmental.ie

The current application should therefore be assessed on the basis that the slurry generated in the development would be stored and disposed of in accordance with the 2010 regulations."(Now updated to 2014 regulations) "In these circumstances it is considered that the proposed development would not cause any undue threat to the quality of ground or surface waters."

In addition to the mitigation measures as detailed above that will improve the management, storage and utilization of the organic fertiliser produced on the farm, there is also a reduction in estimated slurry production in the order of 15%. It is hard to envisage how these proposed developments would have anything other than a positive impact on watercourses adjacent to the site and/or in the general area.

2 (b) Proof of consultation with Inland Fisheries Ireland in relation to the proposed activity;

Please refer to E.I.S. Addendum No. 1, for additional information in this regard.

2 (c) The EIS should present and describe baseline data on the relevant environment and demonstrate that potential Environmental impacts have been mitigated against;

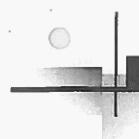
As detailed previously any assessment of the baseline against which the proposed development (i.e. the construction of replacement pig housing) is to be compared, must take into account the existing land use. This use (while temporarily un-occupied) has been considered as part of the E.I.S., but has in effect been dismissed in the submission.

The main issue of concern from the point of view of IFI is the potential impact on surface water in the area. The mitigation measures as detailed in point 2 (a) above adequately detail the actions to be taken by the applicant to mitigate against any potential adverse impact resulting from the operation of the farm and are a significant improvement when compared to the alternative, do nothing scenario i.e. recommencing pig farming within the existing facilities.

It must be borne in mind that the existing buildings, while requiring some refurbishment, are still suitable for pig farming, they are not to the high standards (in excess of legislative requirements) that the applicant seeks to operate at.

Additional baseline data with regard to existing site location, sensitive areas, water quality etc. has been detailed in the E.I.S. and the enclosed Addendum. A completed Ecological Impact Assessment Report has been included as part of same to address the concerns of IFI and Cavan Co. Co. However one must remember that a significant focus has been on the improvement of existing infrastructure and operations within the site, which can then only have a positive impact outside of the site.





The Mews, 23 Farnham Street, Cavan, Co. Cavan

Phone: 049-4371447/9 Fax: 049-4371451

E-mail: info@clwenvironmental.ie

2 (d) Revisit the EIS and provide a full description of the aquatic environment and assessment of potential impacts and appropriate mitigation measures in terms of the requirements of the EIS Regulations as follows:

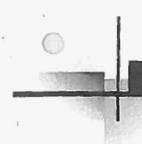
- '3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the interrelationship between the above factors.
 - 4. A description(1) of the likely significant effects of the proposed project on the environment resulting from:
 - the existence of the project,
 - the use of natural resources,
 - the emission of pollutants, the creation of nuisances and the elimination of waste, environment.
 - 5. A description of the measures envisaged to prevent reduce and where possible offset any significant adverse effects on the environment.
 - The potential impacts from this development and associated activities should be considered in the context of the Water Framework Directive. This should include the interpretation of water quality data presented in Appendix 10 of the EIS.
 - Provide an analysis of the existence of fish, aquatic life or inverterbrates which are present in the Mount Nugeri River and its tributaries, including potential impacts of the proposed developments
 - Provide an analysis of and interpretation of the Mount Nugent River water quality data, its tributaries and streams and that of the waters of Lough Sheelin.

The applicant's view is that when one considers the proposed development as it stands (i.e. the provision of replacement pig accommodation on an existing authorised pig farm sitc(s)), that all of the above areas have been adequately addressed in the E.I.S. as submitted. This appears to be supported by the E.P.A. in their submission, and supported by the comments of An Bord Pleanala in relation to similar such developments (i.e. "a far greater level of information would be required, ... if this was a proposal for a new piggery or one substantially larger in scale than the existing one."). As outlined in 2(a) above the proposed development will make significant improvements to the infrastructure on the farms.

Notwithstanding the above, the applicant appreciates that the Sheelin catchment is an important resourse to the local area, and in order to help alleviate any concerns that IFI and/or Cavan Co. Co. may have and/or address any perceived deficiencies an Ecological Impact Assessment has been commissioned to address the areas identified, while at the same time recognising the description of the proposed development as detailed previously.

Please refer to enclosed E.I.S. Addendum Report for additional Information in this regard.

2 0 OCT 2014



The Mews, 23 Farnham Street, Cavan, Co. Cavan

Phone: 049-4371447/9 Fax: 049-4371451

E-mail: info@clwenvironmental.ie

2 (e) Provide a more detailed analysis of the third parties spreadlands and the potential for poor practice to impact on Lough Sheelin and other River catchments. In other words, the development should be considered in a more holistic sense and then mitigation measures should be proposed. The applicant should demonstrate how it is intended to ensure that third parties meet all the requirements of the Regulations S.I. 31 of 2014.

As detailed in section 4 of the E.I.S. all farmers are entitled to use a fertiliser source of their choice provided that they can accommodate same within the limits of S.I. 31 of 2014. As detailed previously all records of organic fertilisier transfers will have to be reported to the Department of Agriculture, Food and The Marine, who will in turn verify if the customer farmers have remained within the Organic N limits as detailed in S.I. 31 of 2014, and apply significant penalties to those that have exceeded same through either utilising off-farm sources of organic fertiliser and/or on farm production.

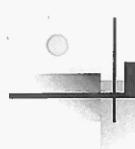
This is a significantly better system than the applicant seeking to do same, as the department will compile each customer farmers existing on-farm production, organic fertiliser obtained from the applicant, and also any additional organic fertiliser obtained from any other source (other cattle, pig, poultry, mushroom farm etc.). There are significant penalties applied to the customer farmers single farm payment for breach of same.

In this regard it is important to have regard to An Bord Pleanala's previous comments in relation to another agricultural development which had been approved by Cavan Co. Co. and subsequently approved by an Bord Pleanala,

"The spreading of slurry on land does not require planning permission but would also be subject to the said law. It is not normally useful or appropriate for a planning decision to attempt to regulate matters for which a separate, specific regulatory regime has been established by statute. The board is also under a general obligation to assume that a person will comply with their lawful obligations.

The current application should therefore be assessed on the basis that the slurry generated in the development would be stored and disposed on in accordance with the 2010 regulations." (Now updated to 2014 regulations) "In these circumstances it is considered that the proposed development would not cause any undue threat to the quality of ground or surface waters."





The Mews, 23 Farnham Street, Cavan, Co. Cavan

Phone: 049-4371447/9 Fax: 049-4371451

E-mail: info@clwenvironmental.ie

2 (j) The issue of the presence of drains and tributaries of the Mount Nugent River and their capacity to act as a vector to Lough Sheelin downstream from the site is not addressed in the EIS. Provide a detailed analysis of the above. Please redress this issue in the Appropriate Assessment Screening report and submit suitable qualifications of persons carrying out the AA screening report.

The presence of drains and tributaries of the Mount Nugent River and their capacity to act as a vector to Lough Sheelin is accepted and acknowledged, and referred to in the E.I.S.

As detailed previously the proposed development is for the provision of improved infrastructure on an existing authorized pig farm site(s). Again one has to remember that this is an existing authorized site, and not a proposed development on a greenfield site. The focus has been on improving the management, operation and infrastructure on the sites so that there is minimal risk of anything getting from the site to these streams/drains/vectors in the first place. It can only be held that this will be a significant improvement compared to previous operational activities on the farm(s).

Please refer to E.I.S. Addendum No. 1, for additional information in this regard.

2 (k) Section 9.3 of the EIS refers to the designated areas in a general sense and are not specifically referred to or interpreted in the report, this should be redressed in detail.

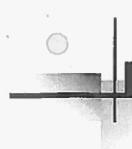
Reference to designated areas is more appropriately addressed in section 6.10, 7.10 and Appendix 13 of the E.I.S.

Please refer to E.I.S. Addendum No. 1, for additional information in this regard.

2 (1) The potential impacts identified in section 1.1 of the Appropriate Assessment Screening Report are not carried through into the EIS. This should be redressed in detail.

The Appropriate Assessment Screening Report has been submitted as part of the E.I.S. and therefore any conclusions, recommendations and/or measures detailed therein become part of the E.I.S. Section 1.1 not only refers to potential impacts but also the appropriate measures as detailed in the E.I.S. The appropriate Assessment Screening is paraphrased and referred to in sections 6.10 and/or 7.10 of the E.I.S..





The Mews, 23 Farnham Street, Cavan, Co. Cavan

Phone: 049-4371447/9 Fax: 049-4371451

E-mail: info@clwenvironmental.ie

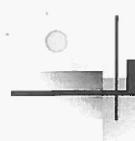
2 (m) The IFI has concerns regarding the underground tanks and monitoring of same, freeboard and sufficient capacity, particularly in relation to sub-terrainean flow of effluents, especially given the nature of pig slurry, tanks must be well constructed according to the Department of Agriculture Specifications, well maintained and tested at appropriate intervals. This should be clearly demonstrated with no discharges of contaminated waters to ground or surface waters from this development. A complete separation of gutter and uncontaminated roof waters from any contaminated water.

As detailed previously a number of measures for the management, storage and utilization of pig manure/organic fertiliser from this farm have been detailed in the E.I.S. including;

- The replacement of the majority of the existing manure storage facilities with new manure storage tanks completed to Department of Agriculture, Food and The Marine Specifications with leak detection facilities underneath. It is anticipated that weekly inspection and Biannual monitoring of same will be completed in line with EPA requirements.
- Any remaining manure storage structures will be certified by an engineer prior to use.
- >13 months manure storage capacity to be provided (excluding the 200mm free board as required by S.I. 31 of 2014). This is well in excess of the 6 months required.
- The elimination of outside/external areas between pig buildings for stock movement. All pigs will now be moved on slatted passageways whereby any soiled water generated is collected in the manure storage tanks underneath.
- There will be a dedicated surface water collection network which will collect only roof water from the site and discharge it to the local watercourse. As detailed in section 3 hereafter the applicant will install a silt trap prior to discharge.

2 (n) Provide full details of surveys carried and works to be carried out to ensure that those structures that will not be replaced, particularly regarding effluent and slurry storage, measures to be put in place to ensure that any potential impacts are reduced.

The only slurry storage structures to remain are 4 No. houses on the Finaway site. These houses have minimal storage capacity and will be linked with the new development to improve organic fertiliser management on the farm. These tanks will be subject to an engineer's assessment and inspection prior to use. In any event these tanks will only provide c. $312m^3$ storage or c. 1% of the overall capacity once the development has been completed. Therefore c. 99% of the overall manure storage capacity will be in new manure storage tanks, completed to Department of Agriculture, Food and The Marine Specifications, with leak detection systems underneath. The leak detection system will be completed to Department of Agriculture, Food and The Marine Specifications, will have an inspection manhole which will be inspected weekly and sampled bi-anually in line with anticipated E.P.A. requirements.



The Mews,
23 Farnham Street,
Cavan,
Co. Cavan

Phone: 049-4371447/9 Fax: 049-4371451

E-mail: info@clwenvironmental.ie

2 (o) Provide full details of the silt trap and petrol interceptor to be installed on the site.

Please refer to E.I.S. Addendum No. 1, for additional information in this regard.

2 (p) Provide full details of storage and management of any feed stuffs on site should also be provided as animal feeds can be a potential source of pollution.

All feedstuffs will be stored in designated bins/silos on site as per normal industry practice.

2 (q) Provide full details regarding the demolition of existing units and construction of new units and the potential for pollution to occur at this stage, particularly in terms of run off of suspended solids, concrete for tanks, the potential for infiltration of ground water to excavations and contingency for same and settlement.

The demolition of the existing units will be completed in line with the Construction and Demolition waste management plan as submitted. The applicant will have reference to the Eastern Regional Fisheries Board publications "Requirements for the protection of Fisheries Habitat during Construction and Demolition Works at River Sites, and Fishery Guidelines for Local Authority Works prior to commencing the proposed development on the farm(s).

Additional mitigation measures are ascontained in the Ecological Impact Assessment report contained in EIS Addendum No. 1.

2(r) Provide an estimate of Total pig numbers within the EIS along with clear calculations in relation to the amount of slurry generated.

Calculations in relation to the estimated organic fertiliser to be generated on the farm are as detailed in Section 4.1 of the E.I.S. These calculations are completed in line with applicable legislation as per Table 1 of S.I. 31 of 2014, which is the only *permissible or acceptable* method of calculation. This table details estimated annual production of pig manure for a breeding unit, fattening unit and/or integrated unit based on differing water:meal ratios. The calculations for the proposed development are based on an average of 1,250 Sows in an integrated unit at a water:meal ration of 3:1.

1,250 Sows places in an integrated unit * 0.398m³/sow place/week * 52 weeks = 25,870m³/annum.

Stock numbers as per the E.I.S. will consist of an average of 1,250 sows plus replacement breeding stock (c. 450 Served/Maiden Gilts & Boars) and all pigs produced on the farm from birth to factory weight. The number of pigs produced on the farm will vary depending on performance in the breeding herd (i.e. conception rate and No. pigs born/litter) and animal performance and mortality thereafter, with a target production of c. 750 pigs/week on average.



The Mews,
23 Farnham Street,
Cavan,
Co. Cavan

Phone: 049-4371447/9 Fax: 049-4371451

E-mail: info@clwenvironmental.ie

3. (a) Submit revised drawings and supporting details which fully demonstrate the proposed surface water drainage system to serve the proposed development, including infrastructure serving same (e.g. silt traps) as well as all discharge points to waters.

Please refer to revised surface water drainage plans contained in EIS Addendum No. 1.

(b) Provide confirmation that the disposal and or disturbance of any asbestos utilised in the existing farm building structures or dwelling shall only be carried out in accordance with the appropriate regulations and under the supervision of an appropriately qualified person.

The removal of any asbestos from the site is to be carried out by appropriately qualified and permitted contractors, such as J. Ryan Haulage Ltd. Please refer to enclosed details in this regard. – EIS Addendum No. 1.

4. Submit a detailed survey which addresses the following: Identify and quantify the extent of ACM's (Asbestos Containing Materials) and describe what appropriate measures are put in place to ensure that ACM's vare dealt with appropriately in terms of removal and handling, temporary storage of roof sheeting prior to removal off-site/reuse. This should include details of appropriate precautions to be taken in the removal, handling, packaging and disposal of this materials.

Please refer to enclosed details in this regard. – EIS Addendum No. 1. The maximum quantity of Asbestos to be removed from the site(s) is c. 150 - 200 tonnes.

5. Submit a detailed response to the objectors' concerns regarding anticipated noise levels and air pollution (odour) eminating from the site.

The concerns expressed by Ms. Tierney relate to;

> Air Pollution

In the further information request as detailed above, Cavan Co. Co. also detail noise levels in reference to the submission, however this is not stated therein. In any event the closest residential dwelling to the proposed development (excluding those owned by Mr. Bernard Maguire, the previous site owner) is c. 300m distant. It is not anticipated that noise from the farm will cause a disturbance at this location and this is supported by the noise survey results included in the E.I.S. It is not clear from the objection if Ms. Tierney resides at this location or a location further away.



The Mews, 23 Farnham Street, Cavan, Co. Cavan

Phone: 049-4371447/9 Fax: 049-4371451

E-mail: info@clwenvironmental.ie

The proposed development will result in the replacement:

- of a large number of existing pig houses, with modern pig houses including modern ventilation systems and cleaning practices, and,
- the decommissioning of at least c. 5 No. external, open topped and exposed manure storage tanks.

All proposed manure storage will be in enclosed tanks not exposed to the environment. This will provide for a significant improvement on the alternative, which is to re-commence pig farming within the existing facilities.

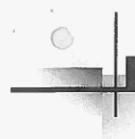
The proposed development demonstrates a commitment from the applicant to make substantial investment on the farm to minimize any potential adverse impact and ensure that the farm operates to the highest standards.

The Spreading of Slurry

The application of fertiliser to land is something that every farmer in the surrounding area is permitted to do in line with the requirements of S.I. 30 of 2014. This may be in the form of artificial fertiliser, onfarm organic manure or organic manure from other sources such as pig farms, poultry farms, etc.

While the application of manure to and may give rise to a transient increase in odour, this is temporary in nature and generally only lasts for a number of hours/days. The proposed development will result in a significant reduction in the potential volume of slurry/organic fertiliser to be produced, by the order of c. 15%. Indeed improved practices regarding the movement of pigs, minimizing/eliminating soiled water production and eliminating open topped slurry storage tanks will further minimize slurry production due to the prevention of rain water entering the manure storage tanks.





The Mews, 23 Farnham Street, Cavan, Co. Cavan

Phone: 049-4371447/9 Fax: 049-4371451

E-mail: info@clwenvironmental.ie

Conclusion

Having regard to the proposed development (i.e. the construction of replacement farm buildings) and,

- its location within an established rural agricultural area,
- the existence of pollution controls under other legislation (i.e. New/Revised E.P.A. Licence, Nitrates directive as implemented by European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2014 S.I. 31 of 2014, etc.),
- the established nature and use of the site(s), and,
- the landscape of this rural area and the pattern of development in the vicinity,

it is considered that subject to compliance with Cavan Co. Co. and E.P.A. requirements, the proposed development would not be prejudicial to the rural environment, would not be prejudicial to public health or be visually obtrusive, would not seriously injure the amenities of the area, and would be a significant upgrading of existing facilities. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

Should you have any queries in relation to this, or, require any further information please do not hesitate to contact me at the above number or on 087-6794459.

Yours Faithfully,

Paraic Eay B.Agr.Sc.

Table of Contents

1. Non - Technical Summary	Page 1
2. Introduction	14
2.1. National Policy	14
2.2. Context	15
2.3. Farm Background	17
2.4. County Cavan Development Plan, 2014 - 2020	17
2.5. Organisations and Bodies Consulted	19
2.6. References / Publications Consulted	20
2.0. relatives / I doitedfold Colleged	20
3. Description of Development	21
3.1 Objective of this development	22
3.2 Size and Scale of the Development	25
3.3 Operation of the Farm	26
3.3.1 Production	26
3.3.2. Feeding	27
3.3.3. Water Supply and Use	27
3.3.4. Heating and Ventilation	27
3.3.5. Housing	28
3.4 Manure Storage Structures and Capacities	29
3.5 Process of Production	30
3.3.1 Production 3.3.2. Feeding 3.3.3. Water Supply and Use 3.3.4. Heating and Ventilation 3.3.5. Housing 3.4 Manure Storage Structures and Capacities 3.5 Process of Production 3.6 Procedures of Production Reduction 3.7 Procedures of Production Reduction 3.8 Procedures of Production Reduction 3.9 Procedures of Production Reduction 3.9 Procedures of Production Reduction Reduction 3.0 Procedures of Production Reduction Reduc	30
The country of the co	
4. Data Required to Assess the Effects of the Development	31
4.1 Organic Fertiliser Manure Production	31
4.2. Manure Storage Capacity	32
4.3. Allocation of Organic Fertiliser / Manure	32
4.4 Location of Potential Customer farmlands	34
4.5. Farmlands identified for the receipt of organic fertiliser	34
4.6. Organic Fertiliser/Manure Application Rates	34
4.7. Surface Water and Ground Water	35
4.8. Animal Carcasses and Animal Tissue Waste	35
4.9. Veterinary Waste	35
4.10. General Waste/Fluorescent Tubes/ Construction and Demolition	
(C&D) Waste	35
4.11. Services	36
4.12. Fly and Pest Control	36
4.13. Difficulties encountered in compiling the required information	36
5. Description of Alternatives	37
5.1. Alternative Sites Considered	\37
5.2. Alternative Layout And Design ()	38
5.3. Alternative Processes Considered 20001 -	38
5.4. Alternative Management of By-Products	/39
The second secon	7

6. Description of the existing environment	40
6.1. Soil and Subsoil Geology	40
6.1.1 Topographic Features and Solid Geology	40 41
6.1.2 Soil Geology	42
6.2. Ground Water	42
6.3. Surface Water 6.3.1 Overall Trend in River Water Quality Cavan	44
6.3.2 Lake Water Quality	45
6.3.3 Beneficial uses of surface waters in the	15
Catchment areas.	46
6.4. Air	46
6.5. Climate	47
6.6. Visual Aspects and Landscape	47
6.7. Noise Levels	47
6.8. Traffic	48
6.9. Flora and Fauna	49
6.10. Special Policy Areas	50
6.11. Population/Employment	53
6.12 Tourism	54
6.13 Cumulative Effects	55
Foliati,	
6.12 Tourism 6.13 Cumulative Effects 7. Description of Impacts and Mitigation Measures 7.1. Soil and Subsoil Geology.	57
7. Description of Impacts and Williamson Weasures	57
7.1. Soil and Subsoil Geology	58
7.3 Surface Water A rest	60
7.1. Soil and Subsoil Geology 7.2 Ground Water 7.3. Surface Water of the Total Control of the	61
7.5. Climate	61
7.6. Landscape and Visual Impacts	62
7.7. Noise	63
7.8. Traffic	63
7.9. Flora and Fauna	64
7.10. Special Policy Areas	64
7.11. Population / Employment	66
7.12 Tourism	66
7.13 Cumulative Effects	67
C. Indonestica of Effects	70
8. Interaction of Effects	70
9. Environment Management Programme	76
9.1. Introduction	76
9.2. Manure Management Programme	76
9.3. Environmental Monitoring Programme	76
TOO. COUNTY	77
10. Summary	77
Figures/Attackments	
Figures/Attachments Appendixes 2 0 0CT 2014	
Appendixes	

EPA Export 10-08-2018:04:00:15

PAGE NO. II

ENVIRONMENTAL IMPACT STATEMENT (E.I.S.) ADDENDUM NO. 1

RELATING TO

DEVELOPMENT ON EXISTING PIG ENTERPRISE AT

DRUMSCRUDDAN (BREEDING SITE), CROSSERLOUGH, CO. CAVAN

FINAWAY, (FINISHING SITE) BALLYJAMESDUFF, CO. CAVAN.

FOR

BOGUE PIGS, DREENAN, CAVAN, CO. CAVAN. 2 0 OCT 2014

C.L.W. ENVIRONMENTAL PLANNERS LTD. OCTOBER 2014

C.L.W. ENVIRONMENTAL PLANNERS LTD.

PAGE NO. 0

i. PREFACE

THE FOLLOWING FORMS ADDENDUM INFORMATION TO THE SUBMITTED ENVIRONMENTAL IMPACT STATEMENT (Dated July 2014):

Consent of copyright owner required for any other use.

2 0 OCT 2014

C.L.W. ENVIRONMENTAL PLANNERS LTD.

TABLE OF CONTENTS

1	ADD 1.1	ENDOWI Introduction	3
	1.2	Outline	3
	1.3	Summary of Updates	4
2	MAII	N REPORT (AMMENDMENTS)	5
	2.5	Organisations and Bodies Consulted	5
	4.10	General Waste/Fluorescent Tubes/Construction and Demolition (C&D) Wastes	6
	6.3	Demolition (C&D) Wastes Surface Water Flora and Fauna Special Policy Areas Surface Water Flora and Fauna Special Policy Areas	7
	6.9	Flora and Fauna	7
	6.10	Special Policy Areas	9
	7.3	Surface Water	10
	7.9	Flora and Fauna Roll	11
	7.10	Special Policy Areas 2 0 OCT 2014	1,1
3 VO	LUMI	E 3; SUMMARY	12
4 VO	LUMI	E 4 APPENDICES	13
Appen Appen Appen	adix No adix No adix No adix No adix No	. 4A Updated Finaway Site Plan . 10 A Ecological Impact Assessment Report . 11 B Asbestos management details	
Appen	ıdix No	. 11 B Asbestos management details	

1 ADDENDUM

1.1 Introduction

This document contains the information requested by Cavan County Council in their letters dated 15th September 2014 relating to planning application reference numbers 14/238 and 14/239.

It relates to the Drumscruddan and Finaway Pig Farms EIS dated July 2014, and reflects the issued raised in the Further Information requests of 15th September 2014.

1.2 Outline

The following paragraph outlines how this addendum information is presented.

The relevant section of the EIS subject to the addendum information (or additional commitments) is quoted.

The text is appropriately amended as follows: The destroy of the subject of th

Quoted text is as shown.

Text to be deleted is crossed out. Deleted

Amendment text is in bold within square brackets: [Amendment text]

Nb. In most circumstances there will be an amendment. In some cases however there may be both a deletion and an ammendment.

1.3 Summary of Updates

Updates to the Environmental Impact Statement that have occurred since the original EIS submission (July 2014) include the following:

Updated AA Screening

The Submitted screening has been reviewed and amended as required.

> Completion of Ecological Impact Assessment Report

Both Further Information requests highlighted a need for a more thorough and holistic investigation of the existing aquatic environment around the application sites and their catchment areas. In addition, a more detailed description of the potential impacts of both developments on the aquatic environment and appropriate mitigation measures was requested. Both requests for Further Information referenced a detailed submission made by the Inland Fisheries Ireland in response to both planning applications and the EIS submitted.

Accordingly, a comprehensive assessment of the ecological impacts of this application was carried out in October 2014 by Noreen McLoughlin, MSc, MCIEEM of Whitehill Environmental.

Updated Site Plan

The Submitted site plan has been updated to more clearly identify, proposed surface water drainage, proposed silt trap location, proposed final discharge point, and to identify the areas of proposed movement which will occur on slatted passageways with manure storage tanks underneath.

This has not resulted in any design changes to the proposed development, and is socly to provide more clarity on the existing proposals.

> Updated Waste Management/Disposal Measures

Additional details pertaining to the management and disposal of Asbestos waste from the site(s) have been included.

2 0 OCT 2014

PAGE NO. 4

2. Introduction

2.5 Organisations and Bodies Consulted

The scoping exercise for this E.I.S. was carried out in consultation with Cavan County Council, C.L.W. Environmental Planners Ltd., and Bogue Pigs. Other organisations and bodies consulted directly/indirectly include:

- Geological Survey of Ireland
- National Parks and Wildlife Service
- Duchas The Heritage Service
- Environmental Protection Agency.
- Met Eireann
- Department of Agriculture, Food and Marine
- Department of Environment, Community and Local Government

- Teagasc Pig Development Department

 lrish Farmers Association (I.F.A.)

 Bord Na Móna Environmental Constillancy Division
- Kepak /McCarren & Co.
- |Norcen McLoughlin, MSc, MCIEEM, Whitehill Environmental|

2 8 OCT 2014

4. DATA REQUIRED TO ASSESS THE EFFECTS OF THE DEVELOPMENT.

4.10 General Waste/Fluorescent Tubes/Construction and Demolition (C&D) Wastes

Any paper or other such waste arising on the farm will be stored in an appropriate bin. It is proposed that this will be collected by a local approved waste disposal contractor, such as Wilton Waste Disposal, from the site and brought to an approved site for disposal. The amount of the above waste types would be minimal on this farm.

Spent fluorescent tubes etc. and/or any other wastes generated on site including all construction and demolition waste from proposed development, that is to be moved off-site, will be separated and stored in accordance with Cavan Co. Council guidelines. It will then be transport off site by an authorised contractor(s) for disposal/recovery at an approved disposal/recovery site.

A construction and demolition waste management plan has been prepared for the proposed development and is included as Attachment [Appendix] No. 11. [Detailed proposals in relation to the appropriate removal, management, storage and disposal of asbestos waste are detailed hereafter in Appendix No. [Min.]

For interesting the detailed hereafter in Appendix No. [Min.]

For interesting the detailed hereafter in Appendix No. [Min.]

2 0 OCT 2014



6. DESCRIPTION OF THE EXISTING ENVIRONMENT

6.3Surface Water

(a) Site and immediate area

The pig farm is located in an area south of Cavan Town in Hydrometric Area No. 36, the Shannon catchment. This farm is located in the Inny Water Management Unit catchment area, and is drained by tributaries of the Mountnugent Rivers. Please refer to the following figures for illustrations and statistics;

6.3 River Basin Districts

In addition to this see Appendix No. 10 for details on local water quality data-[and appendix No. 10A for a completed Ecological Impact Assessment Report. This report details a baseline survey (6 locations) completed to establish the existing water quality adjacent to and downstream of the sites, together with a comparison to existing published results.]

6.9 Flora and Fauna

(a) Site and immediate areas purposes

As previously described the proposed development is to be carried out on an existing pig farm site(s). The lands directly adjoining;

- \triangleright The Drumscruddan Sixe have been afforested a number of years ago (15-20) with a mix of Ash and spruce.
- > The Finaway site lands are mainly agricultural grass land with a small proportion of the area afforested.

The majority of the lands in the surrounding area are/have been used for agricultural production. The flora and fauna associated with this site has developed accordingly as the site has developed and changed over the years from grassland to a pig farm site.

There are no specific unique habitats, flora and/or fauna on this site that require specific protection. [A detailed description of the habitat types encountered on and/or adjacent to the site is given in the Ecological Impact Assessment. These include mainly Artificial Surfaces, Hedgerows and Treclines.

An examination of the website of the National Parks and Wildlife, the National Biodiversity Data Centre and the Online Atlas of Vascular Plants for Ireland revealed that no species protected under the Flora Protection Order occurs within the Ikm squares of the proposed application sites.

Records from the National Biodiversity Data Centre reveal the presence of the following protected mammals from within the 10km squares (N48 & N49) of this proposed application site:

- Badger Meles meles
- European Hedgehog Erinaceus europaeus
- Otter Lutra lutra
- Irish Stoat Mustela erminea subsp. Hibernica
- · Red Squirrel Sciurus vulgaris
- Irish Hare Lepus timidus subsp. Hibernicus
- Pine Marten Martes martes
- Pygmy Shrew Sorex minutus
- Daubenton's Bat Myotis daubentonii
- Lesser Noctule Nyctalus leisleri
- Pipistrelle Pipistrellus pipistrellus
- Soprano Pipistrelle Pipistrellus pygmaeus

All these species are protected under the Irish Widlife Acts. In addition, the otter Lutra lutra is protected under Annex II of the European Habitats Directive. The protection of water quality is vital for the otter.

It is likely that a range of common passerine birds would occur around the proposed development site, using the hedgerous and mature trees as nesting and feeding sites. A wider range of bird species, including water fowl associated with lake land habitats would occur at Lough Sheelin SPA. Some of these bird species would be of national importance.

Although there are no official records, it is likely that the common frog Rana temporaria occurs close to the proposed development sites. The presence of the smooth newt, Lissotriton vulgaris, is also a possibility.

There are no records or reports of any protected invertebrate species from the Drumscrudden or Finaway areas.

2 0 OCT 2014



6.10 Special Policy Areas

.....

An Appropriate Assessment Screening Report in line accordance with Guidance Notes provided by the Department of Environment, Heritage and Local Government Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities, has been completed and is contained in Appendix No. 13. [This has been revised and updated and is included hereafter as Appendix No. 13 A]

It has been determined that "Considering the distance, it is unlikely that there will be any impacts upon Lough Sheelin SPA, pNHA arising from the demolition and construction activities on both sites."

Consent of copyright owner required for any other use.

7. DESCRIPTION OF IMPACTS AND MITIGATION MEASURES

7.3 Surface Water

Ireland is fortunate in having a relatively abundant supply of fresh water, which constitutes a key resource in economic, amenity and aesthetic terms. The principle legislation governing water quality in Ireland is the European Communities (Water Policy) Regulations 2003 (S.I. 722 of 2003), which transposed directive 2000/60/EC (the water framework Directive, WFD) into Irish Law.

(a) Site and Immediate area

As previously stated (Section 6.3(a)) all surface water from this farm will discharge through one or more storm water discharge points. All points will be visually inspected on a weekly basis for any signs of contamination i.e. visual and or odour, and sampled as required by the conditions of any Licence that may be granted to this farm.

The proposed development has been designed so as to minimise the amount of soiled water generated on the farm. The main area associated with the unloading and loading of pigs entering and leaving the proposed houses will be an encrosed concreted area ensuring that all soiled water enters the manure storage tanks while at the same time ensuring that there is no possibility of contaminated storm water entering the clean storm water system [as identified on the revised site plans submitted as Appendix No. 3A and 4A].

Proper manure management on the site and on the customer farmlands as planned will result in little or no impact on the surface water in this area. Bogue Pigs will ensure that all potential customer farmers are aware of the requirements of the nitrates directive with regard to the application of organic fertiliser to their farmland. Independent water monitoring in this catchment is and it is envisaged will be conducted on an on-going basis by Cavan County Council, the E.P.A. and/or the Regional Fisheries Board(s).

Stormwater monitoring on both sites will be carried out on a quarterly basis (and/or as agreed) in line with E.P.A. requirements.

Results (where available [including those completed as part of the ecological impact assessment]) relating to surface water quality for the relevant watercourses in close proximity to the pig farm are detailed in Appendix 10 [& 10 A].

0

7.9 Flora and Fauna

(a) Site and immediate area

As previously described the site and adjoining area are agricultural lands that have been managed and developed as such over a long number of years. The area of the proposed development is located on/within an existing agricultural farmyard/pig farm with the lands directly adjoining the Drumscruddan site having been afforested and the majority of the lands adjoining the Finaway site being agricultural grassland.

The majority of the land in the surrounding area is used for agricultural production. The flora and fauna associated with this existing site has developed accordingly as the site has developed and changed over the years from grassland to a pig farm site. The site of the proposed development is intensively managed agricultural land, and/or is located immediately adjacent to the existing pig farm and thus has a poor level of ecological diversity. There are no specific unique habitats on this site that require specific protection.

[The potential impacts during the construction and operational phases of the development have been identified in the Ecological Impact Assessment;

A detailed assessment of the potential impacts along with proposed mitigation measures has been detailed so as to ensure that the proposed developments at Drumscrudden and Finaway will have a neutral impact upon water quality and local ecology. There will be no impacts upon any designated sites and local fisheries will be protected.

These are discussed in further detail within the report in Appendix No. 10 A.]

7.10. Special Policy Areas

(A) Nationally Designated Environmental Areas

The location of the pig farm site, located away from Nationally Designated Environmental Areas, ensures that this pig farm will not have an adverse environmental impact on same. All customer farmland in receipt of slurry from this farm will allocate organic fertiliser in accordance with S.I. 31 of 2014 so as to ensure that there is no adverse significant impact on any of these areas.

The attached screening report (see Appendix 13 [and revised report in Appendix 13A]) concludes that there should be no negative impact on such areas from activities associated with this development. It will be advised to the customer farmers that organic fertiliser spreading operations should be carried out in accordance with Codes of Good Practice.

C.L.W. ENVIRONMENTAL PLANNERS LTD.

PAGE NO. 11

10. Summary

Summary

| The amendments to the submitted E.I.S. serve to provide a greater level of baseline data particularly with respect to; a) the existing environment and potential impact on same and designated areas, and, b) the management of waste generated from the demolition of the existing structures. Any additional measures arising from same will serve to improve management practices during the construction and operation of this development, while at the same time recognising that the overall focus of this development is the upgrading of existing facilities.]

C.L.W. Environmental Planners Ltds Petiton purpose on the large Date Date Date C.L.W. Environmental Planners Ltds Petiton purpose of the large day of the large

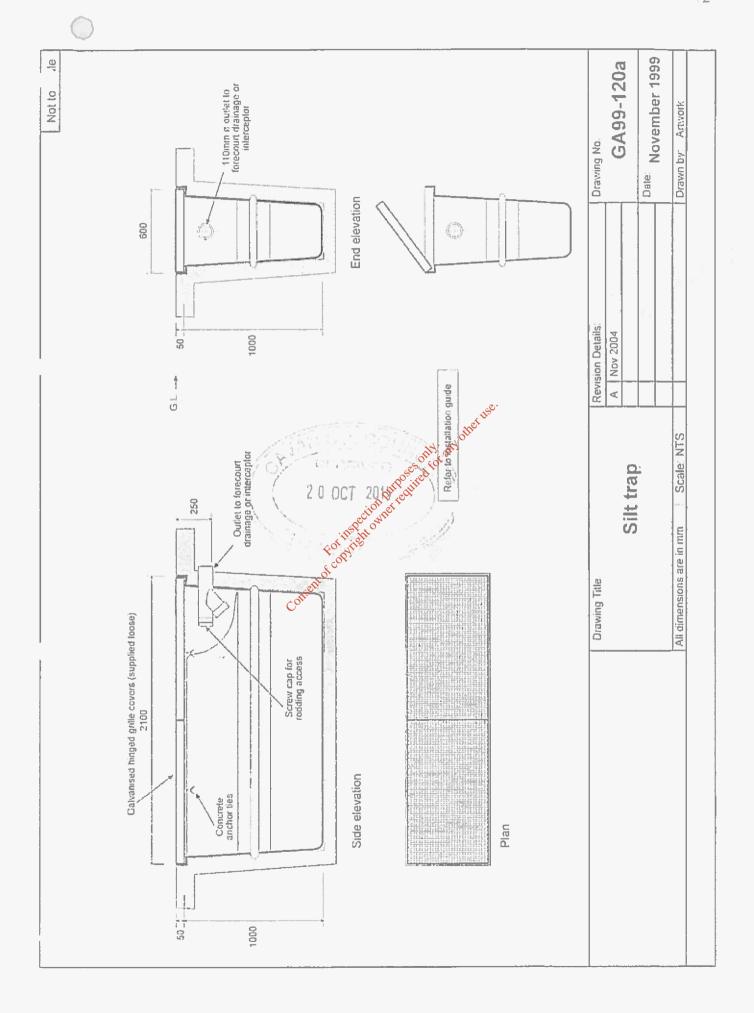
Email:

paraicfay@eircom.net

Appendix No. 3A Updated Drumscruddan Site Plan

Consent of copyright owner required for any other use.

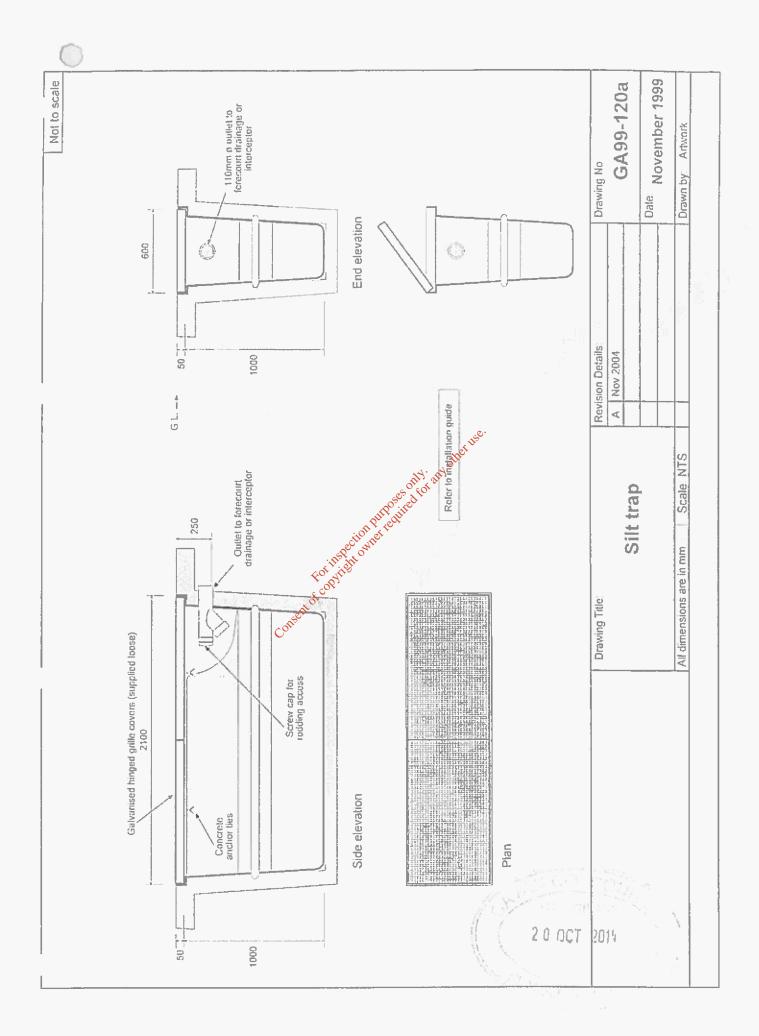
C.L.W. ENVIRONMENTAL PLANNERS LTD.



Appendix No. 4A Updated Finaway Site Plan

Consent of copyright owner required for any other use.

C.L.W. ENVIRONMENTAL PLANNERS LTD.



Appendix No. 10 A Ecological Impact Assessment Report

Consent of copyright owner required for any other use.

C.L.W. ENVIRONMENTAL PLANNERS LTD.

PAGE NO. 15





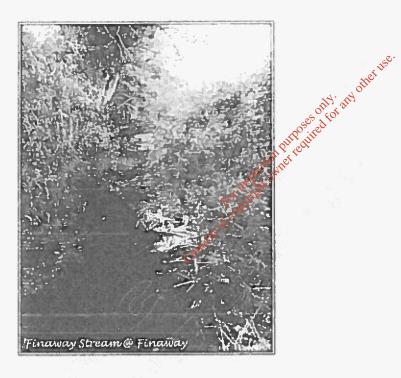
Noreen McLoughlin, MSc

Environmental Consultant

White ill
Edgeworthstown
Co. Longford
Er (087) 4227248 / (043) 6672775
Ed. noreen.mcloughlin@gnail.com

ECOLOGICAL IMPACT ASSESSMENT OF PROPOSED DEVELOPMENTS AT DRUMSCRUDDAN & FINAWAY, CO. CAVAN

PLANNING REFERENCE No: 14/238 & 14/239



Bogue Pigs

c/o Pauric Fay C.L.W. Environmental Planners Ltd The Mews 23 Farnham Street

October 2014

All Maps and Aerial Photography used in this report are reproduced under OSI Licence No. EN 0079014

TABLE OF CONTENTS

1.	118	ITRODUCTION	3
	1,1	Requirement for an Ecological Impact Assessment3	
	1.2	The Aim of the Report	
	1.3	Legislative and Policy Context	
2.	M	ETHODOLOGY	. 5
	2.1	Study Area9	
	2,2	Desk Based Studies	
	2.3	Field Based Studies	
	2.4	Assessment Methodology11	
3-	S	TE LOCATION & DEVELOPMENT DESCRIPTION	13
4-5	R	ECEIVING ENVIRONMENT	15
	4.2	Site Description – Surrounding Habitats15	
	4.2	Designated Sites	
	4.3	Flora and Fauna	
	4.4	Fauna	
	4.5	Water Features and Water Quality21	
	4.6	Fisheries	
	4.7	Ecological Evaluation27	
5.	P	OTENTIAL IMPACTS	28
	5.3	Introduction28	
	5.2	Impacts upon Designated Sites	
	5.3	Impacts During the Construction Phase	
	5.4	Impacts During the Operational Phase	
	5-5	Assessment of Impacts	
6.	М	Introduction	3:
7.	R	ESIDUAL IMPACTS AND CONCLUSION SCHOOL STATES	37
, ·		in the	
AF	PEND	PIX I – WATER MONITORING RESULTS	38
ΑP	PEND	k II - NPW5 SITE SYNOPSIS	4
		ant or	
		o Otise.	



1. INTRODUCTION

1.1 REQUIREMENT FOR AN ECOLOGICAL IMPACT ASSESSMENT

This Ecological Impact Assessment (EcIA) follows on from two Further Information requests from the Planning Department of Cavan County Council in relation to two separate but interrelated planning applications. The first application (14/238) relates to a proposed development at Drumscrudden, Crosserlough, Co. Cavan whilst the second application (14/239) pertains to a site at Finaway, Ballyjamesduff, Co. Cavan. One Environmental Impact Statement (EIS) has been submitted in relation to both these developments.

Both Further Information requests highlighted a need for a more thorough and holistic investigation of the existing aquatic environment around the application sites and their catchment areas. In addition, a more detailed description of the potential impacts of both developments on the aquatic environment and appropriate mitigation measures was requested. Both requests for Further Information referenced a detailed submission made by the Inland Fisheries Ireland in response to both planning applications and the EIS submitted.

Accordingly, a comprehensive assessment of the ecological impacts of this application was carried out in October 2014 by Noreen McLoughin, MSc, MCIEEM of Whitehill Environmental.

1.2 THE AIM OF THE REPORT &

This study addresses the ecological impacts that may occur in the future on the aquatic ecology of the Drumscrudden and Finaway areas and their surrounding environs should this development be allowed to proceed. In addition, potential impacts on any valuable terrestrial receptors have also been considered.

This EcIA has been undertaken in accordance with the guidelines issued by the Environmental Protection Agency (EPA) and the Chartered Institute of Ecology and Environmental Management (CIEEM).

It follows a standard approach based upon the description of the existing baseline conditions within the application site. An evaluation of the likely habitats and species currently present within the application site is also given, along with the identification of the potential ecological impacts arising from the construction and operation of the proposed developments. An assessment of the likely significance of the identified impacts on valued ecological receptors (VERs), both within and close to the application site is also made. Where a significant negative

2 D OCT 2014



1.3 LEGISLATIVE AND POLICY CONTEXT

Legislative Context

The Irish Wildlife Act 1976 (and its amendment of 2000) provides protection to most wild birds and animals. Interference with such species can only occur under licence. Under the act it is an offence to "wilfully interfere with or destroy the breeding place or resting place of any protected wild animal". The basic designation for wildlife is the Natural Heritage Area (NHA). This is an area considered important for the habitats present or which holds species of plants and animals whose habitat needs protection. Under the Wildlife Amendment Act (2000) NHAs are legally protected from damage. NHAs are not part of the Natura 2000 network and so the Appropriate Assessment process does not apply to them.

The Flora Protection Order 1999 provides statutory protection in Ireland to a number of rare plant species from being wilfully cut, picked, uprooted or damaged. It is also illegal under this order to alter, damage or interfere with their habitats.

The EU Birds Directive (Council Directive 79/409/EEC) implies that particular protection is given to sites (Special Protection Areas) which support certain bird species listed in Annex I of the Directive and that surveys of developments ites should consider the status of such species.

The EU Habitats Directive (92/43/EEC) gives protection to sites (Special Areas of Conservation) which support particular habitats and species listed in annexes to this directive. Articles 6(3) and 6(4) of this Directive call for the undertaking of an Appropriate Assessment for plans and projects likely to have an effect on designated sites.

The Water Framework Directive (WFD) (2000/60/EC), which came into force in December 2000, establishes a framework for community action in the field of water policy. The WFD was transposed into Irish law by the European Communities (Water Policy) Regulations 2003 (S.I. 722 of 2003). The WFD rationalises and updates existing legislation and provides for water management on the basis of River Basin Districts (RBDs). RBDs are essentially administrative areas for coordinated water management and are comprised of multiple river basins (or catchments), with cross-border basins (i.e. those covering the territory of more than one Member State) assigned to an international RBD. The aim of the WFD is to ensure that waters achieve at least good status by 2015 and that status doesn't deteriorate in any waters.

Planning Policies

National

Nationally, the Government's commitment to sustainable development is set out in a number of documents including the National Development Plan 2007-2013, the National Spatial Strategy 2002-2020 and Sustainable Development: A Strategy for Ireland 1997.

Regional

The Regional Planning Guidelines for the Border Region, adopted by the Border Regional Authority on 29th September 2010, provides a planning framework covering the counties of Cavan, Donegal, Leitrim, Louth, Monaghan and Sligo for the period 2010-2022. These guidelines contain a number of policies and objectives relevant to the protection of water quality, ecology and nature conservation. These guidelines are summarised in Table 1.

Policy Reference	Polity
ENVP5	All development plans and profects within the Border Region shall conserve and protect biodiversity and the ecological Integrity of: • all designated sites, or any new or extended ecological sites designated during the life of the Guidelines, of international and hardonal importance, and sites proposed for designation, in garticular, European sites (including Natura 2000 sites); and Ramsar sites, NHAs and statutory Nature Reserves; • Species listed under Annex I, Natural Habitats; Annex II, Animal and Plant Species and Annex IV, Animal and Plant Species of Community Interest in need of strict protection of the Council Directive 92/43/EEC.
ENVP9	To ensure alignment between the core objectives of the Water Framework Directive (including River Basin Management Plans and POMS and Fresh Water Pearl Mussel Sub-Basin Management Plans pertaining to the Border Region) and other related plans such as County Development Plans and related Local Area Plans; Habitat and Species Protection Plans under the Habitats Directive, Water Services Investment Programme, Nitrates Action Programme; and Flood Management Plans.

ENVO8	Local Authorities must incorporate the issues from the River	
	Basin Management Plans and all action measures set out in	
	Shell Fish Water Protection Measures within their jurisdiction ,	
	into the plan making process, so that the implications of	
	development on water quality is a key driver in Identification of	
	suitable locations for new development.	
ENVO ₁₀	Areas of good and poor ecological status in the River Basin	
State F. W. Tour all har	Management Plans should be identified in all Development	
	Plans and specific policies developed to protect their status,	
	including restrictions on types of development which impact on	
	water quality.	

Table 1 – Regional Policies Relevant to Water Quality, Ecology and Nature Conservation

Local

Planning policy at the local level is provided by the Cavan County Development Plan 2014–2020. This plan contains a number of policies and objectives relevant to the protection of water quality, ecology and nature conservation value in County Cavan. These are summarised in Table 2.

Policy Reference	Poll-y de le
NHEP27	Pollton Protect the water resources of County Cavan. Consent To protect the rivers, streams, lakes and all other watercourses
NHEP27	To protect the rivers, streams, lakes and all other watercourses in the County, in order to promote sustainable and suitable habitats for flora and fauna.
NHEP28	To promote the engagement of developers and regulators in sustainable development and encourage a high standard of environmental protection. The "precautionary principle" will apply where a significant risk to the environment exists.
NHEP29	To achieve good status in all our waterbodies and prevent the deterioration of existing water quality status in all waterbodies in accordance with the requirements of the Water Framework Directive (WFD) and to any development where the potential adverse effects are not fully understood, in which case the development should not proceed. The "burden of proof" shall

A MARIE WAS A STATE OF THE STAT	be solely with the applicant to ensure that the proposed activity will not cause significant environmental harm.
NHEP30	Ensure that all industrial or agricultural developments generating manure, organic fertilizer and sludge that are dependent on the off – site recovery or disposal of waste take area mapping into account. Including lands with impaired drainage or percolation properties and lands where rock outcrop and extreme vulnerability of groundwater is present. Restrictions shall apply in areas where water source catchments are present.
NHEP31	Ensure the implementation and enforcement of the European Communities, "Good Agricultural Practice for Protection of Waters Regulations" (2009) and associated European Communities "Good Agricultural Practice for Protection of Waters Regulations" 2013; US. J. 620 of 2010.
NHEO50	All applications for development shall be assessed in terms of the potential impact on the quality of surface waters through the complementation of, where applicable, the RBMP's contentional River Basin District', 'Water Matters' and 'North Western International River Basin District: Water Matters', 'Shannon International River Basin District: Water Matters' and the 'Eastern International River Basin District: Water Matters'.

Table 2 – Local Policies Relevant to Water Quality in Co. Cavan

Biodiversity and Heritage Plans

Ireland's National Biodiversity Plan identifies actions that need to be taken in order to understand and protect biodiversity in Ireland. It states that biodiversity and ecosystems in Ireland should be conserved and restored, to deliver benefits that are essential to all sectors of society and that Ireland should contribute to the efforts to halt the loss of biodiversity and the degradation of ecosystems in the EU and globally.

The Cavan County Local Biodiversity Action Plan which sets out a range of actions for the conservation and sustainable use of biodiversity. It stimulates effective local action, creates awareness and promotes biodiversity at the local authority level.

The County Cavan Heritage Plan 2006-2011 identifies a number of objectives and policies in order to protect the natural heritage and biodiversity of Co. Cavan. This plan is currently under review.

Consent of copyright owner reduced for any other use.

2 0 OCT 2014

2. METHODOLOGY

2.1 STUDY AREA

The study area encompasses all the land within the area defined in the plan submitted for planning consent, i.e., the proposed application sites. In addition, important ecological habitats and receptors within the zone of influence of the proposed developments were also studied.

2.2 DESK BASED STUDIES

The desk study involved the examination of aerial photographs, current and historical maps and plans and drawings of the site. In addition, information was collated on designated nature sites within a 10km radius of the proposed site and on protected and rare species within the 1km square of the site.

The following websites were used to access information and data:

- National Parks and Wildlife Service www.npws.ie
- National Biodiversity Data Centre www.biodiversitycentre.ie
- Google Maps & Street View magas google.ie

 For principle of the control of the
- Environmental Protection Ireland www.epa.ie
- Cavan County Council www.cavancoco.ie
- Water Matters www.wfdireland.ie
- Inland Fisheries Ireland www.fisheriesireland.ie

2.3 CONSULTATIONS

Consultation on both developments was sought with the National Parks and Wildlife Service and with Inland Fisheries Ireland. NPWS replied stating that they had no comments on either development. IFI have not yet responded.

2.4 FIELD BASED STUDIES

A visit to both of the sites at Drumscrudden and Finaway was conducted on October 3rd 2014. Weather conditions on this day were wet. Habitats within both sites were noted.

Subsequently, six different sampling locations on local water courses were then visited. Points were chosen for relevance to the development but ease of access and river topography were also taken into account. These sites are listed in Table 3.

Skorton No.	หลุ่งอยู่ Namia 2d ตอลที่เกิ	ទីក្រៀ (ខែវុង) ១៣៩១
1	Drumscrudden Stream – u/s of PPA	N489 917
2	Drumscrudden Stream – d/s of PPA	N491 915
3	Finaway Stream - ~44m u/s of PPA	N499 890
4	Finaway Stream 58m d/s of PPA	N500 889
5	Mount Nugent River - u/s at Bridge er Derrylea	N509 896
6	Finaway Stream58m d/s of PPA Mount Nugent River - u/s at Bridge of Derrylea Mount Nugent River - u/s at Kilnacrott	N ₅ 08 8 ₇₇

Table 3 - Stations Sampled as Part of this Assessment

At each station, the surrounding habitats were noted along with other parameters such as water flow, stream depth and the predominance of vegetation. At each station a two minute kick sample was taken with a Freshwater Biological Association approved hand held sweep net with a mesh diameter of 500µm. If a kick sample was not suitable due to the depth or flow conditions of the river, then a two-minute sweep sample of the in-stream vegetation and a stone wash was taken instead.

The samples were retained in plastic containers at the sampling site. In the laboratory, any mud was removed from each sample by sieving under running water through a 500 µm sieve. The sieved samples were then sorted live in a white sorting tray under a bench lamp. All macro-invertebrates were removed from the samples and preserved in 70% ethanol. They were later counted and identified to an appropriate taxonomic level. Based on the relative abundance of indicator species, a biotic index (Q rating) was determined for the sites in accordance with the biological assessment procedure used by the Environmental Protection Agency (Toner et al.

2005). All indicator species are assigned to one of five different groups based on their tolerance to pollution. Group A are the most sensitive invertebrates and Group E are the least sensitive.

2.5 ASSESSMENT METHODOLOGY

Evaluation of Ecological Features

The methodologies used to determine the value of ecological resources, to characterise the impacts of the proposed scheme, and to assess the significance of impacts and any residual effects are described below. This approach is in accordance with EPA quidance and the CIEEM's (Chartered Institute of Ecology and Environmental Management) guidelines.

CIEEM suggest that to ensure a consistency of approach, ecological features are valued in accordance with their geographical frame of reference, as defined below:

- International
- National (Ireland)

District (Mount Nugent Catchment of Edition The above categories are the applied to the ecological features identified. Ecological features can be defined as:

- Designated sites (i.e., SACs, SPAs, NHAs, pNHAs, National Nature Reserves) or nonstatutory locally designated sites and features.
- Non-designated sites and habitats and features of recognised biodiversity value, such as rivers and streams. The features being evaluated can be considered in the context of the site and locality and thus a more accurate assessment of the impacts in the locality can be made.

Assessment of Impacts

The assessment of potential ecological impacts has been carried out using guidelines published by the EPA and the CIEEM. They can be summarised as:

- The identification of the range of potential impacts which can reasonably be expected to occur should the proposed developments receive planning consent;
- The consideration of the systems and processes in place to avoid, reduce and mitigate the possible effects of these impacts;
- The identification of opportunities for ecological enhancement within the site.

Impacts are defined as being positive, negative or neutral. A significant impact is defined as an impact upon the integrity of a defined ecosystem and/or the conservation status of a habitat or species within a given area.

Where a potential negative impact has been identified, mitigation measures have been formulated using best practices techniques and guidance to prevent, reduce or offset the impact.

Consent of copyright owner teating and other use.

2 0 OCT 2014

REF.NO: 14/239 09/12/2014

TO: Ireland Inland Fisheries

Drumsna

Carrick on Shannon

Co. Leitrim

Re: Planning and Development Acts, 2000 to 2004

A Chara

I refer to submission received from you in connection with an application by Bogue Pigs for PERMISSION to to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ, and to construct 5 no. pig houses, and an extension to 1 no. existing pig house, in accordance with adjustal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development will be submitted with this application. This application relates to a development, which is for the purposes of an activity requiring a licence under part IV of the Environmental Protection Agency (Licensing) Regulations 1994 to 2013 at Finaway Ballyjamesduff Co Cavan. I attach for your information copy of the Council's decision by order dated 08/12/2014.

Please note that you have the right of appeal to An Bord Pleanala against the Council's decision on this application. Your appeal should be address to An Bord Pleanala, 64 Marlborough Street, Dublin 1 and should include, your name and address, details of the nature and site of the proposed development, the name of the Planning Authority, the planning register number and the applicants name and address. The appeal must be received by An Bord Pleanala within <u>four weeks</u> beginning on the date of the Council's decision.

The full grounds of appeal and supporting material and arguments must be submitted from the start. The correct appeal fee must also be enclosed (See Attached Schedule). If an appeal does not meet all the legal requirements, it will be invalid and cannot be considered by the Board.

Senior	Staff Of	ficer.	

Mise, le meas

Consent of convident owner required for any other use.

REF.NO: 14/239 09/12/2014

TO: Rita Tierney

Keenagh Ballyjamesduff Co Cavan

Re: Planning and Development Acts 2000 – 2004

A Chara

I refer to submission received from you in connection with an application byBogue Pigs for PERMISSION to to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ, and to construct 5 no. pig houses and an extension to 1 no. existing pig house, in accordance with animal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development with be submitted with this application. This application relates to a development, which is for the purposes of an activity requiring a licence under part IV of the Environmental Protection Agency (Licensing) Regulations 1994 to 2013at Finaway Ballyjamesduff Co Cavan. I attach for your information copy of the Council's decision byorder dated 08/12/2014.

Please note that you have the right of appeal to An Bord Pleanála against the Council's decision on this application. Your appeal should be addressed to An Bord Pleanála, 64 Marlborough Street, Dublin 1. The correct appeal fee must also be enclosed. If an appeal does not meet all the legal requirements, it will be invalid and cannot be considered by the Board. The appeal must be received by An Bord Pleanála within 4 weeks beginning on the date of the Council's decision. Your appeal shall be made in writing and shall state:

- (1) Your name and address and the name and address of the person, if any, acting on your behalf.
- (2) State the subject matter of the appeal and
- (3) State in full the grounds of the appeal and the reasons, considerations and arguments on which they are based.

In the case of an appeal by a person who made submissions or observations, the Planning Authority's acknowledgement of receipt of the submission or observation shall be submitted. The appeal shall be accompanied by the appropriate fee.

Mise, le meas

Senior Staff Officer.

Consent of confridation purposes only in any other use.

PLANNING & DEVELOPMENT ACTS 2000 - 2004



(SUBJECT TO CONDITIONS) UNDER THE ABOVE ACTS

CAVAN COUNTY COUNCIL

Bogue Pigs TO:

C/o Paraic Fay

C.L.W. Environmental Planners Ltd

The Mews 23 Farnham St.

Cavan

Planning Register Number:

14/239

Application Receipt Date:

24/07/2014

Valid Application Date:

24/07/2014

Further Information Received Date: 29/10/2014

In pursuance of the powers conferred upon them by the above-mentioned Acts, Cavan County Council has by Order dated 08/12/2014 decided to GRANT PERMISSION for development of land, namely:to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ, and to construct 5 no. pig houses, and an extension to 1 no. existing pig house, in accordance with animal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development will be submitted with this application. This application relates to a development, which is for the purposes of an activity requiring a licence under part IV of the Environmental Protection Agency (Licensing) Regulations 1994 to 2013 at Finaway, Ballyjamesduff Co Cavan in accordance with the plans submitted with the application.

Subject to the 8 condition(s) set out in the attached 2nd Schedule and for the reason set out in the 1st

Schedule.

Signed on behalf of Cavan County Council

Senior Staff Officer

Date: 9 December, 2014

Provided there is no appeal against this **DECISION** a grant of planning permission will issue at the end of period within which an appeal may be made.

THIS NOTICE IS NOT A GRANT OF PERMISSION AND WORK SHOULD NOT COMMENCE UNTIL PLANNING PERMISSION IS ISSUED.

NOTE:

An appeal against the decision may be made to An Bord Pleanála within four weeks beginning on the date of the decision. Any appeal must state in full the grounds of appeal and the reasons, considerations and arguments on which they are based. Any appeal must be accompanied by a copy of acknowledgement of your submission to the Planning Authority.

Appeal against a decision of a Planning Authority on a planning application must be accompanied by the appropriate fee set out in the 'Guide to fees payable to the Board' which is attached to decision.

Appeal should be addressed to An Bord Pleanála, 64 Marlborough Street, Dublin 1.

Consent of copyright owner required for any other use.

CAVAN COUNTY COUNCIL

PLANNING AND DEVELOPMENT ACTS 2000 - 2004

Chief Executive's Order No:

PL 94,380

Reference Number:

14/239

Name of Applicant:

Address:

Bogue Pigs

C/o Paraic Fay

C.L.W. Environmental Planners Ltd

The Mews 23 Farnham St

Cavan

Nature of Application:

PERMISSION to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ, and to construct 5 no. pig houses, and an extension to 1 no. existing pig house, in accordance with animal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development, will be submitted with this application. This application relates to a development, which is for the purposes of an activity requiring a licence under part IV of the Environmental Protection Agency (Licensing) Regulations 1994 to 2013

Conse

Location of Development:

Finaway, Ballyjamesduff, Co Cavan

ORDER:

I hereby decide, pursuant to the provisions of the Planning and Development Acts 2000 to 2004 and the Planning and Development Regulations, 2001 to 2002 and for the reason set out in the 1st Schedule to Grant Permission for the above development in accordance with documents submitted, subject to the 8 Condition (s) set out in the 2nd Schedule attached hereto.

Notification of decision to grant to issue forthwith and notification of the grant of Permission to issue at the expiration of the appropriate period provided no appeal has been taken against this decision.

PESENIOR STAFF OFFICER

AICHTEF EXECUTIVE OFFICER

DATED: 08/12/2014

THIS IS CERTIFIED TO BE A TRUE COPY:

21/01/2015



Consent of copyright owner required for any other use.

PLANNING & DEVELOPMENT ACTS 2000 - 2004

PLANNING APPLICATION: Bogue Pigs.

REG. NO. 14/239

SCHEDULE 1

It is considered that, subject to compliance with the conditions set out below, the proposed development would not injure the amenities of the area, give rise to a traffic hazard or be prejudicial to public health and would be in accordance with the proper planning and development of the area.

SCHEDULE 2

1. The development shall be carried out in accordance with the plans and particulars lodged with the application in 24/7/14 as amended by the further plans and particulars received by the planning authority on 20/10/2014, except as may otherwise be required in order to comply with the following conditions:

Reason: In the interest of clarity.

2. No surface water from roofs or paved areas shall flow from the site (including entrance area) onto the road adjoining the site but shall be collected by a surface water drainage system and discharged direct to nearby watercourses

Reason: In the interests of public health, traffic safety and amenity.

3. The external blockwork shall be properly rendered and painted in good quality outdoor paint, or a light colour (preferably white) and the roof shall be painted a dark colour (preferably turf brown or blue\black\dark green) and the building generally kept in good order and appearance.

Reason: In the interests of visual amenity.

4. All sound trees on site (including those in surrounding hedgerows) shall be retained except those that require to be removed to facilitate the actual physical development of the site.

Reason: In the interests of visual amenity.

5. All Mitigation Measures from the submitted Environment Impact Statement shall be carried out in full and in strict accordance with the submitted EIS.

Reason: In the interests of protection of the environment and in the interests of proper planning and sustainable development.

 Construction and demolition works shall be carried out in accordance with the Construction and Demolition Waste Management Plan submitted as part of this application and the Further Information received.

Reason: In the interests of protection of the environment and in the interests of proper planning and sustainable development.

- Asbestos sheeting that is removed from any structures shall not be re-used and shall disposed of appropriately using an authorised waste contractor.
 - Reason: In the interests of protection of the environment and in the interests of proper planning and sustainable development.
- 8. Adequate and appropriate precautions shall be taken during the demolition and construction phases of this development so as to prevent environmental pollution as defined in the Waste Management Act 1996, as amended.

Reason In the interests of protection of the environment and in the interests of proper planning and sustainable development.

Senior Staff Officer, Planning Section. Consent of copyright owner technical for any other use.

Acting CEO's Written Statement on EIA

Planning Reg. No. 14/239 - Bogue Pigs

It is noted that the Environmental Impact Assessment (EIA) carried out by the Executive Planner (and approved by the Acting Senior Planner) and report on in the report dated the 5th December 214, has been carried out giving full consideration to the Environmental Impact Statement (EIS) submitted with the planning application and the Addendum to the (EIS) as submitted by way of Further Information to the Planning Authority and the submissions and observations validly made in relation to the environmental effects of the development.

It is considered that the report dated 5th December 214, contains a fair and reasonable assessment of the development on the environment. The assessment as reported is adopted as the assessment of Cavan County Council.

2/12/14

Signed:

Date:

EPA Export 10-08-2018:04:00:16

Consent of confright owner required for any other use.

Acting CEO's Written Statement on EIA

Planning Reg. No. 14/238 - Bogue Pigs

It is noted that the Environmental Impact Assessment (EIA) carried out by the Executive Planner (and approved by the Acting Senior Planner) and report on in the report dated the 5th December 214, has been carried out giving full consideration to the Environmental Impact Statement (EIS) submitted with the planning application and the Addendum to the (EIS) as submitted by way of Further Information to the Planning Authority and the submissions and observations validly made in relation to the environmental effects of the development.

It is considered that the report dated 5th December 214, contains a fair and reasonable assessment of the likely significant effects of the development on the environment. The assessment as reported is adopted as the assessment of Cavan County Council.

Signed: ______
Date:



Consent of confridation purposes only in any other use.

18/12/14

MEMORANDUM

From

部

Eve Harrison

To

Marice Galligan

Executive Planner

A/Senior Planner Planning Section

Date

5th December 2014

Planning Reg. No:

14/239

Applicant:

Bogue Pigs

Type of Application:

Permission

Development Description:

to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ, and to construct 5 no. pig houses, and an extension to 1 no. existing pig house, in accordance with animal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development will be submitted with this application. This application relates to a development, which is for the purposes of an activity requiring a licence under part IV of the Environmental Protection Agency (Licensing)

Regulations 1994 to 2013.

Engineering Area:

Cavan

SITE LOCATION AND DESCRIPTION

Proposed site is located on local secondary road, L7074-0 in the townland of Finaway (Finishing Site), Ballyjamesduff, co. Cavan. The proposed development is located within a long established pig farm complex.

A site notice was erected on date of site inspection and was visible and legible from the public road.

DEVELOPMENT PLAN POLICY

Proposed site is located in a rural area outside of any designated town/village.

The policy regarding agricultural development, as contained in the current Cavan County Development Plan (2014-2020), Chapter 3 – Economic Development, Section 3.4 – To consider, facilitate and encourage the sustainable development of agricultural enterprises, agri-tourism projects and farm diversification and other suitable proposals that support the development of alternative rural enterprises.

The Policies and Objectives in relation to the protection of the Environment and water resources are contained in Chapter 8: Natural Heritage & Environment. In particular, Section 8.12.7 addresses issue of agriculture and land spreading of manure and sludge and the effective management thereof. It is stated that: 'The sustainable development of the agricultural industry in Cavan depends on quality waste management systems that take account of nutrient balances sensitive water bodies, topography and soil conditions.'

6

This proposal will be evaluated in terms of the policies and objectives contained in both chapters.

PLANNING HISTORY:

06/2449: Maguire Pig Farms - decommission 3 no existing pig fattening house and construct 2 no replacement pig fattening houses in order to aid compliance with the incoming nitrates directive, together with all ancillary structures and associated site works on the site of existing pig farm. (development granted but not commenced)

07/710: Maguire Pig Farms - decommission 4no.existing pig fattening houses and construct 1no. replacement pig fattening house in order to aid compliance with the incoming Nitrates directive, together with all ancillary structures and associated site works on the site of existing pig farm. (development granted but not commenced)

PRE-PLANNING:

A meeting was held with the A/Snr. Planner – Marice Galligan; Assistant Planner – Ms. Laura Nulty and the applicants' agent – Pauric Fay, on the 10/06/2014.

The pre-planning discussions concerned the need for the applicant to undertake the preparation of an EIS.

SUBMISISONS:

Submission from Environmental Protection Agency EPA noted. Following comments made:

It appears that the location to which the planning application 14/238 relates, may be associated with the following licence issued by the EPA.

Mr Bernard Maguire was issued an IRPC Licence (Register No. P0427-01) on the 3rd January 2001 for pig rearing activities at Drumscadden, Crosserlough, co. Cavan and Duffcaste, Crosserlough, County Cavan.

On the basis of the information provided, the activity proposed in the planning applications will require a new licence under the EPA Acts (1992), as amended, and/or review of the licence mentioned above. The licensee has not yet applied to the Environmental Licensing Programme for a determination in this regard.

It is noted on the basis that the planning applications were accompanied by an EIS. The EIS appears to address the key points in relation to the environmental aspects of the proposed activity which relate to the matters that come within the functions of the Agency. It also appears to address the direct and indirect effects of the development on the aspects of the environment listed in Section 83(2A) (a) of the EPA Acts (please refer to the EU (Environmental Impact Assessment) Integrated Pollution Prevention Control) Regulations 2012 (S.I. No. 282 of 2012).

As part of it consideration of any licence or review application that may be received, the Agency shall ensure that before the licence or reviewed licence is granted, the licence application will be made subject to an Environmental Impact Assessment as respects the matters that come within the functions of the Agency and in accordance with Section 83(2A)

and Section 87(1G)(a) of the EPA Acts. In addition, consultation on the planning application and EIS will be carried out in accordance with Section 87 (1B) to (1H) of the EPA Acts.

If and when a licence application is received by the Agency, all matters to do with emissions to the environment from the activities proposed, the licence application documentation and EIS will be considered and assessed by the agency.

Where the Agency is of the opinion that the activities, as proposed, cannot be carried, or cannot be effectively regulated under a licence then the Agency cannot grant a licence for such a facility. Should the Agency decide to grant a licence in respect of the activity, as proposed, it will incorporate conditions that will ensure that appropriate National and EU standards are applied, and that Best Available Techniques (BAT) will be used in the carrying on to the activities.

You are advised of the following documents:

- BREF on Intensive rearing of Poultry & Pigs
- National legislation regarding emissions.

In accordance with EPA Acts, the Agency cannot issue a Proposed Determination on a licence application relating to the development until a planning decision has been made – requested to provide the documentation relating to the EIA carried out to the Agency under Section 173A(4) of the Planning & Development Acts 2000, as amended.

Inland Fisheries Ireland - Shannon River Başin District: Submitted the following response: In response to the referral of the application for the above development and having considered the content Inland Fisheries Ireland (IFI) has the relieving points to make:

Inland Fisheries Ireland is a statutory agency with responsibility under the provisions of the Fisheries Acts for the protection, management and conservation of Ireland's inland fisheries resource. The fisheries resource is also protected under national and EU legislation.

The existing pig unit at this site is located in the Sheelin catchment, close to tributaries of the Mount Nugent River, with the Finaway River, a tributary of the Mount Nugent flowing through the site. The site is currently derelict and has been for a number of years now. Lough Sheelin is a trout fishery located in counties Cavan, Meath and Westmeath, with a surface area of 1855 ha, and a total catchment area of c.24,900 ha. The catchment is characterised by intensive agriculture and the soils in the Lough Sheelin catchment have a poor hydraulic infiltration capacity, surface runoff is frequent causing manures and fertilisers to be washed off to surface water streams. ability to retain phosphorus. The lake has shown signs of eutrophication since the early 1970s.

Lough Sheelin and the catchment area it drains is an important natural resource with significance for fisheries, angling, tourism, amenity use and nature conservation. IFI are committed to the continual monitoring and the introduction of measures to improve and work towards restoring the water quality status of Lough Sheelin and endeavour to achieve the restoration of the lake as a premium trout fishery. Sheelin is also one of the few waterbodies identified in the Water Framework Directive (WFD) monitoring programme as a river lake interaction site to measure the nutrient loading to some major lakes (EPA, 2006).

The lake is amongst the twelve lakes in Western Europe capable of supporting substantial stocks of large wild brown trout (O'Grady, 2000). The high pH of this limestone lake, combined with its low average depth profile gives it a unique trout producing potential.

Studies have shown that the Mount Nugent River and its tributaries is one of the major contributors of nutrients to Lough Sheelin (Lough Sheelin and its catchment, Water Quality Status and Nutrient Loadings 1998-2005, Kerins *et al*, 2007)

In the late 1990's the Shannon Regional Fisheries Board conducted fisheries enhancement works in the Finaway River, to increase the carrying potential in relation to juvenile trout stocks by improving nursery habitat in the Finaway River. These juvenile fish are an important component of the Lough Sheelin trout fishery, with the Mount Nugent River being one of the major spawning arteries of the Sheelin trout fishery. The works cost in the region of €40,000 and were carried out from the R194 (upstream of this development site) through the site and downstream covering a 1.5 km stretch.

IFI is seriously concerned about the suitability of this site for intensive agriculture, given that the Finaway River runs through the site.

Notwithstanding the comment above IFI's is also highly concerned in relation to management, storage and disposal of pig slurries from this development and their potential to pollute watercourses nearby and close to the spreadlands. It is noted that Inland Fisheries Ireland were not consulted at the scoping stage despite the presence of the Finaway River within the site. And the potential for the development to impact negatively on water quality and fisheries within the Mount Nugent River and Longh Sheelin through spreading of slurry.

In general IFI would welcome the upgrade of facilities based on animal welfare requirements, once all environmental aspects of the development were satisfactory and IFI were satisfied with the EIS. The works on this site represent the construction of some new pig production units and there is no longer one in operation on site. An adequate EIS must be produced to present and describe baseline data on the relevant environment and demonstrate that potential Environmental impacts have been partigated against.

Environmental Impact Statement and description of water quality, fish stocks and aquatic habitat

With regard to the Environmental Impact Statement (EIS) IFI contends that the description of the current environment and all waters which may be impacted on in terms of all fish species, fisheries habitat and spawning grounds and aquatic habitat including the riparian zone is inadequate. The Environmental Impact Statement forms a legal document, the EIS supplied in this instance is lacking in specific description of the aquatic environment and assessment of potential impacts and appropriate mitigation measures. The EIS regulations require:

- 3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
- 4. A description(1) of the likely significant effects of the proposed project on the environment resulting from:
- the existence of the project,
- the use of natural resources.

- the emission of pollutants, the creation of nuisances and the elimination of waste,

and the description by the developer of the forecasting methods used to assess the effects on the environment.

5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.

At the very minimum a desktop study should have been conducted, the relevant data should have gathered together and interpreted to compile a picture of and commentary on the Water Quality status, fisheries and aquatic habitat. The potential impacts from this development and associated activities should have been considered in the contact of the Water Framework and meeting targets under the Water Framework Directive. The water quality data presented in Appendix 10. is not interpreted or integrated in any way to the EISs or discussed in the context of this application and WFD status. It would have been appropriate to obtain data gathered at the site as part of the previous IPC licence and interpret this.

Fish are an indicator species under the Water Framework Directive and the presence and abundance of fish species forms part of a waterbodies status under the WFD, particularly in relation to lakes, such as Lough Sheelin. It is therefore imperative that the fisheries status or the lake and its tributary streams is protected and conserved.

The monitoring carried out by IFI or other agencies is not a substitute for the monitoring and sampling which should be carried out by the applicant under the terms and conditions of any IPC licence. The author of the EIS is clearly aware of sampling taking place within the area, why then does he not make any attempt to comment on the presented water quality data for the Mount Nugent stream. (See Appendix 10)

There is no mention of fish, aquatic life or invertebrates either within the Finaway River or the Mount Nugent River. This is entirely mappropriate as both the Finaway and Mount Nugent Rivers are salmonid watercourses.

The Finaway River has shown excellent spawning in recent years with excess of 100 wild brown trout spawning redds were recorded in the Finaway River adjacent to and upstream of the piggery in the winter 2013/2014.

There are no comments on or specific interpretation of the Mount Nugent River water quality data, its tributary streams or Lough Sheelin, just a mass of general data about the water framework directive and trends in County Cavan.

P 52 does recognise that the farm is within the Sheelin catchment, it fails to recognise the link between the watercourse, the Finaway River flowing through this site, the Mount Nugent Stream and Lough Sheelin.

The statement made on p. 2, third para re: pig numbers at the farm is misleading as there are currently no pigs at the farm, the numbers refer to those previously at the farm or within the IPC licence.

Inadequate consideration is given to third parties spreadlands and the potential for poor practice to impact on Sheelin and other River catchments. There is a need for the development to be considered in a holistic sense, comments made on p.71 do not demonstrate any recognition that poor spreading practices could impact negatively on water quality, and consequently no mitigation measures or controls are proposed, other than making sure that

parties organic wastes are aware of the Nitrates Directive. It is not clear how the applicant intends to ensure third parties meet all requirements of SI 31 of 2014.

In relation to the comment made regarding Cavan County Development Plan and amenity areas, this is misleading, see details below (from the Cavan County Development Plan) regarding the amenity value of Lough Sheelin, this should be recognised and discussed within the EIS.

Major Lakes and Lake Environs

There are nine major lakes and environs. **These lakes have amenity value** due in part to their size and location within a scenic landscape and their recreational value.

Major	Lakes & Environs	Landscape Character Area No.
1.	Lough McNean	Area 1 Cuilcagh-Anierin Uplands
2.	Lough Sillan	Area 4 Drumlin Belt & Uplands of E. Cavan
<i>3</i> .	Lough Sheelin	Area 3 Lake Catchments of South Cavan
4.	Lough Ramor	Area 3 Lake Catchments of South Cavan
<i>5</i> .	Lough Skeagh	Area 5 Highlands of East Cavan
6.	Lough Nadreegel	Area 3 Lake Catelunents of South Cavan
7.	Lough Oughter	Area 2 The Lakelands
8.	Lough Gowna	Area 2 The Lakelands
9.	Brackley Lough	Aveg I Cuilcagh-Anierin Uplands

In relation to proposals for monitoring and sampling of surface water quality in the Finaway River and storm water discharges these are not sufficiently detailed. In fact no proposals are presented in relation to sampling of the Finaway River. IFI requires that details of the monitoring programme referred to in section 9 be supplied in advance of any grant of planning, giving sampling locations, frequencies and parameters tested. The proposal in Section 9.2 regarding visual weekly monitoring of storm waters is inadequate.

Para 3 clearly states that activities at this site have not had any adverse impact on any of these sites (Sheelin), impacts have been detected in the Finaway River, which in turn would impact on the nutrient loading in Lough Sheelin and its water quality status. Comments made on p.52 (3rd paragraph) and section 7.13. are incorrect and fail to recognise that, following a fish kill on the Finaway River in 1992 the previous owners of this site were successfully prosecuted for Water pollution at this site. Therefore Water Quality has been impacted upon in the past by piggery operations at this site. This is a real risk and must be assessed and mitigated against to prevent a future re-occurrence.

Contrary to the statement in section 7.1.3 the applicant is not reducing stock numbers, as the farms are currently derelict.

It is stated that the pig farm is located a reasonable distance from any such areas, however again the presence of the Finaway River (and its capacity to act as a vector to Lough Sheelin

downstream) within the site seems to have been completely overlooked. Appendix 6 shows that many of the spread lands are in the Mount Nugent catchment.

In relation to the designation of Lough Sheelin as a Natural Heritage area and SPA in section 9.3 these designations are not specifically referred to or interpreted within the EIS in the context of this development, they are just shown on a general map showing all in Cavan copied from Cavan county development plan.

The potential impacts identified in section 1.1 of appropriate assessment not carried forward to EIS.

The statement made in section 4.2 regarding a reduction in overall activity on the site is not accurate as there are currently no pigs on either site.

Site layout, Management and Construction

Given the close proximity of this site to the Finaway River, IFI would have concerns about underground tanks and monitoring of same, freeboard and sufficient storage capacity.

IFI has concerns about sub-terrainean flow of effluents, especially given the nature of pig slurry, tanks must be well constructed according to Department of Agriculture Specifications, well maintained and tested at appropriate intervals.

There should be no discharges of contaminated waters to ground or surface waters from this development. There must be complete separation of gutter and uncontaminated roof waters from any contamination waters.

There are no details provided on surveys and works to be carried out on those structures which will not be replaced, particularly regarding effluent and slurry storage to ensure any potential impacts are reduced.

The existing structures are situated close to the watercourse and with inadequate buffer zones. The new structures should be constructed to allow a suitable buffer zone between the development and the Finaway River. A 25 metre wide buffer zone should be in place for any new buildings with a raised grassed berm between the units and river. This buffer zone will protect biodiversity within the river corridor. The riparian zone along the river will facilitate the planting of trees and shrubs to provide shading for fish and habitat for macro-invertebrates, birds and insect life. The use of a berm will allow for potential containment for run off from the site. A large silt trap and petrol interceptor should also be installed on site.

Details of storage and management of any feed stuffs on site should also be provided as animal feeds can be a potential source of pollution.

The details supplied regarding the demolition of existing units and construction of new units show no awareness of the potential for pollution to occur at this stage. Particularly in terms of run off of suspended solids, concrete for tanks, the potential for infiltration of ground water to excavations and contingency for same and settlement. At the Finaway site, consideration will need to be given to the timings of works in close proximity to a salmonid watercourse. Construction and associated works with a high risk of suspended solids pollution should not be carried out between the 1st October and the end of April without prior consultation with Inland Fisheries Ireland in order to protect spawning and juvenile trout.

Environmental mitigation measures should be provided in relation to construction at Finaway and a method statement for works at Finaway sites should be agreed with IFI in advance of demolition/construction.

An estimate of Total pig numbers should be provided within the EIS along with clear calculations in relation to the amount of slurry generated.

Notwithstanding IFI comments on site suitability, IFI requires that an Environmental Monitoring programme for these sites be agreed with IFI in advance of any grant of planning.

The EIS does not give sufficient details of the proposals to monitor the impact on all watercourses from the development, in terms of measurement to be taken and frequency of monitoring.

In summary it is IFI's view that serious consideration should be given to whether or not this site is suitable for intensive agriculture. IFI requires that the concerns, deficiencies and issues raised above should be dealt with in the form of a new application or a revised EIS and IFI given further opportunity for comment before this planning application should proceed any further.

OBJECTIONS: One letter of objection was received:

Mrs Rita Tierney - Keenagh, Ballyjamesduff.

Objects to a piggery at Finaway, Ballyjames duff on the following grounds:

1. Air Pollution

2. Spreading of Slurry.

REPORTS

Area Engineers report: No report submitted.

Environment report noted. Following comments made:

This planning application is for facility that requires an Industrial Emissions Directive licence from the EPA.

There was previously an IPPC licence for this facility (679 & 427).

The applicant (potential purchaser) proposes to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ. The applicant proposes to construct 5 no. pig houses and to construct an extension to 1 no. pig house, in accordance with animal welfare and the nitrates Regulations, together with all ancillary structures and all associated site works on the site of the existing pig farm at Finaway, Ballyjamesduff, Co. Cavan.

The existing facilities have a footprint of 6085m² and the proposed facilities will have a footprint of 5900.64m².

The water supply for this facility will be an existing/new connection to a bored well and according to the EIS submitted as part of the application, the public water supply will also be available as a backup.

It is proposed to house 1250 pigs at this facility (fattening unit) which will come from the breeding site at Drumscrudden, Crosserlough, Co. Cavan (14/238). The two sites will operate as an integrated pig farm. The two facilities are located 2.7kms from each other. According to the application documents based on the herd size and the proposed storage facilities, there will be capacity for 14 months of slurry storage.

The customer farmers are not named and specific addresses are not given. Appendix No. 1 and No. 6 detail that there are approximately 20 customer farmers resulting in landbank availability of circa. 1800ha. the landbanks are located in counties Cavan, Meath, Westmeath and Longford.

In relation to the landbanks in Cavan the following table details the Water Framework Directive ecological status information in relation to the customer farm locations for the

organic fertiliser produced at this proposed development site.

Customer	Farm	Water Body Code,	Current Ecological	Target date to
Number		Water Management	Status	achieve at least
		Unit & River Basin		Good Ecological
		District		Status
19		SH_26_3738, Inny	Moderate	2021
		& Shannon	1 115 ⁶	
		International River	other	
		Basin District	व्याप्ति, व्याप्त	
19		SH_26_2984, Inny	Moderate Good see all and other use getion hard entired for any other use Moderate	Maintain
		& Shannon	Durgediile	
		International River	citon to	
		Basin District	Se one	
7 & 9		SH_26_2742, Inny	Moderate	2021
		& Shannon		
		International River		
		Basin District		
9		EA_07_991,	Poor	2027
		Blackwater North		
		Water Management		
		Unit & Eastern		
		River Basin		
		District		
9		EA_07_1536_1,	Poor	2021
		Blackwater North		
		Water Management		
		Unit & Eastern		
		River Basin		
		District		

The application documents detail that all surface waters will discharge to adjacent waters via one or more discharge points. One of the maps provided with the application documents make reference to a silt trap. The receiving waters is a tributary of the Mountnugent River which flows into Lough Sheelin.

The applicant should be requested to demonstrate the proposed storm water/surface water separation, collection and drainage system to serve the proposed development including infrastructure serving same as well as all discharge points(s) to waters.

Having assessed the Cavan Groundwater Protection Scheme Maps, prepared for Cavan County Council by the Geological Survey of Ireland, it is evident that proposed development is located in an area designated as a Poor Aquifer with Moderate Vulnerability.

The proposed development is located in the Shannon International River Basin District, in the Inny Water Management Unit; the water body is classed as Moderate Ecological Status. This status must be improved to at least Good Ecologicial Status by 2021 in accordance with the requirements of the Water Framework Directive.

The report concludes with a recommendation that the Environmental Protection Agency (EPA) and Inland Fisheries Ireland (IFI) should be notified regarding the details of this application; and

Recommendation that further information is required on point of details of surface water layout and drainage provisions on the site; and

Confirmation on the proposed disposal and disturbance of any asbestos on the site.

Waste Management Section report:

It is proposed to demolish 12 existing pig houses, with the exception of 4 existing pig houses which will remain in-situ and to construct 5 pig houses and an extension to 1 existing pig house, together with all ancillary structures and all associated site works on the site of an existing pig farm.

One of the critical issues associated with older piggeries concerns the type of roofing material that was traditionally used on pig houses and associated structures. In any development proposals concerning such structures it is of critical importance that ACM's (Asbestos Containing Materials) are identified at an early stage, quantified and that appropriate measures are put in place to ensure that ACM's are dealt with appropriately in terms of removal and handling, temporary storage of roof sheeting prior to removal off-site/reuse. Should asbestos be found to be present appropriate precautions to be taken in the removal, handling, packaging and disposal of this material.

ACM's that are removed from buildings should not be reused under any circumstances.

It is recommended that, in the event that planning is granted, 3 no. conditions regarding waste be issued.

0.1 PLANNING ASSESSMENT

1.1 Site Description & Description of Development:

The site is 2.52 ha in extent and comprises an existing pig farm which has been vacant (since 2012), and is located on a Local Secondary road L-7074-0

The proposed development comprises gross floor space of existing buildings (c. 6085m²), gross area for demolition (c. 3813m²) and proposed new works is (c.5,900m²).

Application is for the following:

The existing buildings and structures which will remain on the site after demolition and redevelopment buildings are as follows:

Proposed Pig House Area 1: 1573.89m²
Proposed Pig House Area 2: 1573.89m²
Proposed Pig House Area 3: 1573.89m²
Proposed Pig House Area 4: 589.60²
Proposed Pig House Area5: 589.60m²

Total Floor Area: c.5900m2

Environmental Impact Statement

Thresholds for EIS -Planning & Development Regulations 2001, as amended, Schedule 5, Development for the purposes of Part 10, Part 1 17 (b) 3,000 places for production pigs (over 30kilograms), or (c) 900 places for sows.

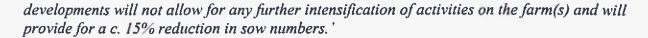
Part 2 I Agriculture, Silviculture and Aquaculture, fee (ii) Installations for intensive rearing of pigs not included in Part 1 of this Schedule which would have more than 2,000 places for production pigs (over 30 kilograms) in a finishing unit, more than 400 places for sows in a breeding unit or more than 200 places for sows in an integrated unit."

The subject application is in excess of the above thresholds and therefore, an EIS has been prepared and submitted with this application. The subject application is lodged by the same applicant — Bogue Pigs, in tandem with the application 14/238 at Drumscrudden Td., Ballyjamesduff, for the redevelopment of the second, but inter-dependent pig farm site. An joint EIS has been prepared for Pl. Ref. 14/238 and the subject application as this constitutes an integrated facility. The applicant states that in order to properly assess the potential impact of the proposed developments it was determined that this would best be addressed by the completion of one Environmental Impact Statement, to appropriately address the cumulative impact of the overall development, as well as the interaction of these sites with other aspects of the environment

The proposed developments are above the threshold as detailed in Schedule 5 Part 2 of the Planning and Development Regulations 2001, i.e. class 1(e) (ii) activity, "Installations for intensive rearing of pigs not included in Part 1 of this Schedule which would have:

- More than 2000 places for production of pigs over 30 kilograms in a finishing unit;
- More than 400 places for sows in a breeding unit, or
- More than 200 places for sows in an integrated unit.

These sites/this farm previously operated as a c. 1,510 Sow integrated unit. Sow numbers as specified in Licence No. P0427-01 issued by the E.P.A. on 3rd January 200. It is the applicant's intention to re-develop these sites and operate the farm as a c. 1,250 Sow Integrated unit, therefore, as stated: 'it must be borne in mind that the currently proposed



An outline of the EIS is summarized as follows:

Description and purpose of the development

The proposed developments will involve the demolition of a significant portion of the structures on both pig farms site and their replacement with modern, purpose designed pig farm buildings. The applicant states that the proposed development will result in a reduction in stock numbers on the farm from c. 1,510 sows to c.1,250 sows.

The applicants' statement to support the purpose of the redevelopment of the site is: 'to achieve improved efficiencies from all of the investments on-site and in order to ensure the future viability and competitiveness of the farm and to improve production efficiencies and performance which are dependent on the provision of adequate top quality housing and welfare in tandem with modern feeding and ventilation.

The structures for which the permission is being sought incorporate modern design concepts in the areas of animal welfare, labour efficiency, manure storage, insulation,

Wastes generated on-site

- All wastes generated on site, such as animal tissue waste, veterinary waste, general packaging etc. will be stored and disposed of recovered in accordance with applicable regulations and in accordance with Council and or EPA requirements

Population/employment

- Pig farm will employ 4 people directly (increase from 3 currently) including applicant, leading to indirect employment nationally of c. 18-20 people additional employment during construction
- No adverse effect on tourism in the area of the site due to good environmental management practices operated on the farm, the farms rural location and its long tradition as a pig farm
- Within county the pig industry is a key component of the agricultural economy

Cumulative effects

- Proposed development will not lead to a negative cumulative impact on the local environment
- Proposed intensification of activities will result in an increase in the amount of organic fertilizer produced, however, it is significantly below that required by the customer farmers to maintain optimum soil fertility - it will have no significant adverse impact within the local area and/or county at large

Difficulties encountered in compiling required information

- No particular difficulties encountered

Summary

- Replacement of existing aged structures with modern pig accommodation and the provision of improved manure storage facilities should be seen as a positive development and an improvement in the attributes of the existing farm

 Proposed development will operate under the conditions imposed as part of any grant of planning permission and in line with Department of Agriculture requirements, specifically outlined in SI 31 2014 and SI 14 2008 and will operate under the conditions imposed as part of any licence for this farm issued by the EPA

Information contained in Appendix of EIS

- Appendix. No. 11 Construction and Demolition Waste Management Plan
- Appendix no. 13 Screening report Appropriate Assessment

1.2 Appropriate Assessment Screening Report - Article 6(3) & (4) of the Habitats Directive 92/43/EEC Appropriate Assessment of a Proposed Project

The Appropriate Assessment Screening Report of a proposed redevelopment of an existing pig farm located on two geographically separate sites Drumscruden, Crosserlough, co. Cavan and Finaway, Ballyjamesduff, co. Cavan has

Natura 2000 sites identified:

- The Lough Sheelin SPA (NPWS Site Code 004065
- Lough Kinale and Derragh Lough SPA (NPWS Site Code 004061)
- The River Boyne and Blackwater SAC (NPWS Site Code 002299)
- The nearest designated Natura 2000 site to the existing farm, and the site of the proposed developments, is the Lough Sheels SPA (NPWS Site Code00461) which is located approximately 3.85km to the south west of the existing farm. Lough Kinnale and Derragh Lough SPA (NPWS Site Code 004061) is located 12.5km also to the southwest The River Boyne and Blackwater SAC (NPWS Site Code 002299) is located 14.1km from the subject site at its closest point.

Other sites located some bit further from the pig farm is the Lough Oughter Complex SPA (NPWS Site Code 00007) which is located approximately 16.4km form the subject sites at its closest point and is considered outside the zone of potential impacts for the purpose of this Appropriate Assessment Screening

Assessment of likely effects:

- The current proposal does not allow for an increase in pig production on site, rather
 will see a reduction form 1,510 sows integrated as currently permitted to 1,250 sows
 integrated.
- There is a corresponding reduction in organic fertilizer generated on site.
- There is a significant increase in organic manure storage facilities on site with a significant increase in storage capacity.
- Newly constructed manure storage tanks built to Dept. of Agriculture Specifications will replace older tanks.
- There is therefore a significant reduction in potential for point source discharges to surface or ground water.
- The replacement of the existing animal housing facilities on site will result in secure containment of all organic fertilizer produced in these houses.
- To mitigate against any potential impact form this site, all organic fertilizer generated will be exported off site to farms which meet the requirements under S.I. 31 of 2014 European Communities (Good Agricultural Practice for Protection of Waters)

Regulations. As a result the export and management of this material will not have an impact on water quality as the nutrients will be recycled as a fertilizer for grass and/or crop production. This is based on the assumption that the farm continues to operate in accordance with S.I. 31 of 2014 it is not considered that there will be any secondary indirect adverse impact on any *Natura* 2000 sites as a result of the proposed development.

Assessment of in combination effects:

- Given the location of this site within co. Cavan it is likely that there are other pig farms located upstream of this existing farm which might, in combination with the subject farm, increase the potential risk to the surface water in the area.
- The proposed development seeks to replace a significant amount of structures on site with modern purpose build pig houses completed in line with Cavan co. co., Department of Agriculture, Food and the Marine and EPA standards and requirements. The development will see a reduction in the overall activity on site and consequently will result in an overall improvement in manure management.
- As per normal practices, this fertilizer will all be stored and distributed in accordance with S.I. 31 of 2014 European Communities (Good Agricultural Practice for Protection of Waters) Regulations (2014)
- It is conclude that any existing developments in combination with the subject facility will not result in any additional direct or indirect impacts on the aforementioned Natura 2000 sites.

Summary of conclusions of appropriate assessment screening

- The conclusions on the completion of the Appropriate Assessment Screening Report is that it is considered that full Stage 3 Appropriate Assessment is not required for the granting of a planning permission for the re-development of this pig farm at Drumscuddan and Finaway, Ballyjamesduff, co. Cavan.

 It is felt that.
 - Given the considerable distance of the proposed project from the identified Natura 2000 sites,
 - The proposed development relates to the replacement of existing structures on the farm,
 - The proposed development will see an overall reduction in intensity from 1,510 sows integrated to 1,250 sows integrated
 - All organic fertilizer, existing and proposed, will be allocated for use in accordance with S.I. 31 of 2014, and It is concluded that the proposal will not have a significant effect on the conservation objective of these sites and as such appropriate assessment is not required.

1.3 PLANNING AUTHORITY'S COMMENTS:

- Site inspections were undertaken on Friday the 5th of September 2014 to inspect site notices at both sites (14/238 and 14/239). The gates to both sites were locked and access could not be gained. The notices were inplace and were clearly legible and visible from the public road.
- A second site inspection was undertaken with the applicants' agent Mr.
 Pauraic Fay, this entailed a full walk around each of the abovementioned subject sites.

- The subject site is a vacant piggery with all existing old buildings and
 infrastructure intact. The subject site is accessed from the local secondary
 road and there is an established entrance onto the site. The site is
 surrounded by mature trees and landscaping and cannot be viewed from
 the surrounding lands.
- The area is predominantly rural residential, with the nearest house being c.200m from the existing piggery buildings agricultural farmlands.
- Notwithstanding the existing piggery /agricultural units and ancillary buildings and infrastructure on the site, this planning application is assessed de novo, as the piggery ceased operations in 2012 and the application is to demolish and construct new units on the site.
- The Planning Authority agrees that the proposed re-development of this site is unlikely to affect any of the following designated sites – Protected views; areas of high amenity and archaeological sites, as identified in the Cavan County Development Plan (2014-2020).
- From a planning point of view, the site has operated as an agricultural activity since the 1960s and there is no immediate concern raised in terms of impact on: cultural heritage, archaeological heritage and material assets.
- In terms of the policies and objectives for agriculture, as contained in the current Cavan County Development Plan (2014-2020), the principle of the proposed redevelopment of the site at this location is considered to be in compliance with general landuse and economic development of agricultural uses.
- This application is subject to the policies and objectives planning on natural heritage as contained in the County Development Plan and the Authority must satisfy itself that the requirements of the EIA Directive have been met.
- I have noted that there is an objection lodged in responses to the public notices. The grounds of the objection are: noise and air pollution (smell) emanating from the proposed facility.

Environmental Impact Assessment (EIA) by the Planning Authority:

Section 171A of the Planning and Development Act 2000 (as amended) requires that: 'In this Part-

- (1) Environmental impact assessment means an assessment, which includes an examination, analysis and evaluation carried out by a planning authority or the Board, as the case may be, in accordance with this Part and regulations made thereunder, that shall identify, describe and assess in an appropriate manner, in light of each individual case and in accordance with Articles 4 to 11 of the Environmental Impact Assessment Directive, the direct and indirect effects of a proposed development on the following:
- (a) Human beings, flora and fauna,
- (b) Soil, water, air, climate and landscape
- (c) Material assets and the cultural heritage, and
- (d) The interaction between the factors mentioned in paragraphs (a), (b) and (c).

Synopsis of the finding of the EIS:

- The EIS concludes to significant impact on human beings, flora & fauna as all habitats within these lands such as wooded areas, scrubland etc. would be excluded from receiving organic fertilizer from the farm due to the requirements of S.I. 31 of 2014- Nitrates Directive. The development will have no adverse impact on flora and fauna in the immediate area.
- The existing site and adjoining area has been an agricultural farmyard for a number of years and the applicant contends that the surrounding lands have a poor level of plant diversity and are therefore, not of significant ecological importance.
- The EIS concludes that in terms of impact on soils, surface water and ground water, air & climate; cumulative impacts, flora & fauna there is a general assumption that there will be no significant impacts on the fact that there is an existing development on the site which has operated historically for the past 45 50 years and which did not have a negative impact on the environment.
- The applicant contends that the replacement of existing aged structures on the site with modern pig accommodation and the provision of improved manure storage facilities with leak detection facilities should be seen as a positive development and an improvement in the attributes of the existing farm.

This EIS is considered to be generally informational and is based on assumptions rather than a full technical analysis of the likely significant effects on the environment.

CONCLUSIONS & RECOMMENDATION:

Having regard to the submissions by the Environmental Protection Agency (EPA), the Environment Section of Cavan County Council; the Inland Fisheries Ireland (Shannon River Basin District) and the Waste Management section of Cavan County Council, Assessment by the Planning Authority, it is necessary in order for the Planning Authority to carry out the Environmental Impact Assessment(EIA), it is necessary to request the submission of Further Information:

The Planning and Development Act (2000, as amended) specifies that:

Section 172(D) requires the Planning Authority or the Board to consider whether any EIS submitted identifies and describes adequately, the direct & indirect effects on the environment of the proposed development.

Where it considers that EIS does not do so, the Planning Authority or the Board must require the applicant to furnish such further information as it considers necessary to remedy such a defect.

Section 172(IE) provides that the competent authority must require the applicant to furnish any further information considered necessary to enable it to carry out an EIA.

I recommend the following Further Information is sought as follows:

1.4 FURTHER INFORMATION:

- 1. Submit a detailed contents page for the EIS, which allows ease of reference for the report and highlight any amendments as a consequence of reply to this request for further information.
- 2. Submit a full and detailed response to the issues raised in the submission by the Inland Fisheries Ireland Shannon River Basin District, submission in response to the planning application and EIS. In particular, the further information shall address:
- The potential impact of this development in the context of the management, storage and disposal of pig slurries from this development and their potential to pollute the watercourses nearby and close to the spreadlands of the Lough Sheelin and the Mount Nugent River Catchment;
- Proof of consultation with Inland Fisheries Ireland in relation to the proposed activity;
- The EIS should present and describe baseline data on the relevant environment and demonstrate that potential Environmental impacts have been mitigated against;
- Revisit the EIS and provide a full description of the aquatic environment and assessment of potential impacts and appropriate mitigation measures in terms f the requirements of the EIS Regulations as follows:
- '3. A description of the aspects of the environment likely to be significantly affected by the proposed project, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the inter-relationship between the above factors.
 - 4. A description(1) of the likely significant effects of the proposed project on the environment resulting from:
 - the existence of the project,
 - the use of natural resources,
 - the emission of pollutants, the creation of nuisances and the elimination of waste, environment.
 - 5. A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
- The potential impacts from this development and associated activities should be considered in the context of the Water Framework Directive. This should include the interpretation of water quality data presented in Appendix 10 of the EIS.
- Provide an analysis of the existence of fish, aquatic life or inverterbrates which are present in the Mount Nugent River and its tributaries, including potential impacts of the proposed development;
- Provide an analysis of and interpretation of the Mount Nugent River water quality data, its tributaries and streams and that of the waters of Lough Sheelin.

- Provide a more detailed analysis of the third parties spreadlands and the potential for poor practice to impact on Lough Sheelin and other River catchments. In other words, the development should be considered in a more holistic sense and then mitigation measures should be proposed. The applicant should demonstrate how it is intended to ensure that third parties meet all the requirements of the Regulations S.I. 31 of 2014.
- Reference to the Cavan County Development Plan and the amenity value of Lough Sheelin should be recognized and discussed in the EIS.
- Proposals in relation to storm water discharges details of the separation systems and water drainage systems should be provided. (Refer to Further Information Item 2)
- Section 9.2 of the EIS concerning weekly monitoring of stormwaters is inadequate and should be redressed.
- The reference within the EIS to the reduction in stock numbers (e.g. in section 7.1.3 and section 4.2) is incorrect as currently there is no livestock on the subject site. This should be redressed in the text.
- The issue of the presence of drains and tributaries of the Mount Nugent River and their capacity to act as a vector to Lough Sheelin downstream from the site is not addressed in the EIS. Provide a detailed analysis of the above. Please redress this issue in the Appropriate Assessment Screening report and submit suitable qualifications of persons carrying out the AA screening report.
- Section 9.3 of the EIS refers to the designated areas in a general sense and are not specifically referred to or interpreted in the report, this should be redressed in detail.
- The potential impacts identified in section 1.1 of the Appropriate Assessment Screening Report are not carried through into the EIS. This should be redressed in detail.
- The IFI has concerns regarding the underground tanks and monitoring of same, freeboard and sufficient capacity, particularly in relation to sub-terrainean flow of effluents, especially given the nature of pig slurry, tanks must be well constructed according to the Department of Agriculture Specifications, well maintained and tested at appropriate intervals. This should be clearly demonstrated with no discharges of contaminated waters to ground or surface waters from this development. A complete separation of gutter and uncontaminated roof waters from any contaminated water.
- Provide full details of surveys carried and works to be carried out to ensure that those structures that will not be replaced, particularly regarding effluent and slurry storage, measures to be put in place to ensure that any potential impacts are reduced.
- Provide full details of the silt trap and petrol interceptor to be installed on the site.
- Provide full details of storage and management of any feed stuffs on site should also be provided as animal feeds can be a potential source of pollution.
- Provide full details regarding the demolition of existing units and construction of new
 units and the potential for pollution to occur at this stage, particularly in terms of run-off
 of suspended solids, concrete for tanks, the potential for infiltration of ground water to
 excavations and contingency for same and settlement.
- Provide an estimate of Total pig numbers within the EIS along with clear calculations in relation to the amount of slurry generated.
 - 3. Submit revised drawings and supporting details which fully demonstrate the proposed surface water drainage system to serve the proposed development, including infrastructure serving same (e.g. silt traps) as well as all discharge points to waters.
 - Provide confirmation that the disposal and or disturbance of any asbestos utilised in the existing farm building structures or dwelling shall only be carried out in

accordance with the appropriate regulations and under the supervision of an appropriately qualified person.

4. Submit a detailed survey which addresses the following:

Identify and quantify the extent of ACM's (Asbestos Containing Materials) and describe what appropriate measures are put in place to ensure that ACM's are dealt with appropriately in terms of removal and handling, temporary storage of roof sheeting prior to removal off-site/reuse. This should include details of appropriate precautions to be taken in the removal, handling, packaging and disposal of this material.

5. Submit a detailed response to the objectors' concerns regarding anticipated noise levels and air pollution (smells) emanating from the site.

Planning Advice: The Planning Authority wishes to advise that in terms of consultation in relation to the preparation of the Environmental Impact Statement, the applicant should consult with Inland Fisheries Ireland (IFI) for the Shannon River Basin District and the Department of Arts, Heritage & the Gaeltacht – National Parks & Wildlife.

In addition, you are required to ensure that the report and any amendments, are in accordance with the Advice Note on Current Practice in the preparation of Environmental Impact Statements. (September, 2003)

1.5 SUBMISSION OF FURTHER INFORMATION:

The applicant has submitted, on the 20th Colober 2014, the following further information:

- 1. A revised contents page;
- 2. Response to the submission from Inland Fisheries Ireland (IFI) which addresses the following:
 - The applicant contends that the site cannot be defined as a Greenfield site as the application relates to "replacement pig accommodation".
 - The site has the benefit of existing planning permissions on the site and can still re-stock the farms, based on previous permissions.
 - The potential impact of the proposed development on Lough Sheelin and the Mount Nugent River Catchment. It is stated that there will be no disposal of organic fertilizer from this farm
 - The management, storage and utilization of pig manure/organic fertilizer from this farm have been detailed in section 2(a) the EIS, as follows:
 - The elimination of outside/external areas between pig buildings for stock movement. All pigs will now be moved on slatted passageways whereby any soiled water generated is collected in the manure storage tanks underneath
 - The replacement of the majority of the existing manure storage facilities with the new manure storage tanks completed to Department of Agriculture, Food and the Marine Specifications with leak detection

facilities underneath. It is anticipated that weekly inspection and biannual monitoring of same will be completed in line with EPA requirements.

- Any remaining manure storage structures will be certified by an engineer, prior to use.
- >13 months manure storage capacity to be provided (excluding the 200mm free board as required by S.I. 31 of 2014). This is well in excess of the 6 months required.
- All organic fertilizer will be allocated to customers farmers for the use in accordance with S.I. 31 of 2014. As Cavan co.co. are aware these regulations place significant conditions, buffer zones etc.

In addition to the above, a detailed record will be kept by the applicant in relation to customer farmers and how much organic fertilizer is allocated to them. This will be reported to the Department of Agriculture, Food and the Marine on an annual basis, who will then cross check this information with other details that they hold including CMMS data (on-farm stock numbers) land area, other organic fertilizers etc., to ensure that no farmers have breached the 170 Kg Organic N Limit as dictated by S.I.31 of 2014. As Cavan co. co. will be aware there are significant financial penalties for any farmer breaching same.

- 2.(b) Proof of consultation with the Inland Fisheries Board (IFI) in relation to the proposed activity, is included in the Addendum No. 1 to the EIS;
- 2.(c) The EIS should present and describe baseline data on the relevant environment demonstrate that potential Environmental impacts have been mitigated against.

The applicant has responded as follows:

- 2.(d) The main issue of concern is the potential impact on surface waters in the area. The mitigation measures which have been detailed above, adequately detail the actions to be taken by the applicant mitigate against any potential adverse impact resulting from the operation of the farm and are a significant improvement when compared to the alternative, do nothing scenario, i.e. recommencing pig farming within the existing facilities. (As existing buildings are still suitable for pig farming).
- 2.(e) Revisit the EIS and provide a full description of the aquatic environment and assessment of potential impacts and appropriate mitigation measures in terms of the requirements of the EIS Regulations.: All information is contained in the Addendum No. 1 to the EIS.
- 2.(f) Provide a detailed analysis of the third parties' spreadlands, and the potential for poor practice to impact on Lough Sheelin and other River catchments.

The amenity value of Lough Sheelin is addressed in EIS Section 6.10(B) 2.(g) Proposals in relation to storm water discharges details of the separation systems and water drainage systems should be provided. Refer to Addendum No. 1 of EIS.

2.(h) Section 9.2 of the EIS concerning weekly monitoring of stormwaters is inadequate and should be redressed. Section 7.3 of the EIS stormwater

discharges will be monitored in line with E.P.A. Licence requirements. Typically this required a weekly inspection (visual and odour) and quarterly sampling of B.O.D. or C.O.D. however this is subject to revision depending on the detail of any subsequent licence issued by the E.P.A.

2.(i) The reference within the EIS to the reduction in stock numbers (e.g. in section 7.1.3. and section 4.2) is incorrect as currently there is no livestock on the subject site. This should be redressed.

As detailed previously under 2. Above, the applicant feels that the EIS as developed has been developed in the correct fashion taking into account the existing situation on site (temporarily unoccupied as detailed in the EIS) and the authorized use and history on the farms.

2.(j) The issue of the presence of drains and tributaries of the Mount Nugent River and their capacity to act as a vector to Lough Sheelin downstream from the site is not addressed in the EIS. Provide a detailed analysis of the above (addressing the Appropriate Assessment screening Report and submit suitable qualifications of the person carrying out the AA screening report.

The proposed development is a significant improvement compared to previous operational activities on the farm (s).

Refer to Addendum No. 1 in this regard.

2 (k). Section 9.3 of the EIS refers to the designated areas in a general sense and are not specifically referred to or interpreted in the report, this should be redressed in detail:

Designated areas are more appropriately addressed in section 6.10, 7.10 and Appendix 13 of the EIS. Refer to Addendum No. 1 in this regard.

2(l) The potential impacts identified in section 1.1 of the Appropriate Assessment Screening report are not carried through into the EIS. This should be redressed in detail.

The appropriate assessment screening report has been submitted as part of the EIS and therefore, any conclusions, recommendations.

2(m) concerns raised by the IFI regarding the underground tanks and management of same, including details f measures to be constructed in accordance with the Dept. of Agriculture specifications.

'As detailed previously, a number of measures for the management, storage and utilization of pig manure/organic fertilizer form this farm have been detailed in the EIS'.

2.(n) Provide full details of surveys and works to be carried out to ensure that those structures that will not be replaced.

The only slurry storage structures to remain on the site are the 4 no. houses on the Finaway site. These will be subject to an engineer's assessment and inspection prior to use. Therefore, c. 99% of the overall manure storage capacity will be in new manure storage tanks, completed to Department of Agriculture, Food and the Marine Specifications, with leak detection systems underneath. The leak detection system will be completed to the Department's specifications and will have an inspection manhole which will be inspected weekly and sampled bi-annually in line with the EPA requirements.

2.(o) Addressed in EIS Addendum No. 1, for additional information in this regard.

2.(p) Provide full details of storage and management of any feed stuffs on site which should also be provided as animal feeds can potentially be a source of pollution.

All feedstuffs will be stored in designated bins/silos on site as per normal practice.

2.(q) Provide full details regarding the demolition of existing units and construction of new units and the potential for pollution to occur at this stage, particularly in terms of runoff of suspended solids, concrete for tanks, the potential for infiltration of ground water to excavations and contingency for same and settlement.

The demolition of the existing units will be completed in line with the construction and demolition waste management plan as submitted. The applicant will have reference

- 3. Revised drawings and supporting details which indicate the surface water drainage plans. Addendum No. 1 to the EIS.
- 4. Survey which quantifies the extent of ACM's (Asbestos Containing Materials) to be removed from the site.

The removal of any asbestos from the site is to be carried out by appropriately qualified and permitted contractors, such as J.Ryan Haulage Ltd., <u>Addendum No. 1 to the EIS.</u>

5. Submit a detailed survey which quantifies the extent of ACM's (Asbestos Containing Materials) and describe what appropriate measures are put in place to ensure that ACMs are dealt with appropriately in terms of removal and handling, temporary storage of roof sheeting, prior to removal/off-site revise.

The Asbestos to be removed from the site(s) is c. 150-200 tonnes. Refer to enclosed details in this regard - Addendum No. 1 to the EIS.

- 6. Submit a detailed response to the objectors' concerns regarding anticipated noise levels and air pollution (odour) eminating from the site.
 - It is not clear from the objection, where Mrs Tierney's house is. The applicant states that the nearest house is 300m away and that it is not anticipated that noise from the farm will cause and disturbances at this location. This is supported by the noise survey reports submitted in the EIS.
- The applicant states that the manure tanks will be enclosed tanks and not exposed to the environment. This will provide for a significant improvement to the environment and that improved standards will resultantly minimize any potential adverse impact to the environment.

Report from Waste Management, dated 14.11.2014, in response to Further Information:

I am satisfied that the information submitted addresses any concerns in relation to asbestos removal, handling, temporary storage, transport and disposal of this material.

Having reviewed this Further Information, I recommend that in the event Planning Consent is granted for this development that the following conditions are applied;

 Construction and demolition works shall be carried out in accordance with the Construction and Demolition Waste Management Plan submitted as part of this application and the Further Information received.

- 2. Asbestos sheeting that is removed from any structures shall not be re-used and shall be disposed of appropriately using an authorised waste contractor.
- Adequate and appropriate precautions shall be taken during the demolition and construction
 phases of this development so as to prevent environmental pollution as defined in the Waste
 Management Act 1996, as amended.

Report from Environment Section:

This planning application and further information is for a facility that requires an Industrial Emissions Directive licence from the EPA.

There was previously an IPPC licence for this facility (679 & 427).

The applicant (potential purchaser) proposes to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ. The applicant proposes to construct 5 no. pig houses and to construct an extension to 1 no. pig house, in accordance with animal welfare and the *Nitrates* Regulations, together with all ancillary structures and all associated site works on the site of the existing pig farm at Finaway, Ballyjamesduff, Co. Cavan.

The existing facilities have a footprint of 6085m² and the proposed facilities will have a footprint of 5900.64m².

The water supply for this facility will be an existing new connection to a bored well and according to the EIS submitted as part of the application, the public water supply will also be available as a backup.

It is proposed to house 1250 pigs at this facility (fattening unit) which will come from the breeding site at Drumscrudden, Crosserlough, Co. Cavan (14/238). The two sites will operate as an integrated pig farm. The two facilities are located 2.7kms from each other. According to the application documents based on the herd size and the proposed storage facilities, there will be capacity for >13 months of slurry storage.

The customer farmers are not named and specific addresses are not given. Appendix No. 1 and No. 6 detail that there are approximately 20 customer farmers resulting in landbank availability of circa. 1800ha. the landbanks are located in counties Cavan, Meath, Westmeath and Longford.

The application documents detail that all surface waters will discharge to adjacent waters via one or more discharge points. One of the maps provided with the application documents make reference to a silt trap. The receiving waters is a tributary of the Mountaugent River which flows into Lough Sheelin.

The applicant has demonstrated the proposed storm water/surface water separation, collection and drainage system to serve the proposed development including infrastructure (silt trap) serving same as well as the discharge points to waters.

Having assessed the Cavan Groundwater Protection Scheme Maps, prepared for Cavan County Council by the Geological Survey of Ireland, it is evident that proposed development is located in an area designated as a Poor Aquifer with Moderate Vulnerability.

The proposed development is located in the Shannon International River Basin District, in the Inny Water Management Unit; the water body is classed as Moderate Ecological Status. This status must be improved to at least Good Ecological Status by 2021 in accordance with the requirements of the Water Framework Directive.

I recommend that the Environmental Protection Agency (EPA) and Inland Fisheries Ireland (IFI) should be notified regarding the details of this further information. I recommend that the Waste Management Section of Cavan County Council are forwarded a copy of the further information received.

The further information received highlights the following points -

- Significant investment and improvements to the site will be undertaking prior to restocking.
- All construction will be taking place within the existing footprint.
- There will be a reduction in slurry production in the order of 15% from that of the previous operations on the site.
- The majority of existing manure storage facilities will be replaced.
- The remaining storage facilities will be certified by an engineer.
- · Soiled water will be collected in manure storage tanks.
- All pigs will be moved on slatted passageways whereby any surface water is collected in the manure storage tank underneath.
- There will be a leak detection system on the new storage tanks.
- 25,870m³ of slurry will be produced per annumand the storage facilities will be able to cater for 30,000m³ per annum.
- The Ecological Impact Assessment of Proposed Developments at Drumscruddan & Finaway, Co. Cavan report details the mitigation measures recommended by IFI and which must be implemented on both development sites. Furthermore, Section 6 of the above named report details further measures which the applicant will be implementing during the preparation, construction and operation of both development sites.

The planning authority in granting permission for a development requiring a license from the EPA may **not** impose conditions in relation to the environmental emissions from this activity.

Recommendation

Insofar as the Council can make judgement on the environmental issues of the proposed development at this facility, I recommend unconditionally.

0.2. ENVIRONMENTAL IMPACT ASSESSMENT

2.1 Introduction

In accordance with the requirements of European Directive 2011/92/EU and Section 171A of the Planning and Development Act 2000 as amended, this process requires the Planning Authority, as the competent authority, to identify, describe and assess in an appropriate manner, in light of each individual case, and in accordance with Articles 4 to 11 of the Environmental Impact Assessment Directive, the direct and indirect effects of the proposed development on the four indents listed in Article 3 of that Directive as set out below:

- a) Human Beings, flora and fauna
- b) Soil, water, air, climate and the landscape
- c) Material assets and the cultural heritage

d) The interactions between the factors (a), (b) and (c)

a. Impact on Human Beings

This EIA will assess the impact on human beings under the following headings:

Population and Employment – This section (6.11) refers to the Farm Census for County Cavan and notes that the number of farms in County Cavan has fallen from 5,491 in 2000 to 5282 in 2010, while the average size of farms has increased from 25.2 ha in 2000 to 26.4ha in 2010. The EIS notes that County Cavan remains strong in the dairying, pig and poultry sectors and states also that Cavan remains an agriculturally based economy with a large rural population which is heavily dependent on agriculture as a source of employment. The county also has a highly developed Agri-Food Business, making it one of the largest manufacturing employers in the county.

Comment: The report refers only to the fact that the farm is located well away from any larger settlement areas in the County (see fig. 6.11 and 611.B) - Note: <u>No figures can be located in the EIS documentation.</u>

Section 7 of the report deals with the Description of Impacts and Mitigation Measures. With regard to Population and Employment the report notes the following: (Section 7.11) The farm will lead to direct permanent employment of 6-8 people in addition to construction jobs. Employment external to the pig farm for building contractors, repairmen, nutritionists, veterinarians, pork processors, hauliers and sales personnel are all spin-off of the development. Local farmers will also benefit from the lowest fertilizer as a result of the Fertiliser Management Programme.

The report suggests that the mitigation measures to be employed have been taken account of in the site design, and planned operation of the farm in addition to the requirements of Cavan County Council and the EPA which will ensure that this farm operates with no negative impact on the landscape and/or physical environment.

I concur with the assertion that there will be no negative impact on the physical environment due to the proximity of the farms from any major centre of population. In addition, that the design and upgrading of the facility would actually have a positive impact due to the improved technology.

Visual Aspects and Landscape – The pig farm is located on 2 separate but inter-dependent sites:

- 1. C. 3.15 hectares of agricultural land in the townland of Drumscruddan, and;
- C. 2.54 hectares of agricultural land in the townland of Finaway;
 The existing farmyard complex, proposed landscaping and mature hedgerow will help to screen the piggery from the local view and help integrate it into the surrounding landscape.

Comment: I concur with the findings of the EIS report in that the sites are established and are surrounded by mature forestry and landscaping – therefore the visual impact will be negligible. I agree with the findings that the area for the development is outside of any areas identified as Areas of high Scenic Amenity and/or views & Prospects as identified in the Cavan County Development Plan (2014 – 2020) and therefore this farm (both sites Drumscruddan and Finaway) will have no impact on the landscape or visual/scenic characteristics of this area.

Traffic – The proposed development is split between two number subject sites located in the southwest of Co. Cavan.

- 1. The breeding site extending to c. 3.15ha is located in the townland of Drumscruddan. The site access is onto a local third class road, which is in turn c. 2.25 km from the Regional Route the R194 between Ballyjamesduff and Granard. The site is located, c. 3 km's west of Ballyjamesduff, and c. 4 km's east of Kilnaleck.
- 2. The finisher site extending to c. 2.52 ha is located in the townland of Finaway. The site access is onto a local third class road, which is in turn c. 0.5 Km from the regional Route the R194 between Ballyjamesduff and Granard. The site is located c. 3km southwest of Ballyjamesduff, and c. 3.5 km's northeast of Mountnugent. There will be a temporary increase in traffic during construction. The applicant argues that there will be a decrease in overall traffic volume generated from the farm through the optimization of load sizes.

Comment: I am satisfied that there will not be an adverse effect from Traffic at the locations.

Air – Odour associated with pig farming enterprises may occur from 2 situations:

- The pig farm
- The manure spreading operation.

Comment: I note the mitigation measures which are proposed in section 7.4 of the report in relation to the proposed upgrading and management of the farm. The applicants proposed modernised systems of removal of manure by vaccum ensure that there will be no odours created and therefore no impact beyond the confines of the site of managed correctly.

Noise levels – Background noise levels in rural Ireland are in the 45-50dB(A) range. The report includes details relating to a number of noise surveys carried out on pig farms in the Cavan Region. (though not particularly on the subject farm/s) The results demonstrate overall that – based on the results as recorded during the monitoring events, it is not considered that noise levels resulting from activities at any of these piggeries will have any significant impact on the local environment. Mitigation measures are discussed in Section 7.7 of the report. The report does not recommend any mitigation measures per se, rather it relies on the survey which was conducted fincluded in Appendix 15) purporting that environmental noise resulting from activities at the site should not exceed 55dB (A) Leq during daytime (8:00 to 22:00hrs) and 45dB(A) Leq during night time (22:00hrs to 8:00hrs)

Comment: I note the argument gleaned from the general survey of farms in County Cavan, however, the EIS report has not specifically demonstrated that the adjacent residential dwellings will not be unduly impacted upon by the proposed activity.

Landuse, Zoning and Housing – Comment: The EIS has not addressed these issues as the site/s is located in a rural area, characterised by agricultural activities and rural residential development. The report addresses, in Section 2.4, the Policies and Objective in the Cavan County Development Plan (2014 – 2020) referred to in Chapter 3: Economic Development, Section 3.4 Agriculture and Farm Diversification. I acknowledge that the statement purported by the applicant that: The proposed development of replacement pig housing and ancillary structures on an existing, temporarily occupied pig farm site complies with the Cavan County Council's policies and objectives on Agriculture, is generally acceptable.

Flora and Fauna – The report addresses the subject site/s and the receiving environment in relation to the farmlands which will be subject to landspreading of organic fertilizer generated from these sites. These are addressed as follows:

(a) Site and immediate area: The site/s - Drumcruddan Site has been afforested a number of years ago (15-20) with a mix of Ash and Spruce. The Finaway site lands are mainly agricultural grassland with a small proportion of the area afforested. I acknowledge the applicant's submission that the majority of the lands in the surrounding area are/have been used for agricultural production and that the flora and fauna associated with this site has developed accordingly as the site as the site has developed and changed over the years form grassland to a pig farm site. It is acknowledged that there are no specific unique habitats, flora and/or fauna on this site that require specific protection.

Customer Farmlands: The customer farmlands will be agricultural land which is governed by the Nitrates Directive, organic fertilizer from this pig farm can only be applied to agricultural lands where a crop response, be it grassland/tillage/Maize etc, is an, is anticipated. The local land for receipt of organic fertilizer from this farm is used for grassland (grazing or cut for silage) and/or tillage production. Traditionally animal manure has been applied to these lands as a source of fertilizer, and to replace energy inefficient inorganic fertiliser.

The mitigation measures recommended to prevent any adverse impact on flora and fauna in the area include:

- Organic fertiliser form this farm is not to be allocated to areas of woodland/scrubland habitat.
- Organic fertiliser from this farm is not to be allocated within 10m of hedgerows.
- Organic fertiliser from this farm is not to be allocated within 5m of a watercourse ro 20m of lake shoreline.
- Organic fertiliser from this farm is not to be applied to areas where it is likely to adversely impact on a NHA, SAC and/or SPA or other such sensitive areas.
- Organic fertiliser from this farmes not to be applied within 10m of an archaeological feature.
- (b) Special Policy Areas: I note that the EIS report has identified that neither of the proposed application sites are in, nor are they adjacent to any site that has been designated as a Special Area of Conservation (SAC) or a Special Protection Area (SPA) under the EU Habitats Directive or EU Birds Directive. However, Lough Sheelin SPA (004065) is 5.5km south and 13,5km downstream of the Drumscrudden site, whilst it is 3.9km south-west and 9km downstream of the Finaway site. In addition, the Mount Nugent River is a major input into Lough Sheelin and both the Drumscrudden stream and the Finaway Stream are tributaries of this river. To this end an Approriate Assessment Screening Report was

Comment: I note the EIS contains the Location of Potential Customer Farmland Areas (Appendix 6). The applicant has submitted an Ecological Impact Assessment Report (as an Addendum to the EIS – Appendix No. 10A) this follows from the request for Further Information which required a more thorough and holistic investigation of the existing aquatic environment around the application site/s and their catchment areas. The report was prepared in October 2014, by a qualified Ecologist – Noreen McLoughlin, MSc, MCIEEM of Whitehill Environmental.

The report addresses the ecological impacts hat may occur in the future on the aquatic ecology of the Drumscrudden and Finaway areas and their surrounding environs should this development be allowed to proceed.

I am satisfied that the EIS, in its approach to analysing the development proposal, has addressed the national, regional and local policies and objectives within the legislative framework

I note the reference to the consultations with the IFI – Inland Fisheries Ireland and the National Parks and Wildlife Services. No further issues are raised in terms of same.

A field based study was undertaken as part of this report, at 6 no. locations on local water courses Drumscrudden Stream; Finaway stream and the Mount Nugent River.

The Ecological Evaluation notes that the sites at Drumscrudden and Finaway are both within 10km of Lough Sheelin SPA. In addition, there is a source-pathway-receptor linkage between both sites and Lough Sheelin, via the Drumcrudden stream, the Finaway stream and the Mount Nugent River. The results from the biological water quality monitoring undertaken as part of this study has found that the ecological status of these rivers and streams is poor to moderate. Good status must be achieved in these water courses by 2021.

Within the Drumscrudden site itself, there is little of ecological interest, besides the hedgerows and treeline boundaries, which would provide important feeding sites, nesting areas and safe commuting corridors for local populations of birds and mammals, including bats. The same is true at Finaway site, however, this site is adjacent to the Finaway stream. This stream is an important ecological feature in itself and as a vector to the Mount Nugent River and Lough Sheelin. Impacts on protected species, most notably the otter and lamprey species, must also be considered. These species occur locally and are listed in Annex II of the EU Habitats Directive.

The potential impacts of the development upon: designated sites; impacts during construction and impacts during the operational phase were:

Impacts on Designated Sites: I note the report cites that there will be unlikely impacts upon Lough Sheelin SPA, pNHA arising from the demolition and construction activities on both sites. During operational phase, there may be a risk of accidental spillage or leak, which could have accidental consequences downstream for Lough Sheelin. In addition, inappropriate landspreading of pig manure generated at both sites may also have impacts upon Lough Sheelin

Impacts During Construction Phase: I note the report cites the likely impact though the damage of boundary hedgerows and treelines at the Finaway site, if the use of heavy machinery is not carefully undertaken. There is potential impact upon the riparian zone of the Finaway Stream, given that it is located adjacent to the application site. There will also be a potential impact on Habitat fragmentation, if the hedgerows and treelines are destroyed/damaged. There will be a temporary disturbance to local wildlife through noise, traffic and human activity.

There will be a deterioration in water quality in the local watercourses:- There is a potential that the Drumscrudden Stream and the Finaway Stream and the Mount Nugent rivers will be impacted upon, should proper mitigation measures not be enforced and followed. This is a far greater risk at the Finaway stream due to the site's proximity to the stream. Pollution may be caused from silt, oil, cement and hydraulic fluid from site run-off during preparation and construction.

<u>Impacts During the operational phase</u>:- I note the distance between the Drumscrudden site and the stream, the risk of run-off will be minimal. The main concern is the Finaway Stream, the water quality could be impacted upon from: accidental spillage or leakage of slurry;

contaminated surface water entering the stream; accidental spillage of pig feed; inappropriate landscaping of non-native invasive species into the area; inappropriate land spreading of the manure produced could have a serious negative impact upon local watercourses and their receptors.

<u>Assessment of Impacts: -</u> I am satisfied that there will be no Habitat Loss or fragmentation by way of landtake on Lough Sheelin SPA and pNHA. The mitigation measures, if implemented correctly, will ensure that the development does not have a negative impact on the environment.

I note the disturbance to wildlife, during construction phase, will be temporary. There are particular measures proposed for the protection of the Riparian zone of the Finaway Stream.

Mitigation Measures proposed in the Ecological Impact Assessment report: I have noted the mitigation measures for the management, storage and utilization of pig manure/organic fertilizer from both farms (which were detailed in the EIS). These measures will minimise and mitigate the risk of accidental spillage of slurry.

Interactions and Cumulative Effects – The report has addressed the Cumulative effects of the proposed development and concluded the following:

- Proposed development will not lead to a negative cumulative impact on the local environment.
- Proposed intensification of activities will result in an increase in the amount of organic fertilizer produced, however, it is significantly below that required by the customer farmers to maintain optimum soil fertility it will have no significant adverse impact within the local area and/or county at large.

Comment: I have noted the conclusion of the EIS report in relation to cumulative effects and consider that the report has adequately addressed, by way of further information, the potential effects on the receiving environment.

CONCLUSION: In the Environmental Impact Assessment of the application and analysis of the findings in the ETS report, it is concluded that in terms of the the direct and indirect effects of the proposed development on the four indents listed in Article 3 of that Directive as set out below:

- a) Human Beings, flora and fauna There will be no adverse impact on human beings as a result of this development. There will be limited damage to flora adjacent to the site, as a result of construction. There will be some disturbance to fauna existing adjacent to the site, this will occur during construction. There is a risk to flora and fauna located downstream of the development, this would be a result of accidental spillage of effluent. This risk can be ameliorated by the proposed mitigation measures contained in the EIS. In addition, the lands identified for landspreading of manure arising from this development, are also at risk, if the procedures under the Regulations SI 31 of 2012 are adhered to.
- b) Soil, water, air, climate and the landscape The impacts will be of a temporary nature (during construction) and in the case of air pollution, the impact is minimal. In terms of potential impact on soils and water, again there will be a disturbance during construction there is also a risk of contamination of the surface waters by accidental spillage in particular, due to the proximity of the development to the adjacent Finnaway stream. This can be avoided if the mitigation measures proposed in the EIS report are implemented fully.

- c) Material assets and the cultural heritage There will be no direct impact.
- d) The interactions between the factors (a), (b) and (c) I am satisfied that the proposed development, subject to the mitigation measures to be implemented, will not have a detrimental impact on the environment.

DEVELOPMENT CONTRIBUTION:

In accordance with the DEVELOPMENT CONTRIBUTION SCHEME 2013 - Section 48, Planning & Development Act, 2000, agricultural buildings incur the following fees:

3.
The provision of buildings or other structures for the purposes of agriculture
€5 per m² (in excess of 800m²)

The existing buildings on the site are 6,085m², these will be demolished and replaced with 5,900m². Therefore, there will be no increase in floor area no development charge is applicable in this instance.

RECOMMENDATIONS:

I am satisfied with the outcome of the Screening for Appropriate Assessment which has concluded that there is no requirement for a *Natura* Impact Statement for the development proposed.

I recommend approval of the proposed development based on the Reasons and Considerations set out and the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to:

- Cavan County Development Plan 2014-2020, policies and objectives on agriculture
- The pattern of existing development and land uses within the vicinity of the site
- The nature of the proposed development and the existing established uses on the site
- The submissions and reports made in connection with the planning application;
- The response to the further information request by the Planning Authority

It is considered that subject to compliance with the conditions set out below, that the proposed development, would not seriously injure the amenities of the area or the properties in the vicinity and would be acceptable terms of traffic safety and convenience.

The Planning Authority has completed an Environment Impact Assessment (EIA) of the proposed development, which considered the Environmental Impact Statement submitted with the planning application. This has concluded that the proposed development is acceptable and that subject to compliance with Mitigation Measures set out in the EIS and further conditions that the development would not have unacceptable adverse impacts on the environment.

I consider that the proposed development is acceptable in terms of the proper planning and sustainable development of the area.

- 8. Asbestos sheeting that is removed from any structures shall not be re-used and shall be disposed of appropriately using an authorised waste contractor.
 - Reason: In the interests of protection of the environment and in the interests of proper planning and sustainable development.
- 9. Adequate and appropriate precautions shall be taken during the demolition and construction phases of this development so as to prevent environmental pollution as defined in the Waste Management Act 1996, as amended.

Reason In the interests of protection of the environment and in the interests of proper planning and sustainable development.

PLANNER SIGNATURE

CONCLUSIONS AND RECOMMENDATIONS

It is considered that, subject to compliance with the conditions set out below, the proposed development would not injure the amenities of the area, give rise to a traffic hazard or be prejudicial to public health and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS:

1. The development shall be carried out in accordance with the plans and particulars lodged with the application in 24/7/14 as amended by the further plans and particulars received by the planning authority on 20/10/2014, except as may otherwise be required in order to comply with the following conditions:

Reason: In the interest of clarity.

 No surface water from roofs or paved areas shall flow from the site (including entrance area) onto the road adjoining the site but shall be collected by a surface water drainage system and discharged direct to nearby watercourses

Reason: In the interests of public health, traffic safety and amenity.

3. The external blockwork shall be properly rendered and painted in good quality outdoor paint, or a light colour (preferably white) and the roof shall be painted a dark colour (preferably turf brown or blue brack dark green) and the building generally kept in good order and appearance.

Reason: In the interests of visual amenity.

4. All sound trees on site (including those in surrounding hedgerows) shall be retained except those that require to be removed to facilitate the actual physical development of the site.

Reason: In the interests of visual amenity.

5. All Mitigation Measures from the submitted Environment Impact Statement shall be carried out in full and in strict accordance with the submitted EIS.

Reason: In the interests of protection of the environment and in the interests of proper planning and sustainable development.

7. Construction and demolition works shall be carried out in accordance with the Construction and Demolition Waste Management Plan submitted as part of this application and the Further Information received.

Reason: In the interests of protection of the environment and in the interests of proper planning and sustainable development.

MEMORANDUM

From

Sean Guider

To

Administrative Officer

Waste Management Section

Planning Section

Date

14.11.14

Subject

Planning Application Ref. No. 14/239 – Planning application for Bogue Pigs for development on disused pig farm at Finaway, Baltyjamesduff, County Cavan – Further Information Request & Bassanes

Response

I refer to memo from Planning section dated 24.10.14 in relation to Planning Reference Number 14/239 and I have reviewed the Further Information attached and in particular the information that has been submitted in relation to asbestos removal which was the subject of my memo to Planning Section dated 29.08.14.

I am satisfied that the information submitted addresses any concerns in relation to asbestos removal, handling, temporary storage, transport and disposal of this material.

Having reviewed this Further Information, I recommend that in the event Planning Consent is granted for this development that the following conditions are applied;

- 1. Construction and demolition works shall be carried out in accordance with the Construction and Demolition Waste Management Plan submitted as part of this application and the Further Information received
- 2. Asbestos sheeting that is removed from any structures shall not be re-used and shall be disposed of appropriately using an authorised waste sontractor
- 3. Adequate and appropriate precautions shall be taken during the demolition and construction phases of this development so as to prevent environmental pollution as defined in the Waste Management Act 1996, as amended.

Sean Guider

Waste Management Section

14.11.14

Consent of confridation purposes only in any other use.



Comhairle Chontae an Chabháin Teach na Cúirte, An Cabhán Cavan County Council Courthouse, Cavan cavancoco.ie **4353 (0)49 437 8300**

eolas@cavancoco.ie

twitter.com/cavancoco

facebook.com/cavancoco

An Bord Pleanala,

64 Mariborough Street,

Dublin 1.

Your Ref: PL02.243342

P.A Reg Ref: 14/239

05th February 2015

Dear Sir/Madam,

AN BORD PLEANÁLA
TIME_____BY

0 6 FEB 2015

LIR DATED____FROM
PL____S.

RE: to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ, and to construct 5 no. pig houses, and an extension to 1 no. existing pig house, in accordance with animal welfare and nitrates regulations; together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development will be submitted with this application. This application relates to a development, which is for the purposes of an activity requiring a licence under part IV of the Environmental Protection Agency (Licensing) Regulations 1994 to 2013

With reference to the aforementioned Appeal, I now attach the Planning Authoritys' submission herewith.

Yours Sincerely,

Senior Staff Officer

Tá fáilte romhat gnó a dhéanamh as Gaeilge Cavan County Council ... Working with Diversity in Mind



Consent of copyright owner required for any other use.

MEMORANDUM Ta From Marice Galligan **Eve Harrison Director of Services Executive Planner** A/Snr. Planner AN BORD PLEANALA Date: 5th February 2015 ABP: Ref: PL 02.244342

Third Party Appeal by Mrs Rita Tierney against the decision of Cavan County Council to grant permission to Bogue Pigs, Pl. Ref. 14/239 for: to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ, and to construct 5 no. pig houses, and an extension to 1 no. existing pig house, in accordance with animal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development will be submitted with this application. This application relates to a development, which is for the purposes of an activity requiring a licence under part IV of the Environmental Protection Agency (Licensing) Regulations 1994 to 2013.

The referral by An Bord Pleanala, received on the 21st January 2015, inviting observations or submissions in terms of Section 129 of the Planning and Development Act 2000, has reference.

The Planning Authority has considered the following issues in relation to the appellants' submission:

Grounds of Appeal:

- ds of Appeal:

 The appellant contends that the application refers to the sites as being 'authorised' by virtue of holding an IPPC License (PQ247-01), however the license does not include the Finnaway site, but rather the Drumscruddan and another site at Duff castle, Crosserlough.
- The site at Finnaway has never been the subject of an IPPC license or an EIS.
- The Executive Planner's report is incorrect in stating that the site has been vacant since 2012, as the farm has not been in operation for many years.
- There are no stock numbers currently on either farm, therefore this development will not create a reduction over the baseline condition, rather, it will result in a significant increase in adverse impact over the existing condition.
- The site at Finnaway is not in operation and was never subject to an IPPC license.
- It is obvious that the planners' report contains a number of factual errors that are fundamental to the assessment of this panning application.
- The comments are made on the basis of reductions in sow number, replacement of existing structures and the state that operations ceased in 2012 - this is incorrect as the units at Drumscruddan were destocked in 2008 and the units at Finnaway have been unused for some time before that.
- The conclusions do not appear to take cognisance of the fact that only some of the buildings will be demolished and replaced. A number of buildings will remain which are substandard and not in compliance with current regulations and directives relating to intensive agricultural
- The further information supplied by the applicant, in response to a request by Cavan coco was in most cases a reference back to the original EIS. The response also reiterates the viewpoint that the site is currently authorized.

- The applicant did not provide an adequate response to the request for further information to address the objector's concerns. In particular, the applicant stated that: "It is not clear from the objection, where Mrs. Tierney's house is".
- Environment Section's report has failed to assess the development in relation to the objectives contained within the Cavan County Development Plan (2014-2020) in relation to protection of water bodies. Therefore, this development places the attainment of the objectives of the plan at risk.
- Client farms have not been identified and it is therefore impossible for the competent authority to assess the likely impacts of the development. Appendix 6 of the EIS contains drawings indicating farmland sites. Number 1 indicates farmlands that are adjacent to the objectors' property.
- These lands were used for land spreading during the previous operation on the site and will
 result in a substantial impact on the Finnaway River/Lough Sheelin which is an SAC/SPA
 site.

0 6 FEB 2015

Planning Authority's Response to Submission:

• In considering this application for planning permission, the Planning Authority understood, from the EIS submitted, that site is subject to an IPPC License No. P0427-01, which was issued to the previous owner, Maguire Pigs for the Integrated Sow unit which included c. 1,510 pigs. The Breeding unit is located at Drumseruddan, with the pigs produced being transferred to the finisher unit at Finnaway, which is 2.7km away. The Planning Authority contends that – although the sites are physically separate, the License would cover the operation of this Integrated Unit.

- In addition, although the site is currently empty or de-stocked, the license would still cover the operation of a piggery and according to the correspondence from the EPA which states: 'the activity proposed in the planning applications will require a new license under the EPA Acts 1992, as amended, and/or a review of the existing license (Register No. P0427-01). The licensee has not yet applied to the Environmental Licensing Programme for a determination in this regard.'- The EPA have stated that: if and when a license application is received by the Agency, all matters to do with emissions to the environment form the activities proposed, the license application application documentation and EIS will be considered and assessed by the Agency.
- The Planning Authority considered that, in assessing this application, the information submitted by the Applicant in the submission of the EIS, was factually correct and did not dispute it as such. Rather, the Planning Authority considered the inadequacy of the EIS and requested that the applicant submit detailed Further Information to address the issue of concern.
- The Planning Authority considered that the principle of an agricultural development at this location had already been established in a rural area and that the proposed re-development of the site would ensure that the Piggery would be a vastly improved facility and would not present an increase in noise; smell and pollution of the adjacent watercourses. The agricultural development would be subject to a new or renewed IPPC License and would also be subject to new Animal welfare regulations. From a planning point of view this is a brownfields site and the principle has been long established in the area.

The Planning Authority has no further comments to make.

SIGNATURE;

ATE: 5/2/

2



CLW Environmental Planners Ltd.

The Mews. 23 Farnham Street, Cavan.

Co. Cavan

Phone: 049-4371447/9

Fax: 049-4371451

E-mail: info@clwenvironmental.ie

An Bord Pleanala 64 Marlborough St., Dublin 1.

5th February 2015



RE:

Planning application for Bogue Pigs for development at Finaway,

Ballyjamesduff, Co. Cavan.

Your Ref:

PL 02.244342

P.A. Reg. .REF:

14/239

Dear Sir/Madame

action Purposes only any other, I refer to the planning application for permission for development made on behalf of Bogue Pigs. for development at Finaway, Ballyjamesduff, Co. Cavan, and your subsequent correspondence in relation to an appeal against same dated 16th January 2015 and received 19th January 2015.

Please find enclosed the applicant's response to the issues raised in this appeal.

Please also note that the farm is generally locked and secured, unless activities are ongoing on the farm at that time. Should the inspector wish to make arrangements for a site inspection, and/or the provision of a key, please contact me at the number above.

Should you have any queries in relation to this, or, require any further information please do not hesitate to contact me at the above number or on 087-6794459.

Yours Faithfull

araic Fay B. Agr. Sc

Directors: S. Clarke, O. Leddy B.Agr.Sc., P. Fay B.Agr.Sc.

Response to issues raised in Appeal against Cavan County Council's decision to grant planning permission for the re-development of existing pig farm at Finaway Ballyjamesduff, Co. Cavan.

Preface:

In order to address some of the issues raised in this appeal, it is important a state of points.

A. Site Location/Planning Status of Existing Farm

Pig farming is an integral part of the rural economy of County Cavan and is a relatively common farming practice in this county. The existing pig farm site is located on an area of 3.49 Hectares in the town land of Finaway, c. 3km.'s southwest of Ballyjamesduff. The site access is from the existing longstanding entrance onto the adjacent local third class road, which is c. 0.5 km from the regional route the R194.

This farm was originally established in the late nineteen fifties/meteen sixties by Mr. Bernard Maguire (Personal communication with Mr. Maguire, previous owner), and developed to it's current scale thereafter, and, prior to such agricultural buildings requiring planning permission.

The farm at Finaway was developed to operate as a pig rearing/fattening farm to rear the weaner pigs (c. 35-40 Kg Liveweight) produced on the Drumscruddan site, (Breeding Farm housing all breeding stock [sows, gilts and boars] and rearing pigs from birth to 35 – 40 Kg's liveweight), to market weight. This is still how the two farms are set up to operate today, and, the proposed developments on these farms seek to maintain this interdependent relationship.

The recent planning history on this farm relates to two planning applications, submitted in 2006 & 2007 which were approved in 2007 for the partial upgrade and modernization of this farm (Planning Ref. 06/2449 & 07/710). Reference to these applications confirms that they did not provide for an increase in animal numbers on the farm and existing numbers were 6,000 pig finishing places. No works were carried out on foot of these permissions due to a deterioration in the financial circumstances of the applicant (which was not an unusual occurrence at this time associated with the economic downturn).

This farm was subsequently put up for sale in mid-2009 by the appointed receiver, a process which only recently concluded with the sale to the current applicant. Mr. Maguire (previous owner) and/or his family own the closest dwellings to the pig farm site, and Mr. Maguire has given his full and unequivocal support to the applicant regarding the current panning application and plans to upgrade the farm.

January 2015

Page No. 2

3. Abandonment of use

Abandonment of use occurs where an established use of a premises has ceased: the result being that a planning permission will be required to resume any new use on the basis that a material change of use will have occurred. Discontinuance or abandonments of use is a rather complex area but a number of tests are generally applied (Ref. An Bord Pleanala). These are; PLEANALA

(i) The physical conditions of the premises

(ii) The period of non-use

(iii) The nature or character of the intervening use if any DATED

(iv) There must be an intention not to resume the upon

1 0 FEB 2015

FROM

2 (i) The physical conditions of the premises –The extent of the area where the pig farming activities were carried out has not been altered. All pig housing and associated structures remain in situ. Although pigs have not been housed on the farm since c. 2009, the site was managed (by Mr. Maguire and/or his representatives continuously up until the point of sale, and by the current applicant thereafter up to current date). Management practices employed included maintaining soiled water levels in tanks and ensuring that they did not pose a risk to the environment, regular farm inspections, employing security to secure the site, employing an agricultural contractor to remove and spread soiled water/slurry from the existing tanks, maintaining the site to prevent encroachment by vegetation, carrying out repairs to buildings etc. Although the farm may not have been stocked for a number of years (due primarily to the receivership process), it was effectively still operating/maintained to facilitate restocking, and, the absence of stock was due to external financial complications not abandonment. Rease refer to attached correspondence from Teagase detailing that the farm is still suitable as a pig farm subject to certain refurbishment.

Subject to refurbishment/maintenance of the existing structures (as deemed to be exempted development by virtue of Section 4 (1) of the planning and development act referred to below) the stock numbers are capable of being fully reinstated to normal operating levels on the farm.

Section 4 (1) of the Planning and Development Acts, states that the following shall be exempted developments for the purposes of this Act – (h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring properties.

2 (ii) The period of non-use

While the farm was temporarily destocked for the past couple of years, site management, slurry/soiled water management and limited maintenance has been continual throughout this period. This included normal agricultural activity such as emptying slurry tanks, repairs to surface water drainage system etc, so the use of the site while temporarily destocked for a period, could in effect be deemed continuous.

2 (iii) Nature and character of the intervening use if any -

The site in question has not had any intervening uses. In addition no works (demolition, alternative use etc.) were carried out on the farm to suggest that it was the intention of the owner to do anything other than re-stock the farm.

1 0 FEB 2015

2 (iv) There must be an intention not to resume the use -

In this particular case, it is considered that by virtue of the 2007 permissions referred to above, (which were still valid at the time of destocking, [and remained valid thereafter until June 2012], at, which time the then owner experienced financial difficulties) there was an expressed intention on behalf of the owner to restock the farm. As one will appreciate the planned provision of new buildings with a lifespan of 20 - 40 years is the strongest possible indication (apart from actually having built them) that the intention was to continue farming on the site. As previously detailed the site has been continually managed during this period to facilitate restocking the farm.

It can only be concluded that restocking the pig farm, in line with the previous scale of the activity is not considered to constitute development as there is no "material change in the use of the lands", no works have been carried out on the farm to prohibit/prevent the restocking of the farm, and certain management and maintenance activities to facilitate restocking have been carried out on a continuous basis up to current date.

As will be detailed hereafter (and as detailed in section 3.1 of the E.I.S. submitted with this application) the proposed development is in effect "the provision of new modern pig housing and associated structures/site works to replace existing structures on an existing pig farm, to provide for enhanced welfare, environmental compliance, efficiency and overall profitability,

C. EPA Licence Status of Existing Farm

The applicant does not contend, and has not indicated that the site at Finance, has had an I.P.P.C. Licence. To the best of his knowledge no licence application has been submitted in respect of this farm. In their assessment of the application Cavan Co. Co. have understood that the Finaway Farm did not operate under Licence No. P0427-01, (the reference to Licence No. P0679 is in error, which was not included on any documentation submitted by, and/or on behalf of the applicant).

Any reference to the existence of adicence in the E.I.S. is clearly indicated and referenced, solely to demonstrate the applicable sow numbers on the breeding farm (which was also a subject site in the E.I.S.). that supplied the pigs to this site at Finaway (i.e. the grower/finisher farm)

- Page 2 of E.I.S. "Sow numbers as specified in the Licence No. P0427-01 issued by the E.P.A. on 3rd January 2001."
- Page 17 of E.I.S "A licence was granted by the E.P.A. to Mr. Maguire on 3rd January 2001, Reg. No. P0427-01. This licence details the maximum number of Sows at 1,510."
- A copy of the licence identifying the extent and limitations of same was included with the E.I.S.

Any reference to a revised licence in the E.I.S. relates to the applicants requirement to operate the farms under a licence/revised licence. It was the intention of the applicant to revise the existing licence to accommodate the re-development of both pig farm sites and incorporate all under the one licence, in much the same manner as the E.I.S had been completed. Preliminary discussions with the E.P.A. indicated that an application in this manner would be valid/acceptable, and would be assessed upon receipt of same, and therefore the reference to a revised licence to accommodate both sites is accurate. As the E.I.S. will also have to be submitted and assessed by the Agency as part of this licence application it was deemed appropriate to make reference to the review of the licence in the E.I.S.

January 2015 Page No. 4



J. Proposed Project Development Description for the purposes of the E.I.S.

The synopsis of the proposed development/project description is; the provision of new modern pig housing and associated structures/site works to replace existing structures on an existing pig farm, to provide for enhanced welfare, environmental compliance, efficiency and overall profitability,

with no intensification in the level of authorised activity on the farm.

While the current application/development does not in effect require re-approval/re-authorisation or seek a renewal of permission/authorisation under the planning and development legislation for the already authorised nature and scale of the activity, it does seek to provide the facilities and infrastructure to carry out same in a modern, welfare and environmentally compliant and economic manner, in modern purpose built housing.

E. Explanation of Baseline as it applies to the Completion of the Environmental Impact Statement submitted with this application;

"The establishment of an environmental baseline includes both the present and likely future state of the environment assuming that a proposed project" is this case replacement structures) " is not undertaken, taking into account changes resulting from natural events and from other human activities" (such as recommencing authorised farming activity in the existing housing).

"Initial baseline studies may be wide-ranging but comprehensive overviews can be wasteful of resources. The studies should focus as quickly as possible on those aspects of the environment that may be significantly affected by the project, either directly or indirectly. The rationale for the choice of focus should be explained with reference to the nature of the project"

source - Introduction to Environmental Impact Assessment Principles and Procedures 2nd Edition.



Note: The response to the issues raised in the third party appeal attempts to follow the format of the appeal submission, in order to provide ease of reference. However to provide clarity and where possible prevent repetition, some aspects of this submission may not be in the same order as the original appeal. This is particularly evident where the same issue is referred to at a number of locations in the appeal submission.

January 2015 Page No. 5



1. Grounds Of Appeal

Introduction

At the outset the appellant correctly outlines that this application for development at Finaway is also connected to a separate application in respect of a pig farm at Drumscruddan, and that one E.I.S. was completed to cover both pig farm sites. There is no issue with same and the rationale for completing the E.I.S. in this form is clearly outlined in the E.I.S.

It is incorrectly stated, in the appeal, that the E.I.S. refers to the activity as being authorized due to the fact that it has an I.P.P.C. Licence (now referred to as an Industrial Emissions Licence). While there are a number of similarities in the application process, procedures and requirements the planning permission and E.P.A. Licence systems operate under two separate pieces of legislation, and once above a certain threshold (as per the proposed development) both authorizations are required. The current status of the site regarding planning permission and EPA Licensing have been outlined previously.

The applicant does not contend, and has not indicated, that the site at Finaway has had an I.P.P.C. Licence. The applicant does not rely on the existence of a licence as a reason why planning permission should be granted, and, the purpose of any reference to the existence of a licence in the E.I.S. is clearly indicated and referenced, solely to demonstrate the scale of the breeding farm. As previously outlined the grower/finisher farm was established to operate in conjunction with this breeding farm.

It is widely acknowledged in the E.I.S. that both farms will have to operate under a revised licence, which will have to undergo its own assessment and adjudication procedures by the Environmental Protection Agency post the grapt of any planning permission to this farm.

The rational for including both sites within the review of the existing licence is explained previously.

It is the applicants understanding that the presence/absence of an E.P.A. licence is immaterial to the "Planning authorization" of this pig farm site, as the licence is required under legislation separate to the planning and development regulations.

It is the applicant's contention that the site is authorized as a pig farm site in line with the previous scale of activity and that the use of same has not been abandoned, as previously detailed.

1.2 EIS Baseline Assessment Criteria

In preparing this E.I.S. considerable attention and detail was applied to establishing the starting point for this assessment. This analysis included:

- The development description (as detailed previously)
- The current activity on the site (i.e. temporarily destocked)
- The existing structures on the farm, their purpose and capacity, and no increase in the operational capacity of the farm.
- The long history of the pig farm site as an operational, productive pig farm site.
- The short period of time that this farm has been destocked relative to the lifespan of the
- The existence of recent planning permissions on the farm, indicating an intention and desire to upgrade and modernize the farm.
- The knowledge that the existing structures on the farm while now in disrepair, had not been demolished and/or abandoned, and, that subject to repair and maintenance (not requiring planning permission) were capable of being refurbished to a standard whereby they could be used for pig farming activities similar to a scale previously carried out on the farm.
- Acknowledging that pig farming activities ceased on the site due to external financial factors (and not the capacity of the site to operate as a pig farm), the use of the site has not been abandoned and the site has been maintained/managed in the intervening period and up to date in preparation for re-stocking.

In addition the Advice Notes on The Current Practice in the Preparation of Environmental Impact Statements as published by the E.P.A. was also consulted. Section 1 of these advice notes – Characteristics of the Project – details the following;

In providing a description of the physical characteristics of the project development, issues such as site layout, design and size/scale, as well as any existing development on site, are considered.

Description of Size or Scale

The description of project size or scale, indicates the mignitude or intensity of the development when in operation. It includes issues such as the following RD PLEANALA

- the area, length, width and height of each major element;
- the relative size and scale of the development in its context;
- the extent of the activities proposed;
- the volumes, magnitudes or intensity of each process.
- the number of features clearly indicated where relevant such as the number of houses).

Description of Existing Development

Where consent is required for a development involving an extension or expansion of an existing operation, the description of the existing environment includes those parts of the development already in place.

January 2015 Page No. 7 Upon Completion of this analysis it was concluded that;

- 1. **Pig farming activities were authorised** under the planning and development regulations, (the requirement for an E.P.A. licence relates to separate legislation and a separate application, which is not the subject of this appeal.
- 2. Pig farming activities had not been abandoned on the farm.
- 3. <u>Pig farming activities could be recommenced on the farm at the previous level</u> within the existing structures (subject to repair and maintenance not requiring planning permission),
- 4. The proposed development description relates to the provision of replacement buildings and structures to ensure improved environmental, welfare and economic performance, and as such does not seek re-authorisation for the scale of activity on the farm.
- 5. Based on the E.P.A. advice notes the description of the size or scale should indicate the magnitude or intensity of the development when in operation. It is the applicant's understanding that this methodology is as applicable to, the capacity of the existing development on a particular site, as it is to the proposed development.

Therefore it was deemed appropriate to;

- establish the baseline based on the authorised scale of the farm (based on its history as a pig farm site, and not related to the existence/absence of an E.P.A. Licence which the appellant seems to be inferring and/or trying to infer., and which is a totally separate application/permission),
- while at the same time acknowledging in the E.I.So the currently destocked nature of the site.

It is felt that the baseline used, while at the same time acknowledging the current nature of the site was the most appropriate methodology to use in this instance and most accurately reflected the overall status/characteristics of the site and thus, the decision of Cavan County Council was based on the correct baseline.

In this regard, while not wanting to appear obtuse, it has to be borne in mind that if the applicant had re-commenced pig farming prior to the submission of the planning application as he would have been and/or is entitled to do, the appropriate baseline would not have been an issue.

While the appellant is entitled to feel that the baseline should have been set at 0, (akin to a Greenfield site), this effectively only considers one factor rather than a baseline as it;

- \triangleright ignores all of the information contained in points 1 5 above,
- is limited in its scope and range as in effect is predicated by establishing the baseline on one single factor (i.e. existing stocking rate on a particular day, or short term period in the life of a development), and,
- it does not take into account the range of factors, characteristics and other information that need to be at least considered to accurately reflect and establish an appropriate baseline that also takes into account changes resulting from natural events and from other human activities.

January 2015

1.3 Reports Prepared by Cavan County Council

The statement by Cavan County Council regarding "the proposed development is located within a long established pig farm complex" is factual and correct and is not linked to the level of activity therein.

The date of destocking of the Drumscruddan site is not relevant to the application at hand. There is no evidence to suggest that the level of activity on the Finaway site was operating below its capacity for a long period prior to 2009. The threshold used by the applicant for the scale of activity on the farm is based on the previous permissions granted to the farm.

While factually correct it is also misleading to detail that the planners report states "There was previously an IPPC Licence for this facility (679 & 427)", without also acknowledging that this was not part of the report written by the planner, but a copy of the report from the Environment Section of Cavan Co. Co. While this is an error, as licence number 679 refers to another pig farm and was not referred to in the E.I.S. and/or other documentation submitted on behalf of the applicant, there is no evidence that the planner relied on same as an integral part of reaching their decisions, as it is not referred to elsewhere in the planners report.

In addition to the above the E.I.S. makes it clear that any existing licence would have to be reviewed as part of this proposed development, making is subject to a separate application and adjudication procedure, post any grant of planning permission. In effect the procedures to be completed in the review of a licence are similar to a new licence application.

The Finaway farm was destocked in 2009. Planting applications in 2006 and 2007 indicated willingness on behalf of the then owner to prodernize the site and continue pig farming. Unfortunately financial difficulties (as experienced by most of the country at this time) meant that the then owner went into receivership, and this has only recently been progressed with the sale of the site to Mr. Luke Bogue/Finaway Farms.

Given the explanation as the methodology establishing the baseline as referred to previously, the statement that there will be a 15% reduction in sow numbers is accurate and not misleading. The planners statement:

"replacement of existing aged structures with modern pig accommodation and the provision of improved manure storage facilities, with leak detection facilities should be seen as a positive development and an improvement in the attributes of the existing form."

is an accurate and valid statement, and accurately sums up the intent of the proposed development when reflected against the appropriate baseline, and is not connected with and/or affected by the presence/absence of an EPA Licence.

AN BORD PLEANAL AND PLEAN

The appellant seems to be attempting to link the existence or otherwise of an EPA dicence with authorization in a planning sense. As previously detailed planning permission and EPA Licence, are two distinctly separate authorizations required under separate legislation. It is appreciated that there is cross communication/consultation in the processing and assessment of these applications. The existence or otherwise of an EPA licence does not infer the presence/absence of planning authorisation, and in effect planning permission must be granted before an EPA Licence application can be determined.

1 0 FEB 2015

While there may appear to be typographical errors in the planners report, and/or its attachments including the reference to licence 679 (another licence held by the then owner/owners family), and the fact that the farm was vacant since 2012 (This relates to the date of previous correspondence between the receivers representatives and Cavan Co. Co. relating to the on-going management of the farm, and not to actual pigs on the farm) these errors were not introduced or stated by the applicant and there is no evidence to suggest that the planner relied on these statements as an integral part of making the overall planning decision. AN BORD PLEANÁLA

1.4 Planning Authority Comments

As previously detailed;

1. The comments in the planners report in relation to the reduction in sow numbers and the replacement of existing structures are correct.

2. The comments in relation to the ceasing of operations are correct in so far as they relate to contact between the site management and Cavan Co. Co.

The statements made by the appellant regarding:

- 1. The destocking of the Drumscruddan site, is irrelevant to this application,
- 2. The destocking of the Finaway site more than 10 years ago is factually incorrect as witnessed by the 2006 and 2007 planning applications which confirmed the farm to be stocked at these times.
- 3. The remaining existing buildings are sub-standard and not in compliance with current regulations is un-substantiated, and it is unclear how the appellant would be in a position to comment on the integrity of these structures are not optimal (from the point of view of labour efficiency etc.), and hence the purpose of this application, but they are still fit for purpose if appropriately refurbished (see attached Teagasc correspondence). The integrity of the existing buildings which are to remain will be addressed by conditions included in any E.P.A. licence granted to this farm.

1.5 Further Information supplied by the Applicant in response to a request by Cavan Co. Co.

As detailed a response was made to a further information request from Cavan Co. Co. Where appropriate, and if information had already been submitted, this was referred to and was the appropriate manner to address same.

Where additional information was required this was referenced and submitted as an E.I.S. Addendum Report. The facility for a Local Authority to seek further information in relation to an application is a fundamental part of the planning process. The applicant is satisfied that the E.I.S. as submitted outlined a proper assessment of the proposed development and the potential impact (both negative and positive) as a result of same.

The Ecological Impact Assessment builds on certain information submitted in the original E.I.S. and this additional information provides a useful barometer with which to be able to measure the operation of the farm in future years, when compared to non-operating conditions, (Not the same as baseline conditions, in so far as they apply to the development which is the subject of this application), and as such may be more useful in the upcoming E.P.A. Licence application procedures, and/or future licence compliance assessments. In relation to the authorisation of the site, this has been elaborated to previously in this response.

LTR DATED

2. Mrs. Tierney's Objection

It is important to note that in the c. 50 year history of this farm while operating (c. late fifties to late 2000's) the previous owner received no complaints from Ms. Tierney (and/or any other persons) in relation to odour from the farm. (Personal communication with Mr. Bernard Maguire Jan. 2015)

AN BORD PLEANALA

The applicant completed a detailed response in relation to the two issues raised i.e.

- Air Pollution
- Spreading of Slurry.

The statement by the appellant is both disingenuous and incorrect as the response to Cavan Co. Co. detailed "It is not clear from the objection if Ms. Tierney resides at this location" (as the location of Ms. Tierney's residence was not identified in the submission) "or a location further away." In this regard the applicant had understood that Ms. Tierney lived at the closest dwelling to the pig farm site (excluding those dwellings owned by the pig farm owner), and formulated the response based on same.

As far as the applicant is aware Ms. Tierney is friends with the previous owner of this farm, (who owns the dwellings closest to the pig farm site and is fully supportive of the proposed development.) The main reason for not discussing it with any neighbor in the area, including Mr. Bernard Maguire, was out of respect to Ms. Tierney and her right to have her comments and concerns aired without feeling under pressure from any other person in the local area. The comments at the time were brief in nature and it was felt that the improvements on site as a result of the proposed developments would address same and this was outlined in the response.

Within the local area the proposed development is seen as a significantly positive development in terms of both long term employment in a rural area, and short term employment in construction, provision of materials, services etc., and will positively impact on the local area. The applicant has already had a significant number of enquiries from local people including neighbours of the farm, and of Ms. Tierney's, regarding potential employment opportunities on the farm.

The response to the submission detailed the positive impact of the proposed development in relation to minimizing odour (due to improved housing structures and the elimination of open topped external manure storage tanks) and minimising manure volumes, thus minimizing the amount of organic fertiliser that would have to be spread, and compliance with S.I. 31 of 2014.

The assertion that the Local Authority <u>"passed responsibility"</u> to the E.P.A. is again disingenuous. As detailed in the Environment Section report, where an EPA License is required the planning authority are precluded, by the relevant legislation, from imposing conditions in relation to environmental emissions from the activity.

When the proposed development is viewed against the relevant baseline, it is in keeping with the requirements of the County Development plan and supports the attainment of its objectives. The provision of improved infrastructure, additional manure storage capacity, minimization of manure volume (by minimizing extraneous water) and compliance with S.I. 31 of 2014 should all serve to help protect the Finaway River, Mountnugent River, Lough Sheelin and the wider Shannon catchment.

Manure will be used by customer farmers in the area and further afield as a replacement for chemical fertiliser. The information included in the EIS (including land area, existing stocking rate and organic fertiliser requirement) represents a potential list of customer farmers. The current customer farmers as referred to in the application have been shown to identify that there is capacity in the area within the limitation of S.I. 31 of 2014 to utilize the organic fertiliser to be produced on this farm. This list, with a capacity of in excess of 150% of estimated production, is not exhaustive and any other farmers who have a fertiliser requirement under S.I. 31 of 2014 may be supplied with fertiliser from this farm.

As these farmers are operating under separate legislation (S.I. 31 of 2014), they are not a party to, and/or subject to assessment/approval or otherwise under this planning application. This matter (albeit in relation to S.I. 610 of 2010 - updated by S.I. 31 of 2014) has been referred to in previous decision(s) by An Bord Pleanala (PL02.240879) as follows; "The spreading of slurry on land does not require planning permission but would also be subject to the said law. It is not normally useful or appropriate for a planning decision to attempt to regulate matters for which a separate, specific regulatory regime has been established by statute. The board is also under a general obligation to assume that a person will comply with their lawful obligations.

The same report also highlights that <u>"The current application should therefore be assessed on the basis that the slurry generated in the development would be stored and disposed of in accordance with the 2010 regulations. In these circumstances it is considered that the proposed development would not cause any undue threat to the quality of ground or surface waters."</u>

In line with European Court of Justice decisions clarifying that pig manure is not waste if applied to agricultural land in accordance with nutrient requirements on clearly defined parcels of land, organic fertiliser applied in accordance with \$1.31 of 2014 will be utilized not disposed. It is anticipated that the use of disposed (as detailed above) was a poor choice of works in this regard.

The existing customer farmer locations were identified, however it was not deemed appropriate under data protection laws etc., to provide personal private information in relation 15.2 the party farmer, on a public file. The application of organic fertiliser to adjoining lands is a matter for the farmers concerned, however the applicant is happy to liase with Ns. Tierney in advance of the application of any organic fertiliser on lands under his control, and will advise local farmers to do the same in respect of any applications of pig manure from this farm.

The allegations relating to the pollution incidents on the Finaway river are unsubstantiated and the one substantiated case referred to, while equally inexcusable, was caused by whey (a liquid feed by-product) and not pig manure. In any event the proposed development and upgrades will ensure that potential incidents like this do not re-occur. The current applicant has operated his other pig farm(s) in line with Cavan Co. Co. and/or E.P.A. requirements for in excess of 30 years without incident, and is a highly competent, organized and diligent farmer.

The listing of dwelling houses within the areas where slurry may be spread is beyond the scope and the requirement of the E.I.S. As previously detailed a potential list of customer farmers has been identified with capacity for 150% of the organic fertiliser produced. This survey was to demonstrate the requirement for fertiliser in the area, and these customers may be complimented with other customer farmers. Therefore the area for the receipt of pig manure cannot be explicitly confirmed and/or a boundary put around same and as detailed above, as these farmers are operating under separate legislation (S.I. 31 of 2014), they are not a party to, and/or subject to assessment/approval or otherwise under this planning application.

It is more appropriate to recommend set-back distances (such as 100m from a dwelling house etc) around dwellings and sensitive areas so as to help ensure that there are no adverse impacts. This approach would also help to address any new developments/houses that may occur over time, and is the approach adopted within the industry and on other pig farms operated by the applicant. The current applicant has a long compliant and constructive history with Cavan Co. Co. and the E.P.A. on other pig farm site(s) and operates his farms to the highest standards without complaint.

As detailed previously the appropriate baseline upon which to base an assessment of potential impact of the proposed development has been outlined previously and is as detailed in the E.I.S.

2.1 Specific Objection of Ms Rita Tierney (as referred to later in the objection as submitted)

While the proposed development will continue to be operated as a fattening farm it will have significantly different practices when compared to the previous activity, including,

- The elimination of open topped manure storage tanks.
- The significant reduction in the mixing of organic fertiliser on site associated with its pumping to and from the overground storage tanks.
- > The use of low protein diets.
- > Significant landscaping/planting around the farm since this farm first operated which has matured significantly over recent years.

Further to consultation with Mr. Maguire the previous owner of the farm, no complaints were made to him regarding odour from the farm and he and Ms. Tierney have always remained on good terms. The applicant will put in place preasures for the control of flies etc., on the farm in line with Bord Bia guidance and best practices.

Allegations of overflow and overspreading are unsubstantiated and alleged to have occurred prior to current ownership. In any event this serves to reinforce the positive aspects of the proposed development due to improved manure storage capacity and quality of structures.

Property Devaluation

As this is a long established pig farm, any theoretical impact on property prices as a result of the existence of the farm, would have already occurred. Indeed many of the dwellings in the area have been built after the establishment of this farm. In addition the measures proposed for the upgrade of this farm can only have a positive impact on the local area (due to reducing odour, reducing slurry volume, modern housing and ventilation systems etc.) and thus any theoretical impact on property prices should be positive.

It is disingenuous to detail that no additional information was submitted in respect of Ms. Tierney's objection. Specific reference was made to noise, odour and slurry application. It was also confirmed that as far as the applicant was aware Ms. Tierney's dwelling was the closest lwelling to the farm not owned by Mr. Maguire, and subsequently was confirmed to have been brrectly identified.

15

1 0 FEB 2015

3. Traffic:

To state that there has been no traffic associated with these farms over the last number of years is factually incorrect. There has been continual traffic associated with these farms, up to the present day, associated with the management and control on these farms. This has involved the regular transport of soiled water (and at times waste) away from the farms, security to and from the farm, maintainence etc. so as to maintain them and ensure that even though they are temporarily destocked, they do not cause an adverse environmental impact, they are kept well secure and clean in preparation for re-use.

The baseline with which to compare the operational traffic volumes is deemed appropriate, however it is important to note that overall traffic volumes have been detailed, thus if one desired proposed operational traffic levels can be compared to 0 if required (although this would also be flawed as it does not take account of the current traffic to and from the site as described above). While the specific construction traffic volumes have not been detailed in the E.I.S. it is anticipated that the proposed development will be completed over the lifetime of the permission. The commencement date of any activities on the site will depend on the granting of permission, the application for an E.P.A. Licence, current economic returns from the pig industry and the availability of finance.

The maximum operational traffic associated within the farm is detailed in the E.I.S. Over the 5 year period the construction traffic will be higher at the start reducing to 0 at the end of the permission period. Concurrently the operational traffic will be increasing over that same period to the levels as detailed at the end of the construction period. This will have the effect of evening out the traffic to and from the site, to a level similar to the operational level over this commissioning period, albeit the construction traffic may be more variable on any given day/week depending on activities on that day/week.

A specific traffic Impact Assessment was not deemed to be required in this instance as, there is no proposed intensification of use, and the level of traffic associated with an agricultural development like this is not deemed excessive. Traffic movements are as detailed in the E.I.S.

The upgrading of the roads between the farms is a matter for Cavan County Council, and as this will have been taken into account in their assessment of this application and it has to be assumed that Cavan County Council's specialist road engineers have assessed this development and are satisfied with same.

AN BORD PLEANALA

4. Air:

The applicant has paid considerable attention to the potential for odour from the proposed development both in terms of the construction and the planned operation of the farm. The redevelopment of this farm has been designed to eliminate;

- 1. the single largest (5 No.) potential point sources of odour from the farm, i.e. the open exposed manure storage tanks.
- 2. the main ancillary activity on the farm with the potential to increase odour i.e. the mixing and agitation of slurry to pump it from the existing houses to the existing open topped reception tank which in turn has to be pumped a second time up into the over ground open topped storage tanks.

As part of the application for, or, compliance with the conditions of, any EPA licence that may issue the applicant will have to address issues such as low protein diets, BREF Housing requirements and the options for dietary manipulation and dietary or slurry additives to minimize any potential odour impact, as required by the normal conditions contained in such licenses.

The applicant has purposely not committed to any specific issues in this regard in the E.I.S., and has left all options on the table as they are subject to agreement/modification/change depending on future consultation with the E.P.A., however it is clearly stated in the E.I.S. that "The proposed development will operate under the conditions imposed as part of any grant of planning permission and revised licence issued to this farm and in line with Department of Agriculture, Food and The Marine, Cavan Co. Co. and E.P.A. requirements." This EIS will be subject to assessment as part of the Licence Application process. (As detailed in the E.I.S. the reference to farm above is taken to mean both sites combined in line with the E.I.S. format.)

5. Eligibility of the Existing IPPC Licence

At no stage has the applicant stated or implied that the existing licence related to the Finaway site. As previously noted in this response the reference to the existing licence was solely to confirm and verify the existing number of sows. In their assessment of the application Cavan County Council will also have taken into account the detailed submission from the E.P.A. regarding this application, which confirms a new and/or revised licence will be required.

It was indicated however that this existing licence would be revised to accommodate the proposed developments and this included the developments on the Finaway site. As with other existing E.P.A. Licence applications, and in line within the E.I.S. completed, while planning permission is site specific (hence 2 separate planning applications) there is room to accommodate these two farms under one revised licence. Explorative discussions have been held with the Agency in this regard.

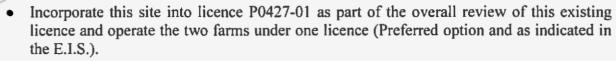
The applicant at no time expressed the view that the application should be based on the assertion that the site is currently licensed, and there is no evidence to suggest that this was relied on in the planners assessment of the application, with the exception that it was understood that the site would have to operate under an E.P.A. licence which is correct.

The appellant appears to be confusing planning authorization and HPA direct pathorization, which as detailed previously are two separate legislative authorizations, which require separate applications.

The current application at hand relates to the planning permission for proposed replacement buildings with no intensification of use over and above that authorised application is to be made to the Agency at a later date.

As correctly stated Mr. Maguire is no longer the owner of the farm, same having recently been sold to Luke Bogue/Finaway Farms. The references to Finaway Farms Ltd. and/or Gabriel Maguire are not applicable in this instance as Mr. Bernard Maguire remains the licensee. I can find no reference to Finnaway Farms Ltd. with the CRO the only reference is to Finaway Farms, the company recently established by the applicant.

As previously indicated the farm is deemed to be licensable and this will be the first EPA licence application for this site. There are two options in this regard either;



Or

Apply for a separate independent licence for the Finaway site.

This process (for the Finaway Site) will be developed with the E.P.A. upon receipt of the determination of this appeal, and a further assessment of this E.I.S. will be carried out at this stage by the Agency, under the appropriate legislation and guidance governing the EPA licensing process. This will be subject to normal public and third party participation procedures and is a separate matter to this planning application and appeal.

Regarding the transfer of the licence – that is not applicable to this site as the Finaway site could only be included under this licence after a review of the licence to incorporate same.

6. Adequacy of E.I.S. and provision of further information

- The presence/absence of a licence for the Finaway site was not relied on in the assessment/completion of the E.I.S., however the requirement for one was correctly acknowledged.
- The authorised use of the site was in a planning context and not in a licence context. As previously detailed the appellant is confusing both.

It is important to note that the applicant is not operating an unauthorized development.

The applicant is seeking to re-develop the farm to a modern standard with no intensification of use, while at the same time taking steps to ensure that all required permissions (planning and EPA ticence) are in place for this development.

Cavan Co. Co. have indeed looked for further information on this application. This further information request was essentially in the main, a copy of a submission from Inland Fisheries Ireland, and it is presented in the further information request as such, for the applicant to comment on/reply to. For the appellant to state that this was also the express view of Cavan Co. Co. seems like a giant leap of faith which is unsubstantiated.

This afforded the opportunity and entitlement to the applicant to respond to the issues as raised, including where necessary outlining the rationale behind the information already presented, and referring to same where required.

It is strongly felt that the assessment carried out by Cavan Co. Co., and it's Chief Executive Officer, and the basis upon which the E.I.S. was completed was done so in a balanced, even handed manner taking into account all of the information (including historical) available and that the decision reached is appropriate to the site and in keeping with the proper planning and sustainable development of the area.

The applicant has attempted to address all of the requirements of the F.LS. as detailed in Schedule 6 of the Planning and Development Regulations 2001 (as Amended) and chast had reference to EPA guidelines in this regard.

10 FEB 2015

LTR DATED FROM

The applicant can concur that to the best of his knowledge no licence application has been made for the Finaway site, however one must appreciate that up until now he was not in a position to do so. Also while the existing licence does not cover the Finaway site, the proposed review of the existing licence was to include the proposed developments on both sites as detailed in the E.I.S.

At this juncture, the applicant has a decision to make regarding the direction taken in relation to the application for a licence. The three options available are:

- 1. Proceed with an EPA licence application prior to the determination of this appeal to fully operate the existing pig farm, and subsequently review the licence to accommodate the proposed developments/improvements/modernisation depending on the outcome of this appeal.
- 2. Postpone the application for an EPA Licence pending the outcome of this appeal.
- 3. Partially re-stock this farm to a level below the EPA Licence threshold, pending the outcome of this appeal, and then follow option 1 or 2 above as deemed appropriate.

6.1 Stock Numbers

The stock numbers within the E.I.S. as presented are done so on the basis of the scale of the farm or the principle determining factor, which is in this case the size of the breeding herd. Pig numbers thereafter (including weaners and finishers) are subject to fluctuation due to fertility in the breeding herd, mortality from birth to sale, performance (i.e. growth rate) from birth to sale etc.

The E.I.S. details the maximum weekly numbers of pigs targeted to be produced in the breeding herd (750 /week), based on exceeding current industry targets. Actual production based on current best performance is expected to be c. 700 pigs per week weaned. Allowing for post weaning mortality and the retention of replacement gilts c. 620-640 pigs will be available for transfer to the Finaway site on a weekly basis

<u>Finisher Accommodation</u>—Weaner pigs will be transferred to the finishing site to mature over a 9.5-10 week period (based on an average daily gain of 1 – 1.1kg and a target weight gain of c. 70kg). The farm as proposed will have capacity for 620-640 pigs/week, resulting in a maximum stocking rate of 6,000 pigs after allowing for mortality of c. 1.5 -2 %. The operation of this farm will require an additional c. 10 days housing to provide for the required washing, drying and resting time between batches, a dedicated area for sick/injured stock, and an extra weeks capacity to provide for disruptions in moving pigs off the farm (such as holiday periods, disruption in the factory etc.), hence the 13 weeks referred to in the E.I.S.

As detailed in the E.I.S. (Figure 4.1.1) and as referred to in the Further information submitted, the anticipated volume of organic fertiliser to be produced, is based on the only appropriate method of calculation available to the applicant i.e. the data contained in S.I. 31 of 2014 European Communities (Good Agricultural Practice for the Protection of Waters) Regulations 2014. While the data presented is based on an integrated unit (as per the E.I.S. methodology) the volume generated on the Finaway site alone will be c.

6000 pigs *0.039m3/place per week (as per S.I. 31 of 2014)*52 weeks = 12,168m3 (Total as per E.I.S. both sites combined 25,870m³.)

LTR DATED____FRO

Name and Address of the Owner, where the Owner, which is the Owner, where the Owner, which is the Owner, where the Owner, which is the Owner,

7 Description of Impacts in EIS

The baseline against which all potential impacts have been assessed has been detailed previously. It is felt that any objective assessment of the baseline and potential impacts has to take into account the factors as previously outlined.

One must remember that even at present the applicant would not require planning permission to put stock back into the existing structures. While this is not the applicants desire one cannot lose sight of this, in terms of assessing potential impacts. One can quickly realize that the potential impacts from re-commencing farming in the existing structures and facilities are more potentially significant than the proposed development and hence why one can objectively and confidently state that the proposed development of replacement housing will have potential positive impacts.

Eutrophication: While there is no stock currently on the farm, the potential for eutrophication from re-commencing the activity in the existing structures is higher than that from the proposed structures completed in line with Cavan Co. Co., An Bord Pleanala, Department of Agriculture, Food and The Marine and/or E.P.A requirements.

As previously detailed: It is strongly felt that the assessment carried out by Cavan Co. Co., and Chief Executive officer, and the basis upon which the E.I.S. was completed was done so in a balanced, even handed manner taking into account all of the information (including historical) available and that the decision reached is appropriate to the site.

8. Suitability of Existing Facilities

One must bear in mind that the de-stocked nature of the site is, and only ever was intended to be temporary, primarily as a result of the financial difficulties of the previous owner. The do-nothing scenario as understood by the applicant, is effectively do no development as proposed, effectively leaving the applicant with the option of re-stocking the existing structures. In this regard the do-nothing scenario has been accurately presented.

Again the reference to the EPA licence is irrelevant in this context, as the current application relates to a planning matter. The statement that a licence is required prior to re-commencing is inaccurate, as pig farming can be carried out up to the EPA licence threshold without any additional authorization.

The main reason for the proposed re-development is associated with the economic viability of the farm. The existing structures can be re-furbished where required to a satisfactory level to achieve welfare and environmental compliance; however the applicant feels that this investment would not be optimal. At this juncture it is felt that the best option for this site both for the welfare of the pigs, local environment and efficiency and economics of production is to complete an overhaul of the farm and to provide for a myriad of measures including;

- ➤ All new manure storage structures built to current Department of Agriculture Food and the Marine standards.
- Elimination of external open manure storage tanks.
- Leak detection under all new manure storage structures.
- Elimination of external pig walkways and soiled water.
- > Modern feeding and ventilations systems
- > Along with other measures as identified in the E.I.S.

AN BORD PLEANÁLA

TIME BY

1 0 FEB 2015

LTR DATED FROM
PL

Permission was granted in the past to replace existing structures on the farm, to meet updated regulations. As with the current application this was seen as the most effective means of doing so. Importantly though, this is not the only means as houses can be upgraded, however if the option to build new structures is provided to the applicant this is by far the best use of resources for the long term.

The appellant states that Cavan Co. Co. should have included provision for the existing structures to be demolished as part of the permission, however as the proposed development is to be completed on the site of the existing structures this is self explanatory.

Demolition: The applicant has included a Construction and Demolition Waste Management Plan as part of the E.I.S. with additional information included in the E.I.S. Addendum.

An engineer's assessment is to be carried out on the existing structures to remain as per the Appropriate Assessment/E.I.S. mitigation measures.

The applicant acknowledges the appellants comments that construction should not begin until an EPA Licence is obtained. However as previously detailed this does not negate the applicant's entitlement to operate the existing site/structures up to the EPA threshold without a Licence and thereafter with a licence.

An Bord Pleanala may deem it appropriate to include a condition detailing that the applicant do not cross this threshold prior to the granting of a licence.

9. Environmental Ecological Report

The Do nothing scenario has been correctly selected in so far as the destocking of the farm was a temporary measure due to the then owners financial difficulty and the farm was neither abandoned or demolished and receives on going maintenance/management so as to ensure that it is maintained prior to re-stocking and that existing soiled water/manure, surface water, security etc. is managed and maintained to the required standard.

The application documentation details the preferred option for the re-development of the farm. The existing structures are capable of being renovated to a satisfactory status, however this is not deemed to be the most economic and/or beneficial use of resourses.

The Finaway site can be operated in the existing (albeit refurbished) structures, and as previously identified the applicant must now consider whether he seeks an EPA licence to do same pending the outcome of this appeal.

The Ecological Impact Assessment Report has been included as part of the E.I.S. by virtue of being submitted as part of EIS Addendum Report No. 1, therefore Cavan Co. Co. condition as referred to by the appellant does include all of the best practice measures as outlined therein and the submission incorrectly alleges that Cavan Co. Co. have failed in their duty in this regard

The amenity value of Lough Sheelin is discussed in the E.I.S. Section 6.10 (B). Again one must understand that this application is for the provision of improved infrastructure on an existing authorized pig farm site(s). The physical location of this existing farm will not impact on the A amenity value of Lough Sheelin. While there is potential for surface water contamination to impact on Lough Sheelin this has been mitigated against due to;

10 FEB 2015

LTR DATED

FROM

- 1. the provision of substantial excess slurry storage capacity,
- 2. the provision of c.99% new manure storage structures built to Department of Agriculture, Food and The Marine Specifications with leak detection systems.
- 3. Elimination of external concrete area for pig movement and the elimination of soiled water production.
- 4. The provision of Silt traps on all surface water discharges.
- 5. Additional mitigation measures as detailed in the Ecological Impact Assessment report and Environmental Impact Statement.

10. Compliance of planning Approval with Development Plans

The appeal refers to a number of plans, pieces of legislation and guidelines, without any specific details as to how the proposed development either complies with and/or breaches same, with one exception.

The appeal alleges that the granting of planning permission increase the risk to water bodies such as Lough Sheelin, The Finaway River, The Mountnugent River etc. from the proposed development and slurry spreading.

The appellant's assessment of the proposed development assumes incorrectly that this is a Greenfield site. As such it fails to acknowledge the authorised use of the farm and thus fails to acknowledge the improvements proposed for the overall operation of the farm, and the positive impact on the areas referred to, over and above planning permission not being granted and the proposed improvements not being permitted.

This is accurately reflected in the planners report where it is detailed that the "replacement of existing aged structures with modern pig accommodation and the provision of improved manure storage facilities, with leak detection facilities should be seen as a positive development and an improvement in the attributes of the existing farm".

This will serve to aid compliances with the requirements of the County Development Plan objectives in relation to protected sites, and in particular those highlighted by the appellant.

In addition, as part of the application it has been demonstrated that there are excess customer farmers for the organic fertiliser to be produced and as all farmers have to comply with the statutory requirements under S.I. 31 of 2014, this should afford considerable protection to the water courses in the area (as previously acknowledged by An Bord Pleanata and referred to on page 12). (The methodology for the completion of the customer list is detailed in Section 112 below.)

11. Odour

The applicant has demonstrated a number of significant infrastructural and operational measures to significantly minimize odour from this existing pig farm site, and address the significant point sources and significant practices that could cause pulse releases of odour.

The issues of any further design modifications, and/or operational procedures (including diet manipulation, slurry or dietary additives etc.) are to be explored with the E.P.A. as part of the Licence application procedures, as referred to in point No. 4 above, and are subject to Agency agreement.

January 2015

10 FEB 2015

Slurry Spreading (also referred to in point No. 2 above)

As all farming activities will have to be carried out in accordance with S.I. 31 of 2014, this will ensure that all watercourses in the customer farmland areas are protected. As referred to previously; The spreading of slurry on land does not require planning permission but would also be subject to the said law. It is not normally useful or appropriate for a planning decision to attempt to regulate matters for which a separate, specific regulatory regime has been established by statute. The board is also under a general obligation to assume that a person will comply with their lawful obligations. An Bord Pleanala (PL02.240879)

No soil sampling is required on the customer lands, however it is optional. Article 16 (2) (a) of S.I. 31 of 2014 allows a farmer to Assume an Index 3 result where no soil test is available. In the current situation, this is the most appropriate <u>and sustainable</u> way to assess a customer farmer requirement for fertiliser, as it effectively replaces what he is expected to remove from the soil in that year, and does not rely on low soil test results where P levels may build up over time and reduce the capacity of that land to receive fertiliser. In effect it demonstrates sustainability.

The customer list as identified has calculated organic feriliser allowance for each customer farmer based on the lower of their organic Nitrogen (limit 170 kg/Ha) or phosphorous requirements, and thus provides an appropriate basis for assessment.

The information referred to in the appeal is out of date in respect of Code of practice. The nitrates regulations introduced as far back as 2005, put a legislative limit of 170 Kg Organic N/Ha. While farmers can get a derogation to 250 Kg Organic N/Ha, this is only available for grazing livestock on the farm, and does not relate to farmers using external sources of organic N. Therefore all customer farmers are already fegally limited to not more than 170 Kg Organic N/Ha, including that produced by the customer farmers own livestock.

In relation to the customer list as supplied the nitrate loading on each customer farmer is taken on an annual basis. This is a cumulative figure of all livestock on the farm and has been verified by The Department of Agriculture, Food and The Marine. The areas identified for the receipt of organic fertiliser related to farmed areas and exclude any unsuitable areas.

In another section of the submission the appellant makes an assumption that the client lands in the vicinity of the Finaway site are not deficient in Phosphorous. This is unsubstantiated and in effect the fertiliser plan as currently detailed has been completed in such a way as to only supply nutrients (the lower of the Organic Nitrogen or Phosphorous requirement) which the crop is expected to remove in that year. Given that there is 150% capacity in this customer list, soil P levels will actually be depleted unless additional source(s) of fertiliser are used as the pig farm can only supply c. 66% of the nutrient requirements.

It is also important to remember in assessing the potential impact from slurry application, and contrary to assertions as detailed in the appeal, European Court of Justice decisions clarifying that pig manure is not waste if applied to agricultural land in accordance with nutrient requirements on clearly defined parcels of land.

AN BORD PLEANÁLA

January 2015

10 FEB 2015

LTR DATED

13 Summary Comment

The applicant appreciates that Ms. Tierney feels that her objection may not have been fully reflected in the Conditions applied by Cavan Co. Co. However, the applicant appreciates Cavan Co. Co.'s position on this matter, and the associated implications of E.P.A. Licensing and that there are a number of issues that are, or may be, more appropriately addressed under licence conditions.

It is the intention of the applicant to apply for an E.P.A. licence for this site as soon as is practicable after the determination of this appeal.

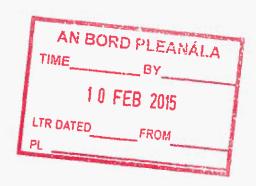
The applicant feels strongly that when one considers the proposed development;

- In the context of the authorised use of the site,
- In terms of the overall objective of the development (upgrade),
- The positive impact that same will have in relation to potential odour and slurry volume in particular compared to permission not being granted,

That the information submitted to Cavan Co. Co. is reflective of the proposed development, and describes the nature, extent type of potential impacts that may be anticipated and provides a reliable basis upon which to determine this planning application.

The applicant appreciates that (as referred to in the submission to Cavan Co. Co. of 20th October 2014), "a far greater level of information would be required, ... if this was a proposal for a new piggery or one substantially larger in scale than the existing one." (Source An Bord Pleanala, inspectors report into the demolition and replacement of buildings on another existing pig farm -PL04.241892)

Notwithstanding the above, an additional ecological assessment based on the existing destocked nature of the site was also completed at the request of Cavan Co. Co. While not necessarily reflecting the same baseline upon which the E.I.S. has been developed, it does provide additional information. It is envisaged that this will provide a good reference point to compare the potential impact of the overall development (as proposed) when operational, compared to non-operating conditions (not baseline), and will be a valuable reference point for the EPA Licence application.



Conclusion

The proposed development would provide for improved welfare and environmental standards, efficiency and economic viability on an existing agricultural farmyard in a rural area where such use is predominant, traditional and appropriate.

It would not cause significant injury to the character of the area or the amenities of property in the vicinity, and the replacement of aged structures with modern housing and associated environmental protection measures should be seen as a positive development and an improvement in the attributes of the existing farm. It would not give rise to an undue risk of water pollution nor would it threaten road safety.

The proposed developments as outlined are appropriate to the site and the area in general, will have a positive impact economically and environmentally and are in accordance with the requirements of the County Development Plan.

It is felt that having regard to;

- The existing nature/use of the site as a pig rearing installation,
- Located in a rural agricultural area,
- The nature (<u>improvements in the overall standard of facilities on the farm</u>), and scale of the proposed development which does not intensify the overall numbers of animals to be stocked, and
- The proposed improvements in overall site infrastructure,
- Conditions imposed by Cavan Co. Co. as per the decision to grant permission (as may be revised by An Bord Pleanala),
- Environmental and other conditions that will be considered/imposed by the E.P.A. as per any subsequent Licence that may issue to this farm (which is required under separate legislation), including those relating to the allocation of organic fertiliser from the farm (which is controlled under S.I. 31 of 2014),

the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience of road users and would not be prejudicial to public health or pose a threat of environmental pollution. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



Seirbhísí Comhairleacha agus Oiliúna
AN COLÁISTE TALMHAÍOCHTA
Bhéal Átha hÉis, Co. an Chabháin
Advisory and Training Services
BALLYHAISE AGRICULTURAL COLLEGE
Ballyhaise, Co. Cavan
Tel: 049-433 8300 Fax: 049-433 8304

Mr Paraic Fay B.Agr.Sc

CLW Environmental Planners

Farnham St

Cavan.

02/02/2015

Re: Finaway Pig Farm

Dear Paraic,

Further to your request re: "Finaway pig farm suitability for rearing grower / finisher pigs"

I would like to make the following observations. I visited the farm on Monday 2nd of
February 2015 to assess its suitability for the above.

The farm was depopulated in c. 2009 for financial reasons, the five year period 2007 / 2011 returned margin overfeed of less than 44c per kg carcass, 6 c less than break even.

Subject to satisfactory refurbishment, the steeds are suitable for the restocking with weaner pigs in the thirty kilogramme range. The majority of the buildings are of solid concrete construction with cement fibre roves. The roofs are insulated with polystyrene 'styrofoam' sheeting and are in good condition. Some minor refurbishments are required to the computerised feeding system and automated ventilation system in a number of the houses.

Once these measures are complete the sheds at Finaway are suitable and will comply with all welfare and environmental EU legislation.

Yours truly,

Shane Brady B.Agr.Sc

Pig Development Department

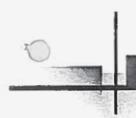
Teagasc Ballyhaise

Ballyhaise, Co Cavan.

AN BORD PLEANÁLA
TIME BY

1 0 FEB 2015

LTR DATED FROM
PL



CLW Environmental Planners Ltd.

The Mews. 23 Farnham Street. Cavan, Co. Cavan

Phone: 049-4371447/9 Fax: 049-4371451

E-mail: info@clwenvironmental

An Bord Pleanala 64 Marlborough St., Dublin 1.

5th February 2015

Planning application for Bogue Pigs for development at Finaway, RE:

Ballyjamesduff, Co. Cavan.

Your Ref:

PL 02.244342

P.A. Reg. .REF:

14/239

Dear Sir/Madame

. Putploses only, any other use I refer to the planning application for permission for development made on behalf of Bogue Pigs. for development at Finaway, Ballyjamesduff. Co. Cavan, and your subsequent correspondence in relation to an appeal against same dated 16th January 2015 and received 19th January 2015.

Please find enclosed the applicant's response to the issues raised in this appeal.

Please also note that the farm is generally locked and secured, unless activities are ongoing on the farm at that time. Should the inspector wish to make arrangements for a site inspection, and/or the provision of a key, please contact me at the number above.

Should you have any queries in relation to this, or, require any further information please do not hesitate to contact me at the above number or on 087-6794459.

Yours Faithfully.

Paraie Fay B.Agr.Sc

Directors: S. Clarke, O. Leddy B.Agr.Sc., P. Fay B.Agr.Sc.

V.A.T. Reg. No. 8277204J

Response to issues raised in Appeal against Cavan County Council's decision grant planning permission for the re-development of existing pig farm at Finaway Ballyjamesduff, Co. Cavan.

<u>Preface:</u>

In order to address some of the issues raised in this appeal, it is important to first establish / identify / clarify a number of points.

A. Site Location/Planning Status of Existing Farm

Pig farming is an integral part of the rural economy of County Cavan and is a relatively common farming practice in this county. The existing pig farm site is located on an area of 2.49 Hectares in the town land of Finaway, c. 3km.'s southwest of Ballyjamesduff. The site access is from the existing longstanding entrance onto the adjacent local third class road, which is c. 0.5 km from the regional route the R194.

This farm was originally established in the late nineteen fifties/nineteen sixties by Mr. Bernard Maguire (Personal communication with Mr. Maguire, previous owner), and developed to it's current scale thereafter, and, prior to such agricultural buildings requiring planning permission.

The farm at Finaway was developed to operate as a pig rearing/fattening farm to rear the weaner pigs (c. 35-40 Kg Liveweight) produced on the Dramscruddan site, (Breeding Farm housing all breeding stock [sows, gilts and boars] and rearing pigs from birth to 35-40 Kg's liveweight), to market weight. This is still how the two farms are set up to operate today, and, the proposed developments on these farms seek to maintain this interdependent relationship.

The recent planning history on this farm relates to two planning applications, submitted in 2006 & 2007 which were approved in 2007 for the partial upgrade and modernization of this farm (Planning Ref. 06/2449 & 07/710). Reference to these applications confirms that they did not provide for an increase in animal numbers on the farm and existing numbers were 6,000 pig finishing places. No works were carried out on foot of these permissions due to a deterioration in the financial circumstances of the applicant (which was not an unusual occurrence at this time associated with the economic downturn).

This farm was subsequently put up for sale in mid-2009 by the appointed receiver, a process which only recently concluded with the sale to the current applicant. Mr. Maguire (previous owner) and/or his family own the closest dwellings to the pig farm site, and Mr. Maguire has given his full and unequivocal support to the applicant regarding the current panning application and plans to upgrade the farm.

Abandonment of use

Abandonment of use occurs where an established use of a premises has ceased: the result being that a planning permission will be required to resume any new use on the basis that a material change of use will have occurred. Discontinuance or abandonments of use is a rather complex area but a number of tests are generally applied (Ref. An Bord Pleanala). These are;

- (i) The physical conditions of the premises
- (ii) The period of non-use
- (iii) The nature or character of the intervening use if any.
- (iv) There must be an intention not to resume the use

2 (i) The physical conditions of the premises –The extent of the area where the pig farming activities were carried out has not been altered. All pig housing and associated structures remain in situ. Although pigs have not been housed on the farm since c. 2009, the site was managed (by Mr. Maguire and/or his representatives continuously up until the point of sale, and by the current applicant thereafter up to current date). Management practices employed included maintaining soiled water levels in tanks and ensuring that they did not pose a risk to the environment, regular farm inspections, employing security to secure the site, employing an agricultural contractor to remove and spread soiled water/slurry from the existing tanks, maintaining the site to prevent encroachment by vegetation, carrying out repairs to buildings etc. Although the farm may not have been stocked for a number of years (due primarily to the receivership process), it was effectively still operating/maintained to facilitate restocking and, the absence of stock was due to external financial complications not abandonment. Please refer to attached correspondence from Teagasc detailing that the farm is still suitable as a pig farm subject to certain refurbishment.

Subject to refurbishment/maintenance of the existing structures (as deemed to be exempted development by virtue of Section 4 (1) of the planning and development act referred to below) the stock numbers are capable of being fully reinstated to normal operating levels on the farm.

Section 4 (1) of the Planning and Development Acts, states that the following shall be exempted developments for the purposes of this Act – (h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring properties.

2 (ii) The period of non-use

While the farm was temporarily destocked for the past couple of years, site management, slurry/soiled water management and limited maintenance has been continual throughout this period. This included normal agricultural activity such as emptying slurry tanks, repairs to surface water drainage system etc, so the use of the site while temporarily destocked for a period, could in effect be deemed continuous.

2 (iii) Nature and character of the intervening use if any –

The site in question has not had any intervening uses. In addition no works (demolition, alternative use etc.) were carried out on the farm to suggest that it was the intention of the owner to do anything other than re-stock the farm.

2 (iv) There must be an intention not to resume the use -

In this particular case, it is considered that by virtue of the 2007 permissions referred to above, (which were still valid at the time of destocking, [and remained valid thereafter until June 2012], at, which time the then owner experienced financial difficulties) there was an expressed intention on behalf of the owner to restock the farm. As one will appreciate the planned provision of new buildings with a lifespan of 20 - 40 years is the strongest possible indication (apart from actually having built them) that the intention was to continue farming on the site. As previously detailed the site has been continually managed during this period to facilitate restocking the farm.

It can only be concluded that restocking the pig farm, in line with the previous scale of the activity is not considered to constitute development as there is no "material change in the use of the lands", no works have been carried out on the farm to prohibit/prevent the restocking of the farm, and certain management and maintenance activities to facilitate restocking have been carried out on a continuous basis up to current date.

As will be detailed hereafter (and as detailed in section 3.1 of the E.I.S. submitted with this application) the proposed development is in effect "the provision of new modern pig housing and associated structures/site works to replace existing structures on an existing pig farm, to provide for enhanced welfare, environmental compliance, efficiency and overall profitability,

C. EPA Licence Status of Existing Farm

The applicant does not contend, and has not indicated, that the site at Finaway has had an I.P.P.C. Licence. To the best of his knowledge no licence application has been submitted in respect of this farm. In their assessment of the application Cavan Co. Co. have understood that the Finaway Farm did not operate under Licence No. P0427-01, (the reference to Licence No. P0679 is in error, which was not included on any documentation submitted by, and/or on behalf of the applicant).

Any reference to the existence of a licence in the E.I.S. is clearly indicated and referenced, solely to demonstrate the applicable sow numbers on the breeding farm (which was also a subject site in the E.I.S.). that supplied the pigs to this site at Finaway (i.e. the grower/finisher farm)

- Page 2 of E.I.S. "Sow numbers as specified in the Licence No. P0427-01 issued by the E.P.A. on 3rd January 2001."
- Page 17 of E.I.S "A licence was granted by the E.P.A. to Mr. Maguire on 3rd January 2001, Reg. No. P0427-01. This licence details the maximum number of Sows at 1,510."
- A copy of the licence identifying the extent and limitations of same was included with the E.I.S.

Any reference to a revised licence in the E.I.S. relates to the applicants requirement to operate the farms under a licence/revised licence. It was the intention of the applicant to revise the existing licence to accommodate the re-development of both pig farm sites and incorporate all under the one licence, in much the same manner as the E.I.S had been completed. Preliminary discussions with the E.P.A. indicated that an application in this manner would be valid/acceptable, and would be assessed upon receipt of same, and therefore the reference to a revised licence to accommodate both sites is accurate. As the E.I.S. will also have to be submitted and assessed by the Agency as part of this licence application it was deemed appropriate to make reference to the review of the licence in the E.I.S.

Proposed Project Development Description for the purposes of the E.I.S.

The synopsis of the proposed development/project description is; the provision of new modern pig housing and associated structures/site works to replace existing structures on an existing pig farm, to provide for enhanced welfare, environmental compliance, efficiency and overall profitability,

with no intensification in the level of authorised activity on the farm.

While the current application/development does not in effect require re-approval/re-authorisation or seek a renewal of permission/authorisation under the planning and development legislation for the already authorised nature and scale of the activity, it does seek to provide the facilities and infrastructure to carry out same in a modern, welfare and environmentally compliant and economic manner, in modern purpose built housing.

E. Explanation of Baseline as it applies to the Completion of the Environmental Impact Statement submitted with this application:

"The establishment of an environmental baseline includes both the present and likely future state of the environment assuming that a proposed project" (in this case replacement structures) " is not undertaken, taking into account changes resulting from natural events and from other human activities" (such as recommencing authorised farming activity in the existing housing).

"Initial baseline studies may be wide-ranging, but comprehensive overviews can be wasteful of resources. The studies should focus as quickly as possible on those aspects of the environment that may be significantly affected by the project, either directly or indirectly. The rationale for the choice of focus should be explained with reference to the nature of the project"

source - Introduction to Environmental Impact Assessment Principles and Procedures 2nd Edition.

Note: The response to the issues raised in the third party appeal attempts to follow the format of the appeal submission, in order to provide ease of reference. However to provide clarity and where possible prevent repetition, some aspects of this submission may not be in the same order as the original appeal. This is particularly evident where the same issue is referred to at a number of locations in the appeal submission.

1. Grounds Of Appeal

Introduction

At the outset the appellant correctly outlines that this application for development at Finaway is also connected to a separate application in respect of a pig farm at Drumscruddan, and that one E.I.S. was completed to cover both pig farm sites. There is no issue with same and the rationale for completing the E.I.S. in this form is clearly outlined in the E.I.S.

It is incorrectly stated, in the appeal, that the E.I.S. refers to the activity as being authorized due to the fact that it has an I.P.P.C. Licence (now referred to as an Industrial Emissions Licence). While there are a number of similarities in the application process, procedures and requirements the planning permission and E.P.A. Licence systems operate under two separate pieces of legislation, and once above a certain threshold (as per the proposed development) both authorizations are required. The current status of the site regarding planning permission and EPA Licensing have been outlined previously.

The applicant does not contend, and has not indicated, that the site at Finaway has had an I.P.P.C. Licence. The applicant does not rely on the existence of a licence as a reason why planning permission should be granted, and, the purpose of any reference to the existence of a licence in the E.I.S. is clearly indicated and referenced, solely to demonstrate the scale of the breeding farm. As previously outlined the grower/finisher farm was established to operate in conjunction with this breeding farm.

It is widely acknowledged in the E.I.S. that both farms will have to operate under a revised licence, which will have to undergo its own assessment and adjudication procedures by the Environmental Protection Agency post the grant of any planning permission to this farm.

The rational for including both sites within the review of the existing licence is explained previously.

It is the applicants understanding that the presence/absence of an E.P.A. licence is immaterial to the "Planning authorization" of this pig farm site, as the licence is required under legislation separate to the planning and development regulations.

It is the applicant's contention that the site is authorized as a pig farm site in line with the previous scale of activity and that the use of same has not been abandoned, as previously detailed.

January 2015

1. EIS Baseline Assessment Criteria

In preparing this E.I.S. considerable attention and detail was applied to establishing the starting point for this assessment. This analysis included:

- The development description (as detailed previously)
- The current activity on the site (i.e. temporarily destocked)
- The existing structures on the farm, their purpose and capacity, and no increase in the operational capacity of the farm.
- The long history of the pig farm site as an operational, productive pig farm site.
- The short period of time that this farm has been destocked relative to the lifespan of the farm.
- The existence of recent planning permissions on the farm, indicating an intention and desire to upgrade and modernize the farm.
- The knowledge that the existing structures on the farm while now in disrepair, had not been demolished and/or abandoned, and, that subject to repair and maintenance (not requiring planning permission) were capable of being refurbished to a standard whereby they could be used for pig farming activities similar to a scale previously carried out on the farm.
- Acknowledging that pig farming activities ceased on the site due to external financial factors (and not the capacity of the site to operate as a pig farm), the use of the site has not been abandoned and the site has been maintained/managed in the intervening period and up to date in preparation for re-stocking.

In addition the Advice Notes on The Current Practice in the Preparation of Environmental Impact Statements as published by the E.P.A. was also consulted. Section 1 of these advice notes – Characteristics of the Project – details the following;

In providing a description of the physical characteristics of the project development, issues such as site layout, design and size/scale, as well as any existing development on site, are considered.

Description of Size or Scale

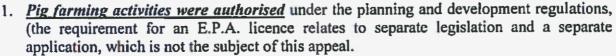
The description of project size or scale, <u>indicates the magnitude or intensity of the</u> <u>development when in operation</u>. It includes issues such as the following:

- the area, length, width and height of each major element;
- the relative size and scale of the development in its context;
- the extent of the activities proposed;
- the volumes, magnitudes or intensity of each process.
- the number of features clearly indicated where relevant (such as the number of houses).

• Description of Existing Development

Where consent is required for a development involving an extension or expansion of an existing operation, the description of the existing environment includes those parts of the development already in place.

Upon Completion of this analysis it was concluded that;



2. Pig farming activities had not been abandoned on the farm.

3. <u>Pig farming activities could be recommenced on the farm at the previous level</u> within the existing structures (subject to repair and maintenance not requiring planning permission),

4. The proposed development description relates to the provision of replacement buildings and structures to ensure improved environmental, welfare and economic performance, and as such does not seek re-authorisation for the scale of activity on the farm.

5. Based on the E.P.A. advice notes the description of the size or scale should indicate the magnitude or intensity of the development when in operation. It is the applicant's understanding that this methodology is as applicable to, the capacity of the existing development on a particular site, as it is to the proposed development.

Therefore it was deemed appropriate to;

establish the baseline based on the authorised scale of the farm (based on its history as a pig farm site, and not related to the existence/absence of an E.P.A. Licence which the appellant seems to be inferring and/or trying to infer., and which is a totally separate application/permission),

> while at the same time acknowledging in the E.I.S. the currently destocked nature of the site.

It is felt that the baseline used, while at the same time acknowledging the current nature of the site was the most appropriate methodology to use in this instance and most accurately reflected the overall status/characteristics of the site and thus, the decision of Cavan County Council was based on the correct baseline.

In this regard, while not wanting to appear obtuse, it has to be borne in mind that if the applicant had re-commenced pig farming prior to the submission of the planning application as he would have been and/or is entitled to do, the appropriate baseline would not have been an issue.

While the appellant is entitled to feel that the baseline should have been set at 0, (akin to a Greenfield site), this effectively only considers one factor rather than a baseline as it;

➤ ignores all of the information contained in points 1 – 5 above,

> is limited in its scope and range as in effect is predicated by establishing the baseline on one single factor (i.e. existing stocking rate on a particular day, or short term period in the life of a development), and,

> it does not take into account the range of factors, characteristics and other information that need to be at least considered to accurately reflect and establish an appropriate baseline that also takes into account changes resulting from natural events and from other human activities.



Reports Prepared by Cavan County Council

The statement by Cavan County Council regarding "the proposed development is located within a long established pig farm complex" is factual and correct and is not linked to the level of activity therein.

The date of destocking of the Drumscruddan site is not relevant to the application at hand. There is no evidence to suggest that the level of activity on the Finaway site was operating below its capacity for a long period prior to 2009. The threshold used by the applicant for the scale of activity on the farm is based on the previous permissions granted to the farm.

While factually correct it is also misleading to detail that the planners report states "There was previously an IPPC Licence for this facility (679 & 427)", without also acknowledging that this was not part of the report written by the planner, but a copy of the report from the Environment Section of Cavan Co. Co. While this is an error, as licence number 679 refers to another pig farm and was not referred to in the E.I.S. and/or other documentation submitted on behalf of the applicant, there is no evidence that the planner relied on same as an integral part of reaching their decisions, as it is not referred to elsewhere in the planners report.

In addition to the above the E.I.S. makes it clear that any existing licence would have to be reviewed as part of this proposed development, making is subject to a separate application and adjudication procedure, post any grant of planning permission. In effect the procedures to be completed in the review of a licence are similar to a new licence application.

The Finaway farm was destocked in 2009. Planning applications in 2006 and 2007 indicated willingness on behalf of the then owner to modernize the site and continue pig farming. Unfortunately financial difficulties (as experienced by most of the country at this time) meant that the then owner went into receivership, and this has only recently been progressed with the sale of the site to Mr. Luke Bogue/Finaway Farms.

Given the explanation as the methodology establishing the baseline as referred to previously, the statement that there will be a 15% reduction in sow numbers is accurate and not misleading. The planners statement:

"replacement of existing aged structures with modern pig accommodation and the provision of improved manure storage facilities, with leak detection facilities should be seen as a positive development and an improvement in the attributes of the existing farm"

is an accurate and valid statement, and accurately sums up the intent of the proposed development when reflected against the appropriate baseline, and is not connected with and/or affected by the presence/absence of an EPA Licence.

The appellant seems to be attempting to link the existence or otherwise of an EPA licence with authorization in a planning sense. As previously detailed planning permission and EPA Licence, are two distinctly separate authorizations required under separate legislation. It is appreciated that there is cross communication/consultation in the processing and assessment of these applications. The existence or otherwise of an EPA licence does not infer the presence/absence of planning authorisation, and in effect planning permission must be granted before an EPA Licence application can be determined.

While there may appear to be typographical errors in the planners report, and/or its attachmus including the reference to licence 679 (another licence held by the then owner/owners family), and the fact that the farm was vacant since 2012 (This relates to the date of previous correspondence between the receivers representatives and Cavan Co. Co. relating to the on-going management of the farm, and not to actual pigs on the farm) these errors were not introduced or stated by the applicant and there is no evidence to suggest that the planner relied on these statements as an integral part of making the overall planning decision.

1.4 Planning Authority Comments

As previously detailed;

- 1. The comments in the planners report in relation to the reduction in sow numbers and the replacement of existing structures are correct.
- 2. The comments in relation to the ceasing of operations are correct in so far as they relate to contact between the site management and Cavan Co. Co.

The statements made by the appellant regarding:

- 1. The destocking of the Drumscruddan site, is irrelevant to this application,
- 2. The destocking of the Finaway site more than 10 years ago is factually incorrect as witnessed by the 2006 and 2007 planning applications which confirmed the farm to be stocked at these times.
- 3. The remaining existing buildings are sub-standard and not in compliance with current regulations is un-substantiated, and it is unclear how the appellant would be in a position to comment on the integrity of these structures. It is appreciated that the structures are not optimal (from the point of view of labour efficiency etc.), and hence the purpose of this application, but they are still fit for purpose if appropriately refurbished (see attached Teagasc correspondence). The integrity of the existing buildings which are to remain will be addressed by conditions included in any E.P.A. licence granted to this farm.

1.5 Further Information supplies by the Applicant in response to a request by Cavan Co. Co.

As detailed a response was made to a further information request from Cavan Co. Co. Where appropriate, and if information had already been submitted, this was referred to and was the appropriate manner to address same.

Where additional information was required this was referenced and submitted as an E.I.S. Addendum Report. The facility for a Local Authority to seek further information in relation to an application is a fundamental part of the planning process. The applicant is satisfied that the E.I.S. as submitted outlined a proper assessment of the proposed development and the potential impact (both negative and positive) as a result of same.

The Ecological Impact Assessment builds on certain information submitted in the original E.I.S. and this additional information provides a useful barometer with which to be able to measure the operation of the farm in future years, when compared to non-operating conditions, (Not the same as baseline conditions, in so far as they apply to the development which is the subject of this application), and as such may be more useful in the upcoming E.P.A. Licence application procedures, and/or future licence compliance assessments. In relation to the authorisation of the site, this has been elaborated to previously in this response.

2. Ars. Tierney's Objection

It is important to note that in the c. 50 year history of this farm while operating (c. late fifties to late 2000's) the previous owner received no complaints from Ms. Tierney (and/or any other persons) in relation to odour from the farm. (Personal communication with Mr. Bernard Maguire Jan. 2015)

The applicant completed a detailed response in relation to the two issues raised i.e.

- Air Pollution
- · Spreading of Slurry.

The statement by the appellant is both disingenuous and incorrect as the response to Cavan Co. Co. detailed "It is not clear from the objection if Ms. Tierney resides at this location" (as the location of Ms. Tierney's residence was not identified in the submission) "or a location further away." In this regard the applicant had understood that Ms. Tierney lived at the closest dwelling to the pig farm site (excluding those dwellings owned by the pig farm owner), and formulated the response based on same.

As far as the applicant is aware Ms. Tierney is friends with the previous owner of this farm, (who owns the dwellings closest to the pig farm site and is fully supportive of the proposed development.) The main reason for not discussing it with any neighbor in the area, including Mr. Bernard Maguire, was out of respect to Ms. Tierney and her right to have her comments and concerns aired without feeling under pressure from any other person in the local area. The comments at the time were brief in nature and it was felt that the improvements on site as a result of the proposed developments would address same and this was outlined in the response.

Within the local area the proposed development is seen as a significantly positive development in terms of both long term employment in a rural area, and short term employment in construction, provision of materials, services etc., and will positively impact on the local area. The applicant has already had a significant number of enquiries from local people including neighbours of the farm, and of Ms. Tierney's, regarding potential employment opportunities on the farm.

The response to the submission detailed the positive impact of the proposed development in relation to minimizing odour (due to improved housing structures and the elimination of open topped external manure storage tanks) and minimising manure volumes, thus minimizing the amount of organic fertiliser that would have to be spread, and compliance with S.I. 31 of 2014.

The assertion that the Local Authority <u>"passed responsibility"</u> to the E.P.A. is again disingenuous. As detailed in the Environment Section report, where an EPA License is required the planning authority are precluded, by the relevant legislation, from imposing conditions in relation to environmental emissions from the activity.

When the proposed development is viewed against the relevant baseline, it is in keeping with the requirements of the County Development plan and supports the attainment of its objectives. The provision of improved infrastructure, additional manure storage capacity, minimization of manure volume (by minimizing extraneous water) and compliance with S.I. 31 of 2014 should all serve to help protect the Finaway River, Mountnugent River, Lough Sheelin and the wider Shannon catchment.

Manure will be used by customer farmers in the area and further afield as a replacement chemical fertiliser. The information included in the EIS (including land area, existing stocking rate and organic fertiliser requirement) represents a potential list of customer farmers. The current customer farmers as referred to in the application have been shown to identify that there is capacity in the area within the limitation of S.I. 31 of 2014 to utilize the organic fertiliser to be produced on this farm. This list, with a capacity of in excess of 150% of estimated production, is not exhaustive and any other farmers who have a fertiliser requirement under S.I. 31 of 2014 may be supplied with fertiliser from this farm.

As these farmers are operating under separate legislation (S.I. 31 of 2014), they are not a party to, and/or subject to assessment/approval or otherwise under this planning application. This matter (albeit in relation to S.I. 610 of 2010 - updated by S.I. 31 of 2014) has been referred to in previous decision(s) by An Bord Pleanala (PL02.240879) as follows; "The spreading of slurry on land does not require planning permission but would also be subject to the said law. It is not normally useful or appropriate for a planning decision to attempt to regulate matters for which a separate, specific regulatory regime has been established by statute. The board is also under a general obligation to assume that a person will comply with their lawful obligations.

The same report also highlights that "The current application should therefore be assessed on the basis that the slurry generated in the development would be stored and disposed of in accordance with the 2010 regulations. In these circumstances it is considered that the proposed development would not cause any undue threat to the quality of ground or surface waters."

In line with European Court of Justice decisions clarifying that pig manure is not waste if applied to agricultural land in accordance with nutrient requirements on clearly defined parcels of land, organic fertiliser applied in accordance with S.I. 31 of 2014 will be utilized not disposed. It is anticipated that the use of disposed (as detailed above) was a poor choice of words in this regard.

The existing customer farmer locations were identified, however it was not deemed appropriate under data protection laws etc., to provide personal private information in relation to a third party farmer, on a public file. The application of organic fertiliser to adjoining lands is a matter for the farmers concerned, however the applicant is happy to liase with Ms. Tierney in advance of the application of any organic fertiliser on lands under his control, and will advise local farmers to do the same in respect of any applications of pig manure from this farm.

The allegations relating to the pollution incidents on the Finaway river are unsubstantiated and the one substantiated case referred to, while equally inexcusable, was caused by whey (a liquid feed by-product) and not pig manure. In any event the proposed development and upgrades will ensure that potential incidents like this do not re-occur. The current applicant has operated his other pig farm(s) in line with Cavan Co. Co. and/or E.P.A. requirements for in excess of 30 years without incident, and is a highly competent, organized and diligent farmer.

The listing of dwelling houses within the areas where slurry may be spread is beyond the scope and the requirement of the E.I.S. As previously detailed a potential list of customer farmers has been identified with capacity for 150% of the organic fertiliser produced. This survey was to demonstrate the requirement for fertiliser in the area, and these customers may be complimented with other customer farmers. Therefore the area for the receipt of pig manure cannot be explicitly confirmed and/or a boundary put around same and as detailed above, as these farmers are operating under separate legislation (S.I. 31 of 2014), they are not a party to, and/or subject to assessment/approval or otherwise under this planning application.

more appropriate to recommend set-back distances (such as 100m from a dwelling house etc) around dwellings and sensitive areas so as to help ensure that there are no adverse impacts. This approach would also help to address any new developments/houses that may occur over time, and is the approach adopted within the industry and on other pig farms operated by the applicant. The current applicant has a long compliant and constructive history with Cavan Co. Co. and the E.P.A. on other pig farm site(s) and operates his farms to the highest standards without complaint.

As detailed previously the appropriate baseline upon which to base an assessment of potential impact of the proposed development has been outlined previously and is as detailed in the E.I.S.

2.1 Specific Objection of Ms Rita Tierney (as referred to later in the objection as submitted)

While the proposed development will continue to be operated as a fattening farm it will have significantly different practices when compared to the previous activity, including,

- > The elimination of open topped manure storage tanks.
- > The significant reduction in the mixing of organic fertiliser on site associated with its pumping to and from the overground storage tanks.
- > The use of low protein diets.
- > Significant landscaping/planting around the farm since this farm first operated which has matured significantly over recent years.

Further to consultation with Mr. Maguire the previous owner of the farm, no complaints were made to him regarding odour from the farm and he and Ms. Tierney have always remained on good terms. The applicant will put in place measures for the control of flies etc., on the farm in line with Bord Bia guidance and best practices.

Allegations of overflow and overspreading are unsubstantiated and alleged to have occurred prior to current ownership. In any event this serves to reinforce the positive aspects of the proposed development due to improved manufe storage capacity and quality of structures.

Property Devaluation

As this is a long established pig farm, any theoretical impact on property prices as a result of the existence of the farm, would have already occurred. Indeed many of the dwellings in the area have been built after the establishment of this farm. In addition the measures proposed for the upgrade of this farm can only have a positive impact on the local area (due to reducing odour, reducing slurry volume, modern housing and ventilation systems etc.) and thus any theoretical impact on property prices should be positive.

It is disingenuous to detail that no additional information was submitted in respect of Ms. Tierney's objection. Specific reference was made to noise, odour and slurry application. It was also confirmed that as far as the applicant was aware Ms. Tierney's dwelling was the closest dwelling to the farm not owned by Mr. Maguire, and subsequently was confirmed to have been correctly identified.

3. Traffic:



To state that there has been no traffic associated with these farms over the last number of years is factually incorrect. There has been continual traffic associated with these farms, up to the present day, associated with the management and control on these farms. This has involved the regular transport of soiled water (and at times waste) away from the farms, security to and from the farm, maintainence etc. so as to maintain them and ensure that even though they are temporarily destocked, they do not cause an adverse environmental impact, they are kept well secure and clean in preparation for re-use.

The baseline with which to compare the operational traffic volumes is deemed appropriate, however it is important to note that overall traffic volumes have been detailed, thus if one desired proposed operational traffic levels can be compared to 0 if required (although this would also be flawed as it does not take account of the current traffic to and from the site as described above). While the specific construction traffic volumes have not been detailed in the E.I.S. it is anticipated that the proposed development will be completed over the lifetime of the permission. The commencement date of any activities on the site will depend on the granting of permission, the application for an E.P.A. Licence, current economic returns from the pig industry and the availability of finance.

The maximum operational traffic associated within the farm is detailed in the E.I.S. Over the 5 year period the construction traffic will be higher at the start reducing to 0 at the end of the permission period. Concurrently the operational traffic will be increasing over that same period to the levels as detailed at the end of the construction period. This will have the effect of evening out the traffic to and from the site, to a level similar to the operational level over this commissioning period, albeit the construction traffic may be more variable on any given day/week depending on activities on that day/week.

A specific traffic Impact Assessment was not deemed to be required in this instance as, there is no proposed intensification of use, and the level of traffic associated with an agricultural development like this is not deemed excessive. Traffic movements are as detailed in the E.I.S.

The upgrading of the roads between the farms is a matter for Cavan County Council, and as this will have been taken into account in their assessment of this application and it has to be assumed that Cavan County Council's specialist road engineers have assessed this development and are satisfied with same.

4. Air:

The applicant has paid considerable attention to the potential for odour from the proposed development both in terms of the construction and the planned operation of the farm. The redevelopment of this farm has been designed to eliminate;

- 1. the single largest (5 No.) potential point sources of odour from the farm, i.e. the open exposed manure storage tanks.
- the main ancillary activity on the farm with the potential to increase odour i.e. the mixing and agitation of slurry to pump it from the existing houses to the existing open topped reception tank which in turn has to be pumped a second time up into the over ground open topped storage tanks.

Apart of the application for, or, compliance with the conditions of, any EPA licence that may issue the applicant will have to address issues such as low protein diets, BREF Housing requirements and the options for dietary manipulation and dietary or slurry additives to minimize any potential odour impact, as required by the normal conditions contained in such licenses.

The applicant has purposely not committed to any specific issues in this regard in the E.I.S., and has left all options on the table as they are subject to agreement/modification/change depending on future consultation with the E.P.A., however it is clearly stated in the E.I.S. that "The proposed development will operate under the conditions imposed as part of any grant of planning permission and revised licence issued to this farm and in line with Department of Agriculture, Food and The Marine, Cavan Co. Co. and E.P.A. requirements." This EIS will be subject to assessment as part of the Licence Application process. (As detailed in the E.I.S. the reference to farm above is taken to mean both sites combined in line with the E.I.S. format.)

5. Eligibility of the Existing IPPC Licence

At no stage has the applicant stated or implied that the existing licence related to the Finaway site. As previously noted in this response the reference to the existing licence was solely to confirm and verify the existing number of sows. In their assessment of the application Cavan County Council will also have taken into account the detailed submission from the E.P.A. regarding this application, which confirms a new and/or revised licence will be required.

It was indicated however that this existing licence would be revised to accommodate the proposed developments and this included the developments on the Finaway site. As with other existing E.P.A. Licence applications, and in line within the E.I.S. completed, while planning permission is site specific (hence 2 separate planning applications) there is room to accommodate these two farms under one revised licence. Explorative discussions have been held with the Agency in this regard.

The applicant at no time expressed the view that the application should be based on the assertion that the site is currently licensed, and there is no evidence to suggest that this was relied on in the planners assessment of the application, with the exception that it was understood that the site would have to operate under an E.P.A. licence which is correct.

The appellant appears to be confusing planning authorization and EPA licence authorization, which as detailed previously are two separate legislative authorizations, which require separate applications.

The current application at hand relates to the planning permission for proposed replacement buildings with no intensification of use over and above that authorised for the farm, and a separate application is to be made to the Agency at a later date.

As correctly stated Mr. Maguire is no longer the owner of the farm, same having recently been sold to Luke Bogue/Finaway Farms. The references to Finaway Farms Ltd. and/or Gabriel Maguire are not applicable in this instance as Mr. Bernard Maguire remains the licensee. I can find no reference to Finnaway Farms Ltd. with the CRO the only reference is to Finaway Farms, the company recently established by the applicant.

As previously indicated the farm is deemed to be licensable and this will be the first EPA licence application for this site. There are two options in this regard either;

• Incorporate this site into licence P0427-01 as part of the overall review of this existing licence and operate the two farms under one licence (Preferred option and as indicated in the E.I.S.).

Or

• Apply for a separate independent licence for the Finaway site.

This process (for the Finaway Site) will be developed with the E.P.A. upon receipt of the determination of this appeal, and a further assessment of this E.I.S. will be carried out at this stage by the Agency, under the appropriate legislation and guidance governing the EPA licensing process. This will be subject to normal public and third party participation procedures and is a separate matter to this planning application and appeal.

Regarding the transfer of the licence – that is not applicable to this site as the Finaway site could only be included under this licence after a review of the licence to incorporate same.

6. Adequacy of E.I.S. and provision of further information

- The presence/absence of a licence for the Finaway site was not relied on in the assessment/completion of the E.I.S., however the requirement for one was correctly acknowledged.
- The authorised use of the site was in a planning context and not in a licence context. As previously detailed the appellant is confusing both.

It is important to note that the applicant is not operating an unauthorized development.

The applicant is seeking to re-develop the farm to a modern standard with no intensification of use, while at the same time taking steps to ensure that all required permissions (planning and EPA licenses are in place for this development.

Cavan Co. Co. have indeed looked for further information on this application. This further information request was essentially, in the main, a copy of a submission from Inland Fisheries Ireland, and it is presented in the further information request as such, for the applicant to comment on/reply to. For the appellant to state that this was also the express view of Cavan Co. Co. seems like a giant leap of faith which is unsubstantiated.

This afforded the opportunity and entitlement to the applicant to respond to the issues as raised, including where necessary outlining the rationale behind the information already presented, and referring to same where required.

It is strongly felt that the assessment carried out by Cavan Co. Co., and it's Chief Executive Officer, and the basis upon which the E.I.S. was completed was done so in a balanced, even handed manner taking into account all of the information (including historical) available and that the decision reached is appropriate to the site and in keeping with the proper planning and sustainable development of the area.

The applicant has attempted to address all of the requirements of the E.I.S. as detailed in Schedule 6 of the Planning and Development Regulations 2001 (as amended) and has had reference to EPA guidelines in this regard.

applicant can concur that to the best of his knowledge no licence application has been made for the Finaway site, however one must appreciate that up until now he was not in a position to do so. Also while the existing licence does not cover the Finaway site, the proposed review of the existing licence was to include the proposed developments on both sites as detailed in the E.I.S.

At this juncture, the applicant has a decision to make regarding the direction taken in relation to the application for a licence. The three options available are:

- 1. Proceed with an EPA licence application prior to the determination of this appeal to fully operate the existing pig farm, and subsequently review the licence to accommodate the proposed developments/improvements/modernisation depending on the outcome of this appeal.
- 2. Postpone the application for an EPA Licence pending the outcome of this appeal.
- 3. Partially re-stock this furm to a level below the EPA Licence threshold, pending the outcome of this appeal, and then follow option 1 or 2 above as deemed appropriate.

6.1 Stock Numbers

The stock numbers within the E.I.S. as presented are done so on the basis of the scale of the farm or the principle determining factor, which is in this case the size of the breeding herd. Pig numbers thereafter (including weaners and finishers) are subject to fluctuation due to fertility in the breeding herd, mortality from birth to sale, performance (i.e. growth rate) from birth to sale etc.

The E.I.S. details the maximum weekly numbers of pigs targeted to be produced in the breeding herd (750 /week), based on exceeding current industry targets. Actual production based on current best performance is expected to be c. 700 pigs per week weaned. Allowing for post weaning mortality and the retention of replacement gilts c. 620-640 pigs will be available for transfer to the Finaway site on a weekly basis

<u>Finisher Accommodation</u>—Weaner pigs will be transferred to the finishing site to mature over a 9.5-10 week period (based on an average daily gain of 1 – 1.1kg and a target weight gain of c. 70kg). The farm as proposed will have capacity for 620-640 pigs/week, resulting in a maximum stocking rate of 6,000 pigs after allowing for mortality of c. 1.5-2%. The operation of this farm will require an additional c. 10 days housing to provide for the required washing, drying and resting time between batches, a dedicated area for sick/injured stock, and an extra weeks capacity to provide for disruptions in moving pigs off the farm (such as holiday periods, disruption in the factory etc.), hence the 13 weeks referred to in the E.I.S.

As detailed in the E.I.S. (Figure 4.1.1) and as referred to in the Further information submitted, the anticipated volume of organic fertiliser to be produced, is based on the only appropriate method of calculation available to the applicant i.e. the data contained in S.I. 31 of 2014 European Communities (Good Agricultural Practice for the Protection of Waters) Regulations 2014. While the data presented is based on an integrated unit (as per the E.I.S. methodology) the volume generated on the Finaway site alone will be c.

6000 pigs *0.039m3/place per week (as per S.I. 31 of 2014)*52 weeks = 12,168m3 (Total as per E.I.S. both sites combined 25,870m³.)

7 Description of Impacts in EIS

The baseline against which all potential impacts have been assessed has been detailed previously. It is felt that any objective assessment of the baseline and potential impacts has to take into account the factors as previously outlined.

One must remember that even at present the applicant would not require planning permission to put stock back into the existing structures. While this is not the applicants desire one cannot lose sight of this, in terms of assessing potential impacts. One can quickly realize that the potential impacts from re-commencing farming in the existing structures and facilities are more potentially significant than the proposed development and hence why one can objectively and confidently state that the proposed development of replacement housing will have potential positive impacts.

Eutrophication: While there is no stock currently on the farm, the potential for eutrophication from re-commencing the activity in the existing structures is higher than that from the proposed structures completed in line with Cavan Co. Co., An Bord Pleanala, Department of Agriculture, Food and The Marine and/or E.P.A requirements.

As previously detailed: It is strongly felt that the assessment carried out by Cavan Co. Co., and Chief Executive officer, and the basis upon which the E.I.S. was completed was done so in a balanced, even handed manner taking into account all of the information (including historical) available and that the decision reached is appropriate to the site.

8. Suitability of Existing Facilities

One must bear in mind that the de-stocked nature of the site is, and only ever was intended to be temporary, primarily as a result of the financial difficulties of the previous owner. The do-nothing scenario as understood by the applicants is effectively do no development as proposed, effectively leaving the applicant with the option of re-stocking the existing structures. In this regard the do-nothing scenario has been accurately presented.

Again the reference to the EPA licence is irrelevant in this context, as the current application relates to a planning matter. The statement that a licence is required prior to re-commencing is inaccurate, as pig farming can be carried out up to the EPA licence threshold without any additional authorization.

The main reason for the proposed re-development is associated with the economic viability of the farm. The existing structures can be re-furbished where required to a satisfactory level to achieve welfare and environmental compliance; however the applicant feels that this investment would not be optimal. At this juncture it is felt that the best option for this site both for the welfare of the pigs, local environment and efficiency and economics of production is to complete an overhaul of the farm and to provide for a myriad of measures including;

- All new manure storage structures built to current Department of Agriculture Food and the Marine standards.
- Elimination of external open manure storage tanks.
- Leak detection under all new manure storage structures.
- Elimination of external pig walkways and soiled water.
- Modern feeding and ventilations systems
- Along with other measures as identified in the E.I.S.

Permission was granted in the past to replace existing structures on the farm, to meet updated regulations. As with the current application this was seen as the most effective means of doing so. Importantly though, this is not the only means as houses can be upgraded, however if the option to build new structures is provided to the applicant this is by far the best use of resources for the long term.

The appellant states that Cavan Co. Co. should have included provision for the existing structures to be demolished as part of the permission, however as the proposed development is to be completed on the site of the existing structures this is self explanatory.

Demolition: The applicant has included a Construction and Demolition Waste Management Plan as part of the E.I.S. with additional information included in the E.I.S. Addendum.

An engineer's assessment is to be carried out on the existing structures to remain as per the Appropriate Assessment/E.I.S. mitigation measures.

The applicant acknowledges the appellants comments that construction should not begin until an EPA Licence is obtained. However as previously detailed this does not negate the applicant's entitlement to operate the existing site/structures up to the EPA threshold without a Licence and thereafter with a licence.

An Bord Pleanala may deem it appropriate to include a condition detailing that the applicant do not cross this threshold prior to the granting of a licence.

9. Environmental Ecological Report

The Do nothing scenario has been correctly selected in so far as the destocking of the farm was a temporary measure due to the then owners financial difficulty and the farm was neither abandoned or demolished and receives on-going maintenance/management so as to ensure that it is maintained prior to re-stocking and that existing soiled water/manure, surface water, security etc. is managed and maintained to the required standard.

The application documentation details the preferred option for the re-development of the farm. The existing structures are capable of being renovated to a satisfactory status, however this is not deemed to be the most economic and/or beneficial use of resourses.

The Finaway site can be operated in the existing (albeit refurbished) structures, and as previously identified the applicant must now consider whether he seeks an EPA licence to do same pending the outcome of this appeal.

The Ecological Impact Assessment Report has been included as part of the E.I.S. by virtue of being submitted as part of EIS Addendum Report No. 1, therefore Cavan Co. Co. condition as referred to by the appellant does include all of the best practice measures as outlined therein and the submission incorrectly alleges that Cavan Co. Co. have failed in their duty in this regard

The amenity value of Lough Sheelin is discussed in the E.I.S. Section 6.10 (B). Again one must understand that this application is for the provision of improved infrastructure on an existing authorized pig farm site(s). The physical location of this existing farm will not impact on the amenity value of Lough Sheelin. While there is potential for surface water contamination to impact on Lough Sheelin this has been mitigated against due to;

- 1. the provision of substantial excess slurry storage capacity,
- 2. the provision of c.99% new manure storage structures built to Department of Agriculture, Food and The Marine Specifications with leak detection systems.
- 3. Elimination of external concrete area for pig movement and the elimination of soiled water production.
- 4. The provision of Silt traps on all surface water discharges.
- 5. Additional mitigation measures as detailed in the Ecological Impact Assessment report and Environmental Impact Statement.

10. Compliance of planning Approval with Development Plans

The appeal refers to a number of plans, pieces of legislation and guidelines, without any specific details as to how the proposed development either complies with and/or breaches same, with one exception.

The appeal alleges that the granting of planning permission increase the risk to water bodies such as Lough Sheelin, The Finaway River, The Mountnugent River etc. from the proposed development and slurry spreading.

The appellant's assessment of the proposed development assumes incorrectly that this is a Greenfield site. As such it fails to acknowledge the authorised use of the farm and thus fails to acknowledge the improvements proposed for the overall operation of the farm, and the positive impact on the areas referred to, over and above planning permission not being granted and the proposed improvements not being permitted.

This is accurately reflected in the planners report where it is detailed that the "replacement of existing aged structures with prodern pig accommodation and the provision of improved manure storage facilities, with leak detection facilities should be seen as a positive development and an improvement in the attributes of the existing farm".

This will serve to aid compliance with the requirements of the County Development Plan objectives in relation to protected sites, and in particular those highlighted by the appellant.

In addition, as part of the application it has been demonstrated that there are excess customer farmers for the organic fertiliser to be produced and as all farmers have to comply with the statutory requirements under S.I. 31 of 2014, this should afford considerable protection to the water courses in the area (as previously acknowledged by An Bord Pleanala and referred to on page 12). (The methodology for the completion of the customer list is detailed in section 12 below.)

11. Odour

The applicant has demonstrated a number of significant infrastructural and operational measures to significantly minimize odour from this existing pig farm site, and address the significant point sources and significant practices that could cause pulse releases of odour.

The issues of any further design modifications, and/or operational procedures (including diet manipulation, slurry or dietary additives etc.) are to be explored with the E.P.A. as part of the Licence application procedures, as referred to in point No. 4 above, and are subject to Agency agreement.

January 2015

2. Slurry Spreading (also referred to in point No. 2 above)

As all farming activities will have to be carried out in accordance with S.I. 31 of 2014, this will ensure that all watercourses in the customer farmland areas are protected. As referred to previously; The spreading of slurry on land does not require planning permission but would also be subject to the said law. It is not normally useful or appropriate for a planning decision to attempt to regulate matters for which a separate, specific regulatory regime has been established by statute. The board is also under a general obligation to assume that a person will comply with their lawful obligations. An Bord Pleanala (PL02.240879)

No soil sampling is required on the customer lands, however it is optional. Article 16 (2) (a) of S.I. 31 of 2014 allows a farmer to Assume an Index 3 result where no soil test is available. In the current situation, this is the most appropriate <u>and sustainable</u> way to assess a customer farmer requirement for fertiliser, as it effectively replaces what he is expected to remove from the soil in that year, and does not rely on low soil test results where P levels may build up over time and reduce the capacity of that land to receive fertiliser. In effect it demonstrates sustainability.

The customer list as identified has calculated organic feriliser allowance for each customer farmer based on the lower of their organic Nitrogen (limit 170 kg/Ha) or phosphorous requirements, and thus provides an appropriate basis for assessment.

The information referred to in the appeal is out of date in respect of Code of practice. The nitrates regulations introduced as far back as 2005, part a legislative limit of 170 Kg Organic N/Ha. While farmers can get a derogation to 250 Kg Organic N/Ha, this is only available for grazing livestock on the farm, and does not relate to farmers using external sources of organic N. Therefore all customer farmers are already legalty limited to not more than 170 Kg Organic N/Ha, including that produced by the customer farmers own livestock.

In relation to the customer list as supplied the nitrate loading on each customer farmer is taken on an annual basis. This is a cumulative figure of all livestock on the farm and has been verified by The Department of Agriculture, Food and The Marine. The areas identified for the receipt of organic fertiliser related to farmed areas and exclude any unsuitable areas.

In another section of the submission the appellant makes an assumption that the client lands in the vicinity of the Finaway site are not deficient in Phosphorous. This is unsubstantiated and in effect the fertiliser plan as currently detailed has been completed in such a way as to only supply nutrients (the lower of the Organic Nitrogen or Phosphorous requirement) which the crop is expected to remove in that year. Given that there is 150% capacity in this customer list, soil P levels will actually be depleted unless additional source(s) of fertiliser are used as the pig farm can only supply c. 66% of the nutrient requirements.

It is also important to remember in assessing the potential impact from slurry application, and contrary to assertions as detailed in the appeal, European Court of Justice decisions clarifying that pig manure is not waste if applied to agricultural land in accordance with nutrient requirements on clearly defined parcels of land.

January 2015 Page No. 21

13 Summary Comment

The applicant appreciates that Ms. Tierney feels that her objection may not have been fully reflected in the Conditions applied by Cavan Co. Co. However, the applicant appreciates Cavan Co. Co.'s position on this matter, and the associated implications of E.P.A. Licensing and that there are a number of issues that are, or may be; more appropriately addressed under licence conditions.

It is the intention of the applicant to apply for an E.P.A. licence for this site as soon as is practicable after the determination of this appeal.

The applicant feels strongly that when one considers the proposed development;

- In the context of the authorised use of the site,
- In terms of the overall objective of the development (upgrade),
- The positive impact that same will have in relation to potential odour and slurry volume in particular compared to permission not being granted,

That the information submitted to Cavan Co. Co. is reflective of the proposed development, and describes the nature, extent type of potential impacts that may be anticipated and provides a reliable basis upon which to determine this planning application.

The applicant appreciates that (as referred to in the submission to Cavan Co. Co. of 20th October 2014), "a far greater level of information would be required. ... if this was a proposal for a new piggery or one substantially larger in scale than the existing one." (Source An Bord Pleanala, inspectors report into the demolition and replacement of buildings on another existing pig farm –PL04.241892)

Notwithstanding the above, an additional ecological assessment based on the existing destocked nature of the site was also completed at the request of Cavan Co. Co. While not necessarily reflecting the same baseline upon which the E.I.S. has been developed, it does provide additional information. It is envisaged that this will provide a good reference point to compare the potential impact of the overall development (as proposed) when operational, compared to non-operating conditions (not baseline), and will be a valuable reference point for the EPA Licence application.

January 2015



Conclusion

The proposed development would provide for improved welfare and environmental standards, efficiency and economic viability on an existing agricultural farmyard in a rural area where such use is predominant, traditional and appropriate.

It would not cause significant injury to the character of the area or the amenities of property in the vicinity, and the replacement of aged structures with modern housing and associated environmental protection measures should be seen as a positive development and an improvement in the attributes of the existing farm. It would not give rise to an undue risk of water pollution nor would it threaten road safety.

The proposed developments as outlined are appropriate to the site and the area in general, will have a positive impact economically and environmentally and are in accordance with the requirements of the County Development Plan.

It is felt that having regard to;

- The existing nature/use of the site as a pig rearing installation,
- · Located in a rural agricultural area,
- The nature (<u>improvements in the overall standard of facilities on the farm</u>), and scale of the proposed development, which does not intensify the overall numbers of animals to be stocked, and
- The proposed improvements in overall site infrastructure,
- Conditions imposed by Cavan Co. Co. as per the decision to grant permission (as may be revised by An Bord Pleanala),
- Environmental and other conditions that will be considered/imposed by the E.P.A.
 as per any subsequent Licence that may issue to this farm (which is required
 under separate legislation), including those relating to the allocation of organic
 fertiliser from the farm (which is controlled under S.I. 31 of 2014),

the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience of road users and would not be prejudicial to public health or pose a threat of environmental pollution. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

January 2015 Page No. 23



Seirbhísí Comhairleacha agus Oiliúna AN COLÁISTE TALMH CHTA Bhéal Átha hÉis, Co. an abháin Advisory and Training Services BALLYHAISE AGRICULTURAL COLLEGE Ballyhaise, Co. Cavan Tel: 049-433 8300 Fax: 049-433 8304

Mr Paraic Fay B.Agr.Sc

CLW Environmental Planners

Farnham St

Cavan.

02/02/2015

Re: Finaway Pig Farm

Dear Paraic,

Further to your request re: "Finaway pig farm suitability for rearing grower / finisher pigs"

I would like to make the following observations. I visited the farm on Monday 2nd of
February 2015 to assess its suitability for the above.

The farm was depopulated in c. 2009 for financial reasons, the five year period 2007 / 2011 returned margin overfeed of less than 44c per kg carcass, 6 c less than break even.

Subject to satisfactory refurbishment, the sheds are suitable for the restocking with weaner pigs in the thirty kilogramme range. The majority of the buildings are of solid concrete construction with cement fibre roves. The roofs are insulated with polystyrene 'styrofoam' sheeting and are in good condition. Some minor refurbishments are required to the computerised feeding system and automated ventilation system in a number of the houses.

Once these measures are complete the sheds at Finaway are suitable and will comply with all welfare and environmental EU legislation.

Yours truly.

Shane Brady B.Agr.Sc

Pig Development Department

Teagasc Ballyhaise

Ballyhaise, Co Cavan.



Comhairle Chontae an Chabháin Teach na Cúirte, An Cabhán Cavan County Council

eolas@cavancoco.ie

twitter.com/cavancoco

4353 (0)49 437 8300

Courthouse, Cavan

AN BORD PLEANAL Acebook.com/cavancoco

cavancoco.ie

2 5 FEB 2015

R DATED FR

Your Ref:

02.244342

Our Ref:

Pl Reg. No. 14 23

PL ______24th February 2015

An Bord Pleanala, 64 Marlborough Street, Dublin 1.

Appeal Re:

Third Party Appeal by Mrs. Rita Tierney against the decision of Cavan County Council to grant permission to Bogue Pigs, Pl. Ref. 14/239 for: to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ, and to construct 5 no. pig houses, and an extension to 1 no existing pig house, in accordance with animal welfare and natrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development will be submitted with this application. This application relates to a development which is for the purposes of an activity requiring a licence under part IV of the Environmental Protection Agency (Licensing) Regulations 1994 to 2013.

Dear Sir/Madam,

The referral by An Bord Pleanala, received on the 11th February 2015, inviting further observations or submissions in terms of Section 131 of the Planning and Development Act 2000, has reference.

The Planning Authority has considered the following issues in relation to the appellants' submission in the attached report.

Yours sincerely

Fiona McIntyre,

Senior Staff Officer

Tá fáilte romhat gnó a dhéanamh as Gaeilge Cavan County Council ... Working with Diversity in Mind



the second second control of the second cont

Consent of copyright owner required for any other use.

From

MEMORANDUM

Eve Harrison

To

Marice Galligan

Director of Services

Executive Planner

A/Snr. Planner

Date: 16th February 2015 ABP: Ref: PL 02.244342 AN BORD PLEANÁLA

TIME_____BY

2 5 FEB 2015

LTR DATED FROM

Third Party Appeal by Mrs Rita Tierney against the decision of Cavan County Council to grant permission to Bogue Pigs, Pl. Ref. 14/239 for: to demolish all existing pig houses, with the exception of 4 existing pig houses which will remain in situ, and to construct 5 no. pig houses, and an extension to 1 no. existing pig house, in accordance with animal welfare and nitrates regulations, together with all ancillary structures and all associated site works, on the site of existing pig farm. An Environmental Impact Statement (EIS) relating to this proposed development will be submitted with this application. This application relates to a development, which is for the purposes of an activity requiring a licence under part IV of the Environmental Protection Agency (Licensing) Regulations 1994 to 2013.

The referral by An Bord Pleanala, received on the 11th February 2015, inviting further observations or submissions in terms of Section 131 of the Planning and Development Act 2000, has reference.

The Planning Authority has considered the following issues in relation to the appellants' submission:

The Planning Authority notes the submission by CLW Environmental Planners Ltd., on behalf of the applicants – Bogue Pigs.

The issues raised in relation to the Appellants' Grounds of Appeal are addressed in terms of the following:

Preface: (clarification of points raised in the Appeal)

- A. Site Location/Planning Status of Existing Farm;
- B. Abandonment of Use
- C. EPA License Status of Existing Farm
- D. Proposed Project Development Description for the purposes of the EIS
- E. Explanation of Baseline as it applies to the Completion of the Environmental Impact Statement submitted with this application.

1. Grounds of Appeal: - Response by applicant:

1.1.Rationale for preparing one EIS for 2 sites:- Drumscruddan and Finnaway.

- 1.2 EIS Baseline Assessment Criteria
- 1.3 Reports Prepared by Cavan County Council
- 1.4 Planning Authority's Comments
- 1.5 Further Information supplied by the Applicant in response to a request by Cavan co. co.
- 2. Mrs Tierney's objection
 - Specific Objection of Ms Rita Tierney (as referred o later in the objection submitted).
 - Property devaluation
 - Traffic
 - Air
 - Eligiblity of Existing IPPC Licence
 - Adequacy of EIS and provision of Further Information
 - Stock Numbers
 - Finisher Accommodation
 - Description of Impacts in EIS
 - Suitability of Existing Facilities
 - Environmental Ecological Report
 - Compliance of Planning Approval with Development Plans
 - Odour

- Odour
- Slurry Spreading
3. Summary & Conclusion

Planning Authority's Response to Submission of the Appellants' submission, has the following observations: submission, has the following observations:

In relation to the following sections in the submission:

- 1.2 Reports Prepared Dy Cavan County Council;
- 1.3 Planning Authority's Comments:
- 1.4 Further Information supplied by the Applicant in response to a request by Cavan co. co.

The Planning Authority has not made the assessment of the planning application on the basis that the site at Finnaway was the subject of an IPPC Licence or not. It was acknowledged, that the subject site formed part of the enterprise - Maguire Pig Farms, which according to the EPA (correspondence dated 29th August 2014), was subject to an IPPC Licence issued to Bernard Maguire for pig rearing activities at Drumscruddan, Crosserlogh and Duffcaste, Crosserlough, co. Cavan. The Planning Authority understands that the subject site at Finnaway would be subject to an application for a new licence or the transfer of the licence to the new owners - Bogue Pigs.

As is the practice with Planning Assessment of developments which are subject to a waste licence, the planning issues regarding: noise, impact on residential amenity; traffic and existing brownfields development and agricultural land use at the subject site and the impact on designated sites or Natura 2000 sites, remained the key considerations in the Environmental Impact Assessment evaluation. The functions in relation to pollution

ALPERT TO CAMP OF A

EPA Export 10-08-2018:04:00:18

monitoring and control remain the responsibility of the Environment Protection Agency and not the planning authority.

The Planning Authority was satisfied that the proposed development would be an improvement on the existing facility which would not require permission if restocked, but would require permission if there was a material change to the development. The matter of the IPPC Licence is not a key planning consideration.

The Planning Authority has no further comments to make.

SIGNATURE:

DATE: 23 /02 /2015



Consent of copyright owner required for any other use.



CLW Environmental Planners Ltd.

The Mews, 23 Farnham Street. Cavan. Co. Cavan

Phone: 049-4371447/9 Fax: 049-4371451

E-mail: info@clwenvironmental.ie

An Bord Pleanala 64 Marlborough St., Dublin 1.

2nd March 2015

AN BORD PLEAMÁLA

RE:

Planning application for Bogue Pigs for development at Finaway,

Ballyjamesduff, Co. Cavan.

Your Ref:

PL 02.244342

Your Ref: PL 02.244342
P.A. Reg. .REF: 14/239

Dear Sir/Madame

I refer to the planning application for permission for development made on behalf of Bogue Pigs. for development at Finaway, Ballyjamesduff, Co. Cavan, and your subsequent correspondence in relation to an appeal against same dated 10th February 2015, requesting comment on the submission of Cavan Co. Co. dated 5th February.

Please find enclosed the applicant's comments in response to the issues raised in this submission;

- > The applicant concurs with the Local Authorities position that the principle of an agricultural development at this location had already been long established and that the proposed re-development of the site would ensure that the piggery would be a vastly improved facility.
- > The applicant agrees that the information submitted in the original E.I.S. was factually correct. While additional information was requested, to address issues of concern to the local Authority, this has been addressed in our original submission.
- As detailed in the application this farm site was to operate under licence P0427-01 once same had been revised to encompass the proposed developments. While this may still occur, the applicant also has the option of applying for an independent license for this farm. While not the preferred and/or intended option, this would not affect the operation of the development as the conditions under which the farm would have to operate would be similar/identical in either scenario. Cavan Co. Co. were aware of either option as the following is detailed in their response "The agricultural development would be subject to a new or renewed IPPC Licence".

Directors: S. Clarke, O. Leddy B.Agr.Sc., P. Fay B.Agr.Sc.

Should you have any queries in relation to this, or, require any further information please do not hesitate to contact me at the above number or on 087-6794459.

Yours Faithfully,

Paraie Fay B.Agr.Sc.

Consent of copyright owner required for any other use

AN BORD PLEANALA

TIME _____ BY

- 4 MAR 2015

LTR DATED ____ FROM _____

Fergal Kilmurray

From:

procbordemail

Sent:

02 March 2015 13:40

To:

Fergal Kilmurray

Subject:

FW: PL.02.244342 - Bogue Pigs

Attachments:

20150302105114.pdf

Importance:

High

-----Original Message-----

From: Bord

Sent: 02 March 2015 13:25

To: procbordemail

Subject: FW: PL.02.244342 - Bogue Pigs

Importance: High

-Original Message-----

From: Paraic Fay [mailto:paraicfay@eircom.net]

Sent: 02 March 2015 11:08

To: Bord

Subject: PL.02.244342 - Bogue Pigs

Importance: High

Dear Sir/Madame

For inspection but begin ed for any other use. Please find enclosed applicants response to cocal Authority submission as per your correspondence of 10th February last.

Can you please confirm receipt of this submission.

Regards

Paraic Fay B.Agr.Sc

C/o C.L.W. Environmental Planners Ltd., The Mews. 23 Farnham St.,

Cavan

CLW Environmental Planners Ltd.

The Mews, 23 Farnham Street, Cavan, Co. Cavan

Phone: 049-4371447/9 Fax: 049-4371451

E-mail: info@clwenvironmental.ie

An Bord Pleanala 64 Marlborough St., Dublin 1.

2nd March 2015

RE:

Planning application for Bogue Pigs for development at Finaway,

Ballyjamesduff, Co. Cavan.

Your Ref:

PL 02.244342

P.A. Reg. .REF:

14/239

Dear Sir/Madame

I refer to the planning application for permission for development made on behalf of Bogue Pigs. for development at Finaway, Ballyjamesduff, Co. Cavan, and your subsequent correspondence in relation to an appeal against same dated 10th February 2015, requesting comment on the submission of Cavan Co. Co. dated 5th February.

Please find enclosed the applicant's comments in response to the issues raised in this submission;

- > The applicant concurs with the Local Authorities position that the principle of an agricultural development at this location had already been long established and that the proposed re-development of the site would ensure that the piggery would be a vastly improved facility.
- ➤ The applicant agrees that the information submitted in the original E.I.S. was factually correct. While additional information was requested, to address issues of concern to the local Authority, this has been addressed in our original submission.
- As detailed in the application this farm site was to operate under licence P0427-01 once same had been revised to encompass the proposed developments. While this may still occur, the applicant also has the option of applying for an independent license for this farm. While not the preferred and/or intended option, this would not affect the operation of the development as the conditions under which the farm would have to operate would be similar/identical in either scenario. Cavan Co. Co. were aware of either option as the following is detailed in their response "The agricultural development would be subject to a new or renewed IPPC Licence".

Directors: S. Clarke, O. Leddy B.Agr.Sc., P. Fay B.Agr.Sc.

V.A.T. Reg. No. 8277204J

Should you have any queries in relation to this, or, require any further information please do not hesitate to contact me at the above number or on 087-6794459.

Yours Eaithfully.

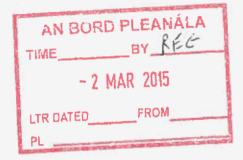
Paraic Fay B.Agr.Sc.

Consent of copyright owner reduced for any other use.

Keenagh, Ballyjamesduff, Co. Cavan 26th February 2015

An Bord Pleanala, 64 Marlborough Street, Dublin 1.

Your Ref: PL 02.244342 P.A. Reg Ref: 14/239



Appeal RE:

Demolition of existing pig houses, with the exception of 4 No. pig houses and construction of 5 No. pig houses, and an extension to 1 No. existing pig house, with

all associated site works. Finaway, Ballyjamesduff, Co. Cavan.

FAO:

Dear Sir,

Mr. Fergal Kilmurray, Executive Officer of the any officer of the art of the Further to your correspondences with enclosures from Cavan County Council and CLW Environmental Planners Ltd., dated 10th February, 2015, i enclose my submissions and observations of both under cover of this letter, on behalf of the Appellant, Mrs. Rita Tierney.

I shall deal with these separately and in sequence, taking the enclosure from Cavan County Council first, followed by that from CLW Environmental Planners Ltd.

These observations and submissions should be read in conjunction with our earlier Appeal Submission, the submissions by other parties to Cavan County Council and the original Application.

I trust that you find this information of assistance in making your determination and look forward to your response in due course.

Yours sincerely,

Oliver Tierney

Chartered Engineer,

BE (Hons) Civil, C,Eng, M.I.Struct.E.

Consent of copyright owner required for any other use.

EPA Export 10-08-2018:04:00:18

Observations and Submissions in relation to Response by Cavan County Council

1 In the first bullet point of the Planning Authority's Response it states:

AN BORD PLEANÁLA

'In considering this application for planning permission, the Planning Authority understood, from the EIS submitted, that the site is subject to an IPPC License No. P0427-01.'

'-01.' - 2 MAR 2015

It continues to state:

LTR DATED FROM

'The Planning Authority contends that — although the sites are physically separate, the License would cover the operation of this Integrated Unit'

One of the main contentions in our Appeal, is that the EIS as submitted by the Applicant provides misleading statements to the effect that the two subject sites, at Drumscuddan and Finaway are licensed under IPPC License No P0427-01. We have demonstrated in our Appeal, and will do so again, that only the site at Drumscruddan is included in the IPPC License P0427-01. The site at Finnaway is not included in that License, nor is it included in any IPPC License. These sites are approximately 2.7Km apart. The IPPC License clearly describes the site location to which the Licence P0427-01 applies as:

Activities Licensed

In pursuance of the powers conferred on it by the Environmental Protection Agency Act, 1992, the Agency proposes to grant this Integrated Pollution Control licence to:

Mr. Bernard Maguire, Maguire Farms, Finaway, Ballyjamesduff, County Cavan, under Section 83(1) of the said Act to carry on the following activity

:- the rearing of pigs in installations, whether within the same complex or within 100 metres of that complex, where the capacity exceeds 1,000 units on gley soils or 3,000 units on other soils and where units have the following equivalents: 1 pig = 1 unit, 1 sow = 10 units, at Maguire Farms (Sheelin Farm), Drumscruddan, Crosserlough, County Cavan and Maguire Farms, Duffcastle, Crosserlough, County Cavan, subject to the following twelve Conditions, with the reasons therefor and associated schedules attached thereto.

A Copy of the full license is contained in Appendix 1 of this submission. Drumscruddan is 2.7Km from the Finaway Site and Duff Castle over 3Km from the Finaway site, thus this licence does not incorporate the site at Finaway. The site at Drumscruddan was used to supply fatteners to Finaway when the sites were in operation, but clearly neither Cavan County Council nor the EPA seem to have appreciated this fact. The current application describes the sites at Drumscruddan and at Finaway as being an integrated unit that is already authorised, however this is not the case.

The Planning Authority's Response to the Submission, in it's first bullet point, states:

AN BORD PLEANÁLA

TIME BY

- 2 MAR 2015

FROM

'In considering this application for planning permission, the Planning Authority understood, from the EIS submitted that site is subject to an IPPC License No. P0427-01....'

The same paragraph continues to describe the location of the two sites at Drumscruddan and Finaway and their contention that the 'License would cover the operation of the Integrated Unit'.

These are gross errors on the part of the Planning Authority. The site subject to the IPPC License is located at Drumscruddan and Duff Castle, Crosserlough and these are treated as an Integrated Unit in it's documents. The site at Finaway was never included in the IPPC License. The description of the site location is precisely described as quoted above and excludes any site over 100m away. The Finaway site is 2.7Km away from the licensed site at Drumscruddan, Duff Castle is a further 0.8Km away from Finaway and therefore outside the limitations of the IPPC License P0427-01.

By their own admission the Planning Authority relied on the fact that the site, including Finaway, is included in the IPPC License in making their determination to provide planning approval. Therefore the basis of their assessment is flawed. The Planning Authority should have carried out sufficient research to identify the sites subject to the IPPC License and not have relied solely on information provided by the Applicant. In failing to do so they have failed in their duty to comply with their own policies for the protection of the environment contained within the Cavan County Development Plan. The License information is easily accessible from the Environmental Protection Agency website which contains all of the documents that the Appellant has examined and references in this document. The Inspector's Report into the granting of the license is also available from the EPA and this clearly describes the site subject to the license application as being Drumscruddan and Duff Castle only.

The implications of this error are several, and significant.

- The conditions contained in The IPPC Licence P0427-01 and the amendments made to it in 2001, 2004 and 2013 do not apply to the Finaway site, and have not been applied to the site.
- The Annual Environmental Reports prepared as a condition of the IPPC License did not include the Finaway site,
- The monitoring of rivers and ground water, as required under the License, as amended, do not apply to the Finaway Site, since it is not included in the License.
- In addition to this Cavan County Council are relying on the IPPC License to apply the
 necessary mitigations regarding emissions from the Finaway site. They have not
 applied conditions to their Planning Approval in this regard. Therefore the site at
 Finaway is essentially an unregulated site.

AN BORD PLEANÁLA

This is of the greatest concern given the proximity of the Finaway River which is a tributary to the Lough Sheelin SPA, pNHA and SAC. The Finaway site has the greatest potential for environmental damage due to the vulnerable habitats and the connection with Lough Sheelin. The activities at the Finaway site, including the lands-identified for slurry spreading straddle the Finaway River.

In the second bullet point of their response, the Planning Authority have stated that they defer to the EPA in respect of the control of emissions, however since the Finaway site is not included in the License then effectively there are no controls for the protection of the environment due to emissions from the activities on this site. The Applicant has stated on a number of occasions that the site is currently approved, and as such could return to operation in the existing buildings without any further approvals. The Planning Authority has failed to contest this. The most recent amendment to the License was made in 2013, requiring the Licensee to upgrade the operation of the site in order to comply with a number of European Directives. The site at Finaway had ceased to operate prior to 2009 and therefore these amendments have had little physical impact, and as stated the site at Finaway falls outside of the current license.

In the Response to Submission the Planning Authority geotes EPA correspondence:

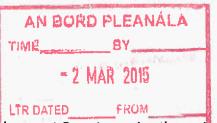
The activity proposed in the planning applications will require a new license under the EPA Acts 1992, as amended, and/or a review of the existing license (Register No. P0427-01).'

The Planning Authority themselves appear to have failed to recognise that this IPPC License has been amended on three separate occasions, in 2001 (Amendment A), 2004 (Amendment B) and most recently in 2013 (Amendment C). During each of these reviews/amendments, taking place over 12 years was failed to recognise that the Finaway site portion of the operation was not contained within the IPPC License P0427-01.

There has been no demonstration by the Planning Authority, or the Applicant that the current situation will be redressed. An application was made to the EPA on 23rd December 2014 to transfer the IPPC License P0427-01 from Mr. Bernard Maguire to the Applicant. Should this license be merely transferred then there are no conditions regarding protection of the environment from emissions from the Finaway site.

The Annual Environmental Report dated November 2009 and covering the period 1st January to 31st December 2008 submitted by CLW Environmental on behalf of Sheelin Farms, available on the EPA website, is stated to have been prepared under condition 2.4.2 of an IPC License 427 issued to Bernard Maguire on 3rd January 2001. Section 2.1 of this Report is a site description, giving it's location as:

Drumscruddan, Crosserlough, Co. Cavan



The subsequent Report covering the period contents page indicates that Section 2 of the Report contains a site description. However on inspection, Section 2 is entirely absent and the Report contains no description of the site. The Report cover states on the cover that it relates to Sheelin Farms, Drumscruddan, Crosserlough. There is no information contained in either of these Reports relating to the Finaway site.

Therefore it appears that the Finaway site has been in operation without any regulation, planning condition or EPA oversight since it's inception. The Planning Authority have deferred to the EPA for the assessment and regulation of emissions at this site, yet they have not informed the EPA that the Finaway site was not included within the IPPC License P0427-01.

It is the responsibility of the Planning Authority to assess the adequacy of the EIS as part of the Planning Approval Process. In the EIS the Applicant has made no attempt to identify this discrepancy between the site that is Licensed and the one that is the subject of the planning application. Indeed the Applicant has relied on the IPPC License P0427-01 as providing support of his planning application. The Planning Authority failed to note and highlight this discrepancy.

In the third bullet point the Planning Authority makes the point that they considered that the information contained in the EIS was factually correct and did not dispute it. As demonstrated above it is clear that the EIS misrepresents the status of the subject site and contains gross factual errors. The Planning Authority state they considered the EIS to be inadequate and they requested further information.

It is our contention that where the Planning Authority sought further information from the Applicant, for the most part, the Further Information supplied by the Applicant simply pointed to information already contained in the EIS which the Planning Authority had already deemed inadequate. The only substantive additional information supplied by the Applicant related to water quality. This Further Information regarding water quality only further confirmed the vulnerability of the Finaway River and the level of risk posed by the development. Again the baseline used in the report was on the basis of an existing operational site. The water quality survey identified the Finaway River in the proximity of the Finaway portion fo the development as being at the highest risk. The development identifies lands on both banks of this river as being 'customer farms' for the spreading of slurry. Also this river forms a boundary to the Finaway site with slurry storage tanks being location adjacent to the River.

The Planning Authority was remiss in not insisting on being provided with adequate information, for ALL of those elements identified as being inadequate to enable it to carry out a competent assessment. Without further information being provided, the EIS must remain to be considered inadequate. As a result the Planning Authority has failed to comply with it's policies in respect of the protection of the environment.

4 In the fourth bullet point the Planning Authority states that the principal of an agricultural development at this location had already been established in a rural area.

AN BORD PLEANÁLA
TIME BY

- 2 MAR 2015

LTR DATED FROM
PL

The site at Finaway was constructed during the 1960's and was not the subject of the Planning Acts. It was built at a time when consideration of the impacts on the environment were given little or no consideration. As demonstrated above the site at Finaway has been operated unlicensed since it commenced operation, despite increasing in intensity over the years. As a result this piggery has never been subjected to compliance with planning or licensing conditions, until a Planning Application was made in 2008, which has never been implemented.

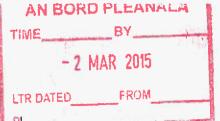
Over the years this farm has contributed to the pollution of the local watercourses and ultimately Lough Sheelin, to the point where the Lake was considered by local people to be a no go area, due to observable pollution, smell and eutrophication. It status as one of the foremost trout fishing lakes in Europe was destroyed, resulting in the loss of facilities in the area, such as the Sheelin Shamrock Hotel which closed due to the pollution on the Lake. The pig farm at Finaway has already been the subject of a conviction for pollution.

It is only in the period since this, and other piggery units in the area have closed or reduced operations, that the lake and facilities are slowly making a comeback. The linkage between the intensive agriculture operations and the water quality of the lake are scientifically proven and incontrovertible. A presentation by Ms. 2. Kerins, SRFB (IFI) is attached in Appendix 2 of this submission. Recently activity on Lough Sheelin has increased and it is once again becoming a popular fishing destination. The following is extracted from the Lough Sheelin Angling Report, by B Montgomery of the IFI, dated October 2013,

'These two anglers returned to Sheeling after a ten year absence and were griped once more by the magic of this lake and the absolute belief that 'it is no doubt once again one of Ireland's premier wild brown trout fisheries and as such is a piece of heritage nearly unique in the world today'.

Thankfully there is now much more protection afforded to our environment, through legislation, both national and European. Also protection is provided by the policies of our Local Authority as contained in the Cavan County Development Plan 2014-2020. The public rely on the Planning Authority to implement this legislation and their own policies in order to protect the environment and to provide a safe environment for those living adjacent to large developments whose sole interests are generating profits. This legislation was introduced as it was clearly necessary to provide the necessary transparent controls for protection of people and the environment.

That is why, we contend that if any perceived 'principal' as described exists, it was established prior to the introduction of any planning legislation or environmental controls. This 'principal' does not justify the provision of planning approval at this location now. The development must be assessed in the context of the current legislation, policies and protections afforded to the environment. The Cavan County Development Plan is required to be in accordance with this legislation and therefore basing a planning approval on this 'established principal' in this case is contrary to that requirement.



There is precedent for refusal of re-activation of pig farms. Kerry County Council refused permission for a pig farm at Killorglin, Co. Kerry after concerns were raised about noise, smell and the potential threat of pollution in the nearby River Laune. In that case the farm had been closed for over a decade. The Applicant in that case claimed that the use of modern systems would reduce manure by 35% and cut odours by 80% from the previous operation on that site. One objector claimed that the, "ever present stench of pig manure" was the most distressing feature." (The Kerryman, 26/07/2014, http://www.independent.ie/regionals/kerryman/news/pig-farm-plan-refused-after-flood-ofobjections-30453115.html).

The Planning Authority makes an incredulous statement that only serves to demonstrate a failure in determining the likely impacts of this development on the environment. The Planning Authority response states that the proposed development:

'would not present an increase in noise; smell and pollution of the adjacent watercourses.'

Given that an EIS is a statement of the likely impacts of a development on the environment, and given that the development involves the transporting and fattening of thousands of pigs, including the spreading of over 25 million litres of manure on the local land each year, and most importantly – given that there is currently no similar activity on this site, and hasn't been for many years – it is extraordinary to reach a conclusion that it will 'not present an increase in noise, smell and pollution of the adjacent watercourses'.

This single statement indicates that the Planning Authority, assessed this planning application as though this was a currently operating site. Otherwise their conclusion cannot make sense.

This basis of assessment follows that used in the preparation of the EIS. There are many instances in the EIS where the Applicant attempts to indicate improvements to the environment by a reduction in numbers of pigs, etc. With reference to the Drumscruddan site, The Annual Environmental Report dated November 2009 states that:

'This farm was destocked in late May 2008. At present there is no stock on the farm.'

The Drumscruddan site provided the weaners for fattening at the Finaway Site. Therefore clearly the current baseline for assessment of likely impacts is that there are no pigs at these sites, with no odour or noise emissions. As a brownfield site there may be residual issues regarding pollution of groundwater and watercourses from stored slurry.

It has been noted in the submission by Inland Fisheries Ireland to the Planning Application that this basis has been used incorrectly in the preparation of the EIS.

As a result of this incorrect basis of assessment the Planning Authority has not correctly considered the compliance of this development with the policies of it's own Development Plans and the proper planning and development for the area.

AN BORD PLEANALA
TIME BY
- 2 MAR 2015
LTR DATED FROM

Another long established principal in this rural area is the residence of Mrs. Rich Tierney, who was born and raised in the adjacent townland of Keenagh and has lived in her current residence since 1974. In that time she has had to suffer the most penetrating odour from the Finaway site and it's operations that has often deprived her of the use of her property. Mrs Tierney's property is contiguous with the lands surrounding the Finaway farm and which are identified as 'customer farmers' for slurry spreading. Should this proceed, pig slurry will be spread on three sides of her property boundary to within 50m of her door. This will be intolerable and the memory of the previous operation of this site and the anticipation of it's possible reuse is very distressful to her.

In their Response to Submission, the Planning Authority have not addressed all the grounds for appeal, including:

Traffic – The Response makes no comment.

Traffic Impacts on the condition of the Local Road at Finaway. The EIS does not provide information on the level of traffic during the construction stage of the development. The traffic generated by the operation of this development will be principally Heavy Goods Vehicles (HGV) with a permitted axle weight of 40 tonnes. The roads in this area were not subject to any design standards and receive little if any maintenance as a result of funding restrictions. The road pavements are not suitable for the potential level of HGV traffic that will result from this development. The Planning Authority has not applied any restrictions on vehicle weights, routes, time of use not have they applied any condition for maintenance or repair of the roads damaged by their use by the operator and their agents.

Odour – The Response makes no comments.

Failure to assess the planning application in relation to the objectives contained within the Cavan County Development Plan in re; lation to the protection of water bodies — The Response makes no comments.

The failure of the Applicant to respond to the direction of the Planning Authority to provide a detailed response to Mrs Tierney's objection to the planning application – The Response makes no comment.

The Response lists that the applicant did not provide an adequate response to the request. The point being made in the Grounds for Appeal was that the Applicant failed to provide any response other than, "it is not clear from the objection, where Mrs. Tierney's House is." The Planning Authority's acceptance of this as a response is, at best, very dismissive of Mrs. Tierney's objection. They appear to be depending on the Applicant to assess Mrs Tierney's objection rather than making their own assessment, which they are required to do.

The Planning Authority requested details of surveys carried out and works to be carried out to ensure that those structures that will not be replaced, particularly regarding effluent and slurry storage, measures to be put in place to ensure that any potential impacts are reduced.

No survey has been provided by the Applicant. They state that an engineer's assessment is to be carried out as a mitigation measure. A letter has been included in the response to the Appeal, this comprises a letter from Teagasc. With all due respect to Teagasc, their letter cannot be considered to satisfy the information requested by the Planning Authority, in particular to the structural nature of any underground tanks, that were constructed in the 1950s and 1960s. A full detailed structural survey by a qualified structural engineer is the only survey that is capable of satisfying the request. The retention of 4 buildings forms part of the proposed development. The Planning Authority should not have approved the Planning Application in the absence of such a survey as it is a fundamental element of the project.

The fact that the maps identifying 'Client farms' the applicant has placed an identifier directly on top of the Appellant's residence, - The Response makes no comment.

The Grounds for Appeal contained many more specific reasons why the Planning Application should not have received approval. These were linked to specific objectives contained within the Cavan County Development Plan 2014-2020. In their Response to Submission the Planning Authority has not refuted any of these grounds for objection.

The fact that the Planning Authority has failed to address any of these items within their Response can only be taken as their acceptance of the Appellant's case. It is a precedent in legal and quasi-legal proceedings that where one party fails to refute the argument of a second party, then the point is deemed to have been accepted by all parties as fact. By not refuting these explicit objections and failure by the Planning Authority to consider them, they must be deemed to accept them to be correct.

As a result it is our belief that the Planning Authority's Response to Submission is entirely inadequate and they have failed to assess the Planning Application, the Objection to the Planning Application and the Appeal to An Bord Pleanala in any critical manner.

Further, the Planning Authority has not stated and has not refuted or rejected any of the Grounds for Appeal submitted to An Bord Pleanala by the Appellant, Mrs Tierney.

Annual Environmental Report

The PRTR Regulations are the European Communities (European Pollutant Release and Transfer Register) Regulation 2007, S.I. No. 123 of 2007, E-PRTR Regulation, (EC) No 166/2006 and the S.I. No. 649 of 2011, concerning the establishment of a European Pollutant Release and Transfer Register.

Following the coming into force of the PRTR Regulations on 22 March 2007 & 13 December 2011, there is now an obligation on all EPA-licensed facilities, and on operators in certain other industrial sectors, to make returns, in the form and content specified by the EPA, of their annual Releases (emissions) and Off-Site Waste Transfers for each calendar year by 31 March of the following year. The first calendar year to be reported under the PRTR Regulations was 2007, with reporting by operators required to be completed by 31 March 2008.

From inspection of the EPA website, it appears that the Finaway site no AER Reports were prepared or submitted as required. This is a site where significant amounts of pollutants were released and where significant Off Site Waste Transfers occurred and which was subject to reporting for the years from 2007. Perhaps the Applicant will argue that as the Finaway site was not included in the license P0427-01 that there is no requirement to make returns for the Finaway site, however this is in contravention of the Planning and Development Acts as amended. It is notable that neither the Planning Authority, nor the EPA appear to have realised that this situation existed, and continues to exist, in spite of their assessment of this application in the case of the Planning Authority.

There is precedent for refusal of Planning Applications for pig farms where the Board considered that the application and supporting documentation contained minimal information in relation to impacts of the proposed operation on the local environment or amenities of residents in the vicinity, or on the measures underway or proposed to minimise such impacts.

AN BORD PLEANALA

It is our contention that:

MIN DOWN S. F. WHANEL

/IE_____BT

- 2 MAR 2015

- the Applicant has not provided information to allow are adequate assessment of the likely impacts or to provide sufficient mitigation measures in relation to noise, odour, traffic or demonstrate that the development would not seriously injure the amenities of the area, including the bough Sheelin pNHA, SPA, or of the property of Mrs. Tierney.
- As the site at Finaway has not been the subject of a planning permission, an Application for retention should have been submitted prior to submission of an application for planning permission.
- The application contravenes several of the policies of the Cavan County Council Development Plan,
- The existing site at Finaway has been, in contravention of the Planning and Development Acts and Regulations by not being regulated under an IPPC License,
- That the site at Finaway is in contravention of European Communities (European Pollutant Release and Transfer Register) Regulation 2007, S.I. No. 123 of 2007, E-PRTR Regulation, (EC) No 166/2006 and the S.I. No. 649 of 2011, concerning obligations for the reporting of Pollutant Release and Waste Transfer.



Observations and Submissions in relation to Response by CLW Environmental Planners (CLW)

Requirement for Planning Permission

We would agree with the CLW statement that reactivation of a site following an abandonment of use requires a new planning application. However it is unclear what point the CLW Response is attempting to make. They appear to be attempting to argue that the development is an exempted development, by maintaining the site has not been abandoned, and also by reference to the Planning and Development Act, 2000. The purpose of this argument is confusing, since they clearly believed it was a development requiring planning permission in the first instance. In paragraph 2(iv) they conclude that,

'restocking the pig farm in line with previous scale of activity is not considered to constitute development as there is no material change...'

However on page 3 of their original EIS submission they have stated:

'The purpose for which this Environmental Impact Statement has been completed is in support of planning applications for the proposed developments on both sites as required by the planning and development regulations....'

We intend to demonstrate in the following observations and submission that trying to argue that this is an exempted development cannot be sustained based on legislative regulation and legal precedent.

We make the following comments following the headings used in the CLW Reponse.

Section A. Site Location/Planning Status of Existing Farm

In this section the CLW response provides a background history of the sites at Drumscruddan, Duff Castle and Finaway which were built and operated by Mr. B Maguire. The original sites were developed prior to 1964, but have been continuously developed since then, as stated in the response. Any developments subsequent to 1964 were subject to Planning Permission, and since 1992 to EPA licensing. There is no evidence that the 'developments thereafter' were subject to a planning application.

The CLW response clearly outlines the connection between the Drumscruddan and Finaway sites. However it is notable that this description is not the one used in the AER reports to the EPA which were also prepared by CLW. This is a clear confirmation of their knowledge that the Finaway site operated outside the limits of the IPPC License P0427-01.

The CLW Response states that Planning Applications were made in 2006 and 2007 for the upgrade of the farms, presumably to be compliant with incoming Directives. This being the case are the conditions imposed under those permissions applicable to the sites regardless of whether the upgrading was proceeded with?

CLW make the point that the previous owner's residence is closest to the Finaway site, however the areas identified for slurry spreading are contiguous to Mrs Tierney's property boundary and as a result her property will suffer a more direct impact from noise, odour and flies than Mr Maguire's residence.

AN BORD PLEANALA

Section B. Abandonment of Use

The following is an extract from an article on Section 160 of the Planning and Development Act in the Judicial Studies Institute Journal, 2004, page 213, wherein, Garret Simons-BL-states:

'When faced with enforcement proceedings, a respondent will often seek to argue that the activity being complained of is simply a continuation of a pre- 1964 use. In this regard, it is important to note the following qualifications on the availability of such an argument. First, an established use will be lost if it has been interrupted for any significant period of time. If the use has been discontinued, then it can be said to have been abandoned, with the result that the resumption subsequently of the use will constitute a material change in use and require planning permission.

Secondly, planning permission will be required where there has been an intensification of use. The concept of a material change in use is sufficiently flexible so as to capture an intensification of an existing use: in other words, more of the same can amount to a material change in use.'

There has been a clear case of abandonment of these two sites, at Drumscruddan and Finaway and as such are subject to a new Planning Application. Also since it's original construction these sites have been expanded over the years since 1964 to their current scale, resulting in an intensification over and above the 1964 level of use. To our knowledge none of these have been the subject of planning approvals.

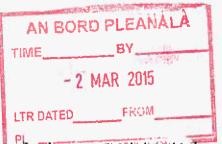
The Applicant also relies on Section 4(1)(h) of the Planning and Development Act, 2000, however selectively ignores Section 4(4) and the Planning and Development Regulations, 2001. Again quoting from Garret Simons BL:

'Turning now to the Planning and Development Regulations, 2001, it is important to note that there are a number of qualifications on the availability of the benefit of exempted development. These exceptions are principally provided for under Articles 6, 9 and 10. Amongst the more important of the exceptions are the following. The development must not be of a class subject to environmental impact assessment.'

This planning application is of a class that is subject to environmental impact assessment, therefore any argument that any aspect of this development, even internal refurbishment, can be deemed to be an exempted development is incorrect.

In addition Mr. Simons states:

'The development must not consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.'



As pointed out previously-we-contend that this is an unauthorised development by virtue of not being subject to an IPPC License, and by never having held an authorised Planning Approval. We consider the likely environmental impacts of this development to be such that any form of planning approval should be denied at this location.

Physical conditions of the premises

In their response CLW state several times that the farm was destocked sometime in 2009. The AER Reports, also by CLW, have documented that the farm was destocked around May 2008.

In this section they state that the operations have continued, however clearly the fact that the farm was destocked is the most pertinent detail.

The response refers to a letter from Teagasc, stating the farm is suitable as a pig farm subject to certain refurbishment. It is the fact of these certain refurbishments that requires this development to be subject to planning permission since it is not a class of development that is exempt as it requires an environmental impact assessment, in compliance with the Planning and Development Regulations, 2001.

It would require significant works to make these structures compatible with the Department of Agriculture Guidelines, EU Directives etc. As these buildings including the below ground slurry tanks, were built in the 1950s and 1960s, a structural survey by a qualified Chartered Structural Engineer is necessary before considering them to be suitable for use. In particular the slurry tanks require inspection for water tightness and the provision of leakage detection systems. This is particularly important given the proximity of these buildings to the Finaway River which feeds to the Lough Sheelin SPA, pNHA. This Response by CtW appears to provide argument against their own original application.

The period of non-use

The Response makes the case that the fact that there was some management of slurry/soiled water including emptying of slurry tanks. The AER reports of for the period 2009, covering only the Drumscruddan Site, indicates that no Waste was Transferred from the site. No detail or evidence is provided in relation to the level or frequency of activity. By any reasonable measure the activity on this site in respect of an operational piggery was non-existent from mid 2008. Thus the operations at the sites at Drumscruddan and Finaway must both be considered to be discontinued and abandoned for the purposes of determining the requirement for a new planning application.

There must be an intention not to resume the use

The argument is made that making planning applications in 2006 and 2007 constitute evidence of an intent to resume use. We do not deny that in 2006 and 2007 there may have been an intent to do so, however sometime before mid 2008 there was clearly an intention by the then owner, for whatever reasons, to not continue and to abandon the operation. There was no indication at that time that the operation could or would resume, particularly in light of the fact that the site at Finaway was not authorised. The operation of the farm has been abandoned by the previous owner, and can only be resumed by a new owner following a successful planning approval and obtaining an IPPC License. We believe that we have demonstrated in our Grounds for Appeal and through this

document that such approval should not be granted due to the inadequacy of the application and supporting information, and the likely impacts on the environment.

The conclusion reached by CLW states that,

'restocking the pig farm in line with previous scale of activity is not considered to constitute development as there is no material change...'

This is a clearly incorrect conclusion for the reasons stated above and is in direct opposition to their own statement on Page 3 of the original EIS. This must be considered a new development that is subject to a new Planning Application. If the site at Finaway is simply restocked, then it will operate as an unauthorised development. The restocking would of itself constitute an intensification of activity resulting in a material change compared to it's current status.

It would constitute an avoidance of the Planning Legislation if it were determined that this farm did not require a new planning application by claiming that it has been in continuous operation since destocking approximately seven years ago.

. 2 MAR 2015

Section C. EPA License Status of Existing Farm

The CLW Response is highly misleading. At several locations in the EIS they refer to the development in the singular, ie to include both sites subject to the Planning Application which includes Drumscruddan and Finaway. They have continuously described them as existing sites operating as an integrated unit. At no point in their application, did they indicate that only one of the sites, that is, at Drumscruddan was the only one included in the IPPC License. The clear impression is given that the 'integrated unit' is operated under license. The CLW Response selectivey quotes their own EIS in stating:

Page 2 of EIS "Sow numbers as specified in the License No. P0427-01 issued by the EPA on 3rd January 2001."

In doing so they omit the preceding sentence which provides the context:

'These sites/this farm previously operated as a c. 1510 Sow integrated unit.'

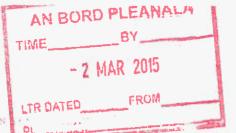
When these sentences are read in conjunction the clear impression being presented is that both Finanway and Drumscruddan are the subject of the EPA License. The word 'farm' is regularly used in the EIS to include the two sites. The initial EIS states on page 2:

'Therefore for the purposes of this EIS these two sites will be referred to hereafter as the pig farm.'

The next paragraphs proceed to describe the two sites without clarifying that only Drumscruddan is licensed. This can only be seen as misleading, whether by accident or intention is not clear.

They also state that:

'in their assessment of the application Cavan Co. Co. have understood that the Finaway Farm did not operate under License No. P0427-01.'



This is in clear opposition to Cavan County Council's own statement in their Response to the Board,

'In considering this application for planning permission, the Planning Authority understood, from the EIS submitted, that the site is subject to an IPPC License No. P0427-01, which was issued to the previous owner, Maguire Pigs for the Integrated Sow unit which include c. 1510 pigs. The Breeding unit is located at Drumscruddan, with the pigs produced being transferred to the finisher unit at Finnaway, which is 2.7Km away.'

This makes it abundantly clear that the submission prepared by CLW gave the strong impression that both the Finaway site and the Drumscruddan site was included in the IPPC License P0427-01 and that the Planning Authority relied on this in making their planning assessment. The Planning Authority compounded the error by considering the Drumscruddan and Finaway sites as being covered by the license when in fact the License is limited to operations within 100m of the site at Drumscruddan.

This verifies our contention that the EIS is misleading and factually incorrect and must be considered inadequate. Also it confirms that the Planning Authority acted in error when considering the application on the basis of the incorrect information provided.

The CLW Response states that:

'A copy of the License identifying the extent and limitations of same was included with the EIS.'

There is no copy of the EPA License included in the EIS as obtained from the Planning Authority. It is not listed in the numbered Appendices of in the contents page of the EIS as submitted. It is not contained within the Further Information provided to the Planning Authority. It is not contained within the Response to Submission issued to An Bord Pleanala. To obtain the information the Appellant had to search the EPA website to obtain a copy of the License and amendments. Thus again the CLW submission continues to make further misleading statements in relation to this Planning Application.

Section D. Proposed Project Development Description for the purposes of the EIS

CLW provide a new development/project description than that in the original application, clearly in an attempt to make it appear more fitting to the arguments in his current submission.

We take issue with the description 'with no intensification in the level of authorised activity on the farm'.

Using CLW's own definition of the farm as comprising both Drumscruddan and Finaway, we have demonstrated that there is no 'authorised' activity at Finaway, either under the Planning & Development Regulations nor under EPA Licensing. The activity at Finaway was unauthorised, and remains so. The Applicant and CLW have not been able to demonstrate or provide evidence of any authorisation of the activities that were carried out. Indeed they have admitted to continuing to carry out Waste Transfer from the Finaway site without being Licensed to do so. Again the Planning Authority appear to have failed to appreciate this until it was pointed out in the Grounds for Appeal



to the Planning Application. There is no evidence that the Planning Authority intend to take any action against this unauthorised activity, despite the clear evidence being pointed out to them.

In addition it is false to claim that there will be no intensification. As the farm is currently destocked, the restocking immediately causes intensification. Again we quote from G. Simmons BL:

'Planning permission will be required where there has been an intensification of use. The concept of a material change in use is sufficiently flexible so as to capture an intensification of an existing use: in other words, more of the same can amount to a material change in use.'

The cumulative effect of the errors, omissions and misleading statements contained in the Planning Application, the Further Information Provided to the Planning Authority and to An Bord Pleanala by CLW demonstrate the inadequacy and unreliability of the application and results in a complete lack of confidence in any of their stated conclusions.

This development had been subject to pre-planning discussions between the Applicant, his advisors and the Planning Authority. It is inconceivable that following these discussions, and having gone to the time and expense of preparing a Planning Application including an EIS, that they now believe that:

"...the current application/development does not in effect require re-approval/re-authorisation or seek a renewal of permission/authorisation under the planning and development legislation for the already authorised nature and scale of the activity...

It has already been demonstrated that simple restocking of this farm, without carrying out even the minimum works, requires planning permission. An IPPC license is required to operate the site at Finaway for the level of stock proposed. CLW have conceded that to their knowledge the site at Finaway was never been subject to an application for an IPPC License. An IPPC License cannot be applied for until the site has obtained planning approval from the Planning Authority. Therefore in order to restock the 'farm' including the Finaway site to the levels stated, planning approval is absolutely necessary.

Section E. Explanation of Baseline as it applies to the Completion of the Environmental Impact Statement submitted with this application

The CLW response under this heading demonstrates why the EIS is so inadequate. The response indicates how the EIS has been based on entirely incorrect baselines.

The response takes a quotation from an unnamed author and, despite the heading claiming this section to be an Explanation of Baseline, it provides no context for the quote or how it is intended to make any argument refuting the Grounds for Appeal, rather we consider it supports our Appeal. We note that the quotation provided states that:

'The establishment of an environmental baseline includes both the present and likely future state of the environment....' Bold italic is my own emphasis.

The present state of the environment is that at both site locations there are no stock present and hence no noise emissions, no odour emissions, no spreading of slurry on the proposed customer farms, no significant traffic from the site, no construction disturbance, no disturbance of the asbestos roofing and no nuisance from insects. Most importantly the improving quality of the Finaway River and Lough Sheelin SPA, pNHA and SAC are not subjected to increased risk of impacts. The present state allows Mrs Tierney to fully enjoy the use of her property without distress from the piggery and it's operations. In preparing the EIS the Applicant has failed to describe the 'present state' and describe the impacts relative to that state.

The quote provided states the normal understanding of establishing an environmental baseline, however it appears that CLW have inserted phrases in parentheses that indicate a clear misunderstanding of the basics of preparation of an EIS.

In the first instance they have inserted '(in this case the replacement structures)'. They do not appear to appreciate that the 'project' to be described in the EIS is much more than the replacement of structures, that is simply one element of it. The 'project' includes the upgrading and refurbishment of buildings, restocking and operation of the integrated farm.

Where the quotation states, 'taking into account changes resulting from natural events and from other human activities' they have added '(such as recommencing authorised farming activity in the existing housing)'. The quotation is stating that as well as describing the direct impacts of the project, the EIS should also consider impacts arising from other activities. For example, if one is describing noise impacts, when recording the background noise, one should include the noise arising from daily activity as well that contributes to the overall noise level. CLW appear to think that recommencing activity to be a natural event, which is a gross misunderstanding of identifying baseline conditions for an EIS.

The following is an extract from the EPA Guidelines for Preparation of an EIS:

An accurate description of the existing environment is necessary to predict the likely significant impacts of a new development. This information also provides a valuable reference (baseline) which can be used for environmental monitoring of the impacts of the project, once it is in operation. It is important that the methodology used in undertaking baseline investigations is documented so that the results of later monitoring can be referenced.

Also the EPA Guidelines state:

The description of any aspect of the environment should provide sufficient data to facilitate the identification and evaluation of the likely significant effects on that topic. Systematic, accurate and comprehensive descriptions include:

- Context
- Character
- Significance
- · Sensitivity



The EIS, and Further Information submitted does not meet this standard. Indeed the Planning Authority had to request the most basic of items to be submitted as Further Information — a Table of Contents.

As a result, the Planning Authority did not have the information to allow it to carry out an assessment of the likely impacts relative to the correct baseline, and as a result they have made their determination erroneously.

This Section E of the CLW response clearly demonstrates why the EIS is inadequate and should have not been accepted by the Planning Authority, who by their own admission relied on it in making their assessment on the Planning Application.

The following are our observations on the CLW comments in relation to the Grounds of Appeal

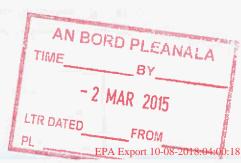
It is claimed that the appeal incorrectly states that the EIS refers to the activity as being authorised due to the fact that it has an IPPC License. The documents submitted in support of the Planning Application clearly are written to give the impression that the activities that operated at the Finaway site were authorised. CLW continue to create this impression in their most recent submission to An Bord Pleanala when they state that the restocking to authorised levels is an exempt development. Their EIS baseline is on the basis of an operating sites which they claim to be permitted. Therefore the Grounds for Appeal have correctly indicated what is contained in the documents submitted in support of the Planning Application.

It is claimed by CLW that reference to the IRPCLicense is only referenced to indicate the scale of the breeding farm. Reading of the EIS and the recent submission shows this to be a misleading statement.

CLW further claim that the presence/absence of an EPA License is immaterial to the Planning Authorisation of this pig farm. The Appeal is not solely directed toward the EPA License, however it is an important aspect. The Applicant is seeking a Planning Approval for development of a pig farm at Finaway, and at Drumscruddan. He has prepared an EIS in support of his application as required by Planning and Development Regulations. The Appeal has demonstrated that this EIS is inadequate, it has demonstrated that the Planning Authority did not give proper consideration to it's own policies contained in the Cavan County Development Plan, and that in doing so it relied on the EIS submitted. Since the EIS relies heavily on an incorrect baseline, and repeatedly refers to the farms as being authorised, it was necessary for the Appellant to also point out that the site at Finaway is not subject to the license. Whether any action should be taken in relation to an unauthorised development is a matter for An Bord Pleanala and the Planning Authority. Whether this Planning Application should be refused on the grounds of having previously been an unauthorised development is now a matter for determination by An Bord Pleanala.

It is the Appellants contention that the site is not authorised, does not comply with current standards or applicable regulations, and operations have been abandoned for several years.

1.2 EIS Baseline Criteria



The Appellant believes that this issue has been amply addressed earlier in this submission. We would comment that what the Applicant considers to be considerable attention and detail, we would consider to be very light on detail and substance.

The Applicant references the EPA Guidelines very selectively and appears to have missed the section detailing the composition and detail required to be included in an EIS.

The conclusions drawn by CLW are incorrect, even from the most basic analysis of the information available.

- 1 Again they state pig farming was authorised, but provide no evidence of this. We are aware that the Planning Authority Approval and the EPA Licensing Process are separate, however they are dependant on each other.
- 2 Pig farm activities had not been abandoned. We refer back to earlier quotes of G Simmons BL.
- 3 The assertion that activities could be recommenced at the previous level without planning permission is incorrect. Operation at the previous level requires an IPPC License, which requires Planning Approval as a pre-requisite. The Planning and Development Regulations 2001, identify any development requiring an EIS to be not exempted development. These two points prove that CLW Environmental Planners are incorrect in this matter.
- 4 The submission appears to claims that the proposed development relates only to refurbishment and renewal of buildings and does not seek re-authorisation for the scale of activity on the farm. This is not supported or stated in the Planning Application. Also the development consists of the development of an integrated pig farm of a scale that requires planning. The refurbishment and construction of buildings is a consequence of restocking the farm to allow it's operation in compliance with legislation and Licensing. This is an attempt to avoid the Planning Legislation in relation to the farm operation.
- 5 This conclusion demonstrates again the misunderstanding or misinterpretation of the EPA Guidelines.

The statement in bold type regarding the baseline demonstrates that the EIS was incorrectly prepared and thus the Planning Authority based it's determination on incorrect information.

The comment regarding the possibility that the Applicant could have restocked the farm prior to the submission of his planning application is of profound concern. In our opinion it not only demonstrates ignorance of the requirements of the Planning & Development Regulations, but also indicates a consideration to wilfully carry out an unauthorised development for the purpose of manipulating the baseline of an EIS.

We contend that the comments at the foot of page 8 of the CLW submission have been dealt with adequately earlier in our response and will not repeat them again. These comments have been demonstrated to be incorrect in the facts and conclusions.

The CLW submission attempts to give the impression that the Appellant is confusing the process of obtaining planning permission from the Planning Authority with that of obtaining an IPPC License from the EPA. There is no such confusion in the mind of the Appellant.



We are very clear as to the processes for obtaining Planning Permission and that of obtaining an IPPC License.

We are also very clear as to the definition of an Authorised Development. Any development which requires planning permission and does not have that permission is an unauthorised development. The Planning & Development Regulations list the class of developments that are considered to be exempted development. Section 6,9 and 10 of the Planning and Development Regulations 2001. These sections stipulate that any development that is the subject of an EIS is not an exempted development. The scale of the farm described in the planning application is such as to warrant an EIS. The Planning Authority has to have regard to the EIS in making it's determination for Planning Approval. We have previously demonstrated that the resumption of a discontinued activity for a prolonged period, requires planning permission. Therefore any restocking of this farm, both at Drumscruddan and Finaway requires Planning Approval from the Planning Authority. To simply restock the farms would constitute an unauthorised activity and be subject to planning enforcement by the Planning Authority.

The Applicant's argument that the activity on the farm has not been abandoned is not sustainable. The principle activity for the farm is the fattening of weaner pigs. By their own admission, this ceased in May 2008, (not in 2009 as they now attempt to imply). The discontinuation of the principle activity for seven years results in a requirement for Branning permission for any resumption of activity, at any level of stocking. The only activity being carried out is that required under the IPPC License for the Drumscruddan site. The AER reports provide no evidence of any monitoring or activity at Finaway, and it is our contention that any activity at the Finaway site has been discontinued and abandoned since 2008.

The Applicant's advisors attempt to make the case that the new owner could restock the farm, at a level below the threshold that requires an EIS, without any requirement for planning permission. This is clearly incorrect, and is an attempt to try and force the Planning Authority to provide planning approval. This attempt to circumvent the Planning Process should be recognised and rejected in the strongest terms. It should also be noted that significant works are required for this farm to operate to the standards required by the relevant legislation, and these works in themselves require planning permission. The Applicant realises this himself as he has stated that this was the purpose for seeking planning approval for works in 2006 and 2007, but which were never implemented. This was also the purpose stated in those planning applications and also the justification given by the Planning Authority for providing Planning Approval. There was clearly a recognition by all parties in 2006 and 2007 that the farm was deficient in it's ability to comply with the new regulations. The period for carrying out works under those planning approvals has now expired and new planning approvals would be required prior to any works commencing.

The site in it's current state has never been subject of Planning Approval, nor has it been subject to an EPA IPPC License and therefore is not an authorised development, and the contention by CLW to state that it is authorised is in error.

AN BORD PLEANALA

BY

2 MAR 2015

PL

FROM

EPA Export 10-08-2018:04:00:18

The CLW submission makes statements in repect of soil testing of customer lands to determine the level of nitrates that may be applied. The argument is made that soil sampling is an optional requirement and that where samples are not available, that an assumption may be taken.

This approach has no regard to the receiving environment. Much of the customer lands identified for receipt of slurry as fertiliser drains directly to the Finaway River, leading to the Mountnugent River and onwards to Lough Sheelin. The lake has suffered decades of eutrophication arising from excessive spreading of nitrates and phospohorous. Given the level of protection that is afforded to Lough Sheelin through it's designation as an SPA and pNHA, a much more stringent approach is required to describe the potential pollution affects arising from the Development. Some of the lands identified are associated with the Finaway Site and were operated as part of the Finaway farm. The potential pollution to the rivers is a direct result of activity on the pig farm and as such must be considered within the EIS and must also be considered by the Planning Authority in terms of it's likely affects on the policies for environmental protection and water quality contained in the County Development Plan. The Planning Authority cannot assess the impacts if the information is not provided. The information provided by the applicant could be, and is, a description of impact of any land in any part of the country. In this manner the EIS is deficient, and the Planning Authority did not have sufficient information to allow it to assess impacts in respect of the County Development Plan.

When this farm operated previously, the amount of slurry produced was very much in excess of that which could be taken by the local farmers as fertiliser. This was a county wide problem, to the point where a programme was introduced by the Department of Agriculture which resulted in payments to the operators to transfer slurry to other parts of the country, mainly in the south. After a short period this payment was removed, and the transfer of the slurry ceased creating significant storage problems for the operators. The current planning application seeks to operate the farm at a similar level, and it can be foreseen that a similar problem will arise again. Much of the pollution to the Rivers occurred as a result of overflows directly to the Rivers from storage tanks. I have personally witnessed this and the damage caused to the river, with the heavy organic material settling to the river bed and fish kills, in both the river and in the Lake. The sight of dead floating fish was common in Lough Sheelin.

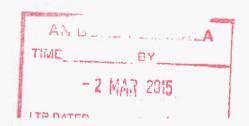
A presentation by stated in it's recommendations that:

'Regulations must target the practice of spreading to dispose of waste on soils that are not phosphorus deficient.'

No evidence has been provided that the customer farms indicated are phospohorus deficient and in need of the volumes of slurry that are required to be transferred from this farm. This is of particular importance in the area of the tributaries to the Mountnugent River, into which the Finaway River flows.

One of the findings in regard to the level of nutrient loading on Lough Sheelin was that:

'Mountnugent Stream and the Ross River have the greatest influence'



In requesting Further Information the Planning Authority sought in Item 2(e):

'Provide a more detailed analysis of the third party spreadlands and the potential for poor practice to impact on Lough Sheelin and other River catchments. In other words the development should be considered in a more holistic sense and then mitigation measures should be proposed. The Applicant should demonstrate how it is intended to ensure that third parties meet all the requirements of the Regulations S.I. 31 of 2014.'

The Applicant failed to provide any further detail regarding the impacts on Lough Sheelin or any detail of any mitigation measures proposed. Whilst it quotes a statement from ABP from a different application, it clearly misses the Planning Authority's specific concerns regarding Lough Sheelin and it's tributary rivers. The Applicant could have detailed mitigations such as a commitment to not supplying customers who have been clearly not in compliance with SI 31 of 2004, or even seeking a commitment from customers that they are aware of their obligations under SI 31 and that they intend to comply with it. If we compare it to the situation where an developer engages a contractor to remove waste from his site, he is responsible for ensuring that the contractor will dispose of it in accordance with the relevant regulations, and he is responsible for monitoring that he does so. The Applicant has not proposed mitigation of this nature, nor have the Planning Authority conditioned it. It is our contention that, as a result of this omission, the Planning Authority has failed in it's duty to insert such conditions in the interests of protecting the quality of water bodies and rivers.

With regard to the Ecological Impact Report, the Applicant rejects our contention that the do nothing scenario is that of a vacant inoperative farm. This clearly is the Do-nothing scenario. Any repair or restocking may be considered a Dominimum, with it's own level of impacts which should be described in the EIS, with the Do something being the proposed development as described in the Planning Application. These should all have been described as alternatives in the EIS document. The Ecological Impact Report was entirely absent in the original EIS, whereas it should be the main element of it. This report only proves the increased risk to the quality of the existing waterbodies. It's description of the severity of the impact is based on the farm as being in operation rather than being vacant. The difference in these baselines alters the conclusion dramatically.

The Applicant maintains that our assessment of impacts is incorrectly based on a Greenfield site. Our Appeal made no reference or statement in regard to a Greenfield site. We are extremely aware that this is a brownfield site as we have lived beside it for decades. Again the Applicant states that this is an authorised site, which we contend it is not as the current site at Finaway is not approved under the Planning & Development Act or the Environmental Protection Agency Act 1992. Many of the buildings and tanks on this site were constructed post 1964 and as such are not authorised development. Planning retention is not possible as they are subject to an Environmental Impact Assessment. No evidence has been provided by the Applicant to disprove this contention, rather he continues to heavily rely on the basis that the activity on this site is authorised. It cannot be considered authorised until it is in full compliance with both processes.

With respect to Odour, the Applicant states that he has, '...demonstrated a number of significant infrastructural and operational measures to significantly minimise odour..' AN BORD PLEANALA

-2 MAR 2015 LTR DATED FROM

EPA Export 10-08-2018:04:00:18

We fail to find any significant detail provided in the original planning application or the Further Information supplied to support this statement. The detail that is provided in the Further Information is to state that the development will result in a significant reduction in the potential volume of slurry/fertiliser to be produced, by the order of 15%. Since the amount of slurry currently being produced is $0m^3$, then a 15% reduction will also be $0m^3$. The proposed development is estimated by the applicant to produce over 12,000 m^3 of slurry at Finaway alone. This results in a greater than 12000% increase over the existing condition. Again the baseline used for the description of likely impacts is incorrect.

No attempt is made to correlate this with odour impact. Neither is any attempt made to identify the point and other sources of odours, the impact of the weather or seasons, the sensitive receptors, or any attempt to describe the impacts of this odour pollution. The entire issue is dealt with in a highly dismissive manner, stating that spreading of slurry gives transient increase and is temporary. An estimate of hours/days is the best that is provided of the duration of the odour.

From our experience, the odour from slurry spreading lasts for weeks during the spreading season which coincides with the time when most use is made of outdoor facilities and activities by residents. No mitigation is provided in terms of buffer zones, types of spreaders to be allowed to be used, which can be imposed as a condition of sale of supplier slurry by the Applicant to their customers.

In their response to the Appeal the Applicant states that other procedures will be 'explored with the EPA'. He makes no commitment at this stage to implementing any of those mentioned. The Appellant has provided significant detail in regard to the impact of odour arising from intensive agricultural practises, in particular from piggeries and their impact on human health. The Applicant has not refuted or addressed any of this specific detail and it's applicability to this site.



Summary of Applicant's observations and submissions of Applicant's Response to Appeal

- 1 The Applicant attempts to dismiss the appeal on the basis that the pig farm could be restocked without a requirement for planning permission. This has been demonstrated to be incorrect as the use of the site has been discontinued since May 2008 and requires Planning Permission for reuse.
- 2 The information provided to support the Planning Application is inadequate and has not addressed the specific information requested by the Planning Authority. It does not provide the necessary information required to allow an assessment by the competent authority and should have been refused planning approval.
- 3 The information provided to the Planning Authority was, by their own admission, relied upon in providing planning approval. The Planning Authority assumed, incorrectly that the site at Finaway was already covered by EPA IPPC License P0427-01, which evidence has been provided it does not. The Applicant also concedes that it does not.
- 4 In accordance with the Planning and Development Regulations 2001, the proposed works, even if limited to repair and refurbishment, is not an exempted development as asserted by the Applicant.
- The Applicant has not provided any further evidence to refute or reject the grounds for Appeal stated by the Appellant.
- The Application is deficient in it's consideration of other plans and policies affected, such as the Shannon International River Basin District which includes Lough Sheelin. Also there has been minimal recognition of the Water Framework Directive in the Application and the EIS.
- 7 The nature, scale and location of the pig farm at Finaway is such that it poses an unacceptable risk of pollution to the streams and rivers feeding into Lough Sheelin SPA, pNHA.
- 8 The Applicant has failed to describe the impacts or any mitigations for the impacts on the residence of Mrs. Tierney.
- 9 The Application, Further Information and Response to the Applicant's Appeal has been proven to contain many errors, omissions andmis-statements that it cannot be relied upon for the assessment of a Planning Application.
- O. IT SHOULD ALSO BE NOTED FROM THE AER REPORTS

 AVAILABLE ON THE EPA WEBSITE, THAT THE LEVEL OF

 ACTIVITY HAS BEEN VIRTUALLY ZERO, AS REPORTED BY CLW

 WHO ARE THE AUTHORS OF THOSE REPORTS. THIS SUBSTANTIATES

 THE APPELLANTS CASE THAT ACTIVITY ON THIS FARM IS

 DISCONTINUED AND ABANDONED FOR THE PURPOSES OF THE

 PLANNING LEGISLATION. THE REPORTS ARE PREPARED AS A

 DEQUIREMENT OF THE IPPC LICENSE POARTON, COVERING THE

 DRUMSCRUDDAN SITE ONLY. NO REPORTS EXIST CONCERNING THE

 FINNAWAY SITE.

EPA Export 10-08-2018:04:00:18

Consent of copyright owner required for any other use.

Appendix 1

EPA License P0427-01



Consent of copyright owner required for any other use.

EPA Export 10-08-2018:04:00:18



Headquarters, Johnstown Castle Estate Wexford, Ireland

INTEGRATED POLLUTION CONTROL PROPOSED DETERMINATION

Licence Register Number:

Applicant:

Location of Activity:

427

Mr. Bernard Maguire

Maguire Farms (Sheelin Farm)

AN BORD PLEANÁLA

- 2 MAR 2015

Drumscruddan

Crosserlough

County Cavan

&

Maguire Farms

Duffcastle

Crosserlough

County Cavan

Environmental Protection Agency	IPC Licence Register Number 42
AN ECRO PLEANALA	
TIME 9Y	
- 2 MAR 2015	Table of Contents
r idus vaia	Table of Contents
LTR DATED FROM	
PL	Page No
Glossary	
<u>1</u>	
Reasons for the Decision	
	3
& actual -	
Activities Licensed	
3	
Condition 1 Scope	
Condition 2 Management of t	
	4
Condition 3 Notification	k
Condition 4 Emissions to Atm	iospnere
Condition 5 Waste Managem	ent.
Condition 6 Noise	
Condition / Protection of Sur	face Water and Groundwaters
Condition 8 Energy Use	
Condition 9 Monitoring	
Condition 10 Recording and R	eporting to Agency1
	ognse1
Condition 12 Financial Provision	ons12
• • • • • • • • • • • • • • • • • • • •	Housed at the Facility1
1, 0	dous Wastes for Disposal/Recovery 1.
Schedule 2(ii) Other Wastes fo Disposal/Recovery	r 13
	ng and Analysis1
• •	andspreading of Organic Wastes from this Facility are Excluded.
	Landspreading of Organic Waste1
	e for Landspreading of Organic Waste1
• •	ischarge Monitoring1
• •	oniloring
• •	onitoring 1
• •	Reporting to the Agency1

AN BORD PLEANALA

BY___

- 2 MAR 2015

FROM

Glossary of Terms

The Agency Environmental Protection Agency.

The Licensee Mr. Bernard Maguire, Maguire Farms, Finaway, Ballyjamesduff,

County Cavan.

AER Annual Environmental Report.

Annually All or part of a period of twelve consecutive months.

BATNEEC Best Available Technology Not Entailing Excessive Cost.

BOD 5 day Biochemical Oxygen Demand.

Buffer zone Area excluded from landspreading of waste.

COD Chemical Oxygen Demand.

Daily During all days of plant operation, and in the case of emissions,

when emissions are taking place; with no more than 1

measurement on any one day.

Daytime 0800 hrs to 2200 hrs.

Daylight hours Lighting-up time plus an hour

dB(A) Decibels (A weighted).

DO Dissolved Oxygen.

EIS Environmental Impact Statement.

EMP Environmental Management Programme.

EWC European Waste Catalogue (94/3/EEC, see also Agency

Guidance Note on the EWC).

Freeboard The difference between the maximum elevation of the

slurry/manure and the minimum elevation of the storage tank

walls.

ha hectare.

IPC Integrated Pollution Control.

Leq Equivalent continuous sound level.

Local Authority Cavan County Council.

Location of Activity Maguire Farms (Sheelin Farm), Drumscruddan, Crosserlough,

County Cavan & Maguire Farms, Duffcastle, Crosserlough,

County Cavan.

Monthly At least 12 times per year at approximately monthly intervals.

Page 1 of 18

Night-time

2200 hrs to 0800 hrs.

Noise sensitive location

Any dwelling house, hotel or hostel, health building, educational establishment, place of worship or entertainment, or any other facility or area of high amenity which for its proper enjoyment requires the absence of noise at nuisance levels.

Odour sensitive location

Any dwelling house, hotel or hostel, health building, educational establishment, place of worship or entertainment, or any other facility or area of high amenity which for its proper enjoyment requires the absence of odour at nuisance levels.

ppm

Parts per million.

Quarterly

All or part of any three consecutive months beginning on the first day of January, April, July or October.

Regional Fisheries Board

Northern Regional Fisheries Board, Shannon Regional Fisheries Board, Eastern Regional Fisheries Board

Slurry/manure

Animal faeces, urine, washwater and any associated feed or

beddina.

Standard Methods

"Standard Methods for the Examination of Water and Wastewater", (prepared and published jointly by A.P.H.A., A.W.W.A & W.E.F) 19th Ed. 1995, American Public Health Association, 1015 Fifteenth Street, N.W., Washington DC

20005, USA.

Waste disposal activity

Means any of the activities included in the Third Schedule to the Waste Management Act 1996.

Waste recovery activity

Means any of the activities included in the Fourth Schedule to

the Waste Management Act 1996.

Weekly

During all weeks of plant operation, and in the case of emissions, when emissions are taking place; with no more than one measurement in any one week.

Reasons for the Decision

The Agency is satisfied, on the basis of the information available that, subject to compliance with the conditions of this licence, any emissions from the activity will comply with and not contravene any of the requirements of Section 83(3) of the Environmental Protection Agency Act, 1992.

In reaching this decision the Agency has considered the application and supporting documentation received from the applicant, all submissions received from other parties and the report of its inspector.

Activities Licensed

In pursuance of the powers conferred on it by the Environmental Protection Agency Act, 1992, the Agency proposes to grant this Integrated Pollution Control licence to:

Mr. Bernard Maguire, Maguire Farms, Finaway, Ballyjamesduff, County Cavan,

under Section 83(1) of the said Act to carry on the following activity

:- the rearing of pigs in installations, whether within the same complex or within 100 metres of that complex, where the capacity exceeds 1,000 units on gley soils or 3,000 units on other soils and where units have the following equivalents: 1 pig = 1 unit, 1 sow = 10 units,

at Maguire Farms (Sheelin Farm), Drumscruddan, Crosserlough, County Cavan and Maguire Farms, Duffcastle, Crosserlough, County Cavan, subject to the following twelve Conditions, with the reasons therefor and associated schedules attached thereto.



Conditions

Condition 1 Scope

- 1.1 The activity shall be controlled, operated, and maintained and emissions shall take place as set out in this Integrated Pollution Control (IPC) licence. All programmes required to be carried out under the terms of this licence, become part of this licence.
- 1.2 No alteration to, or reconstruction in respect of, the activity or any part thereof which would, or is likely to, result in
 - (a) a material change or increase in:
 - 1.2.1 The nature or quantity of any emission,
 - 1.2.2 The abatement/treatment or recovery systems,
 - 1.2.3 The range of processes to be carried out,
 - 1.2.4 The fuels, raw materials, products or wastes generated with adverse

environmental significance, or

- (b) any changes in:
 - 1.2.5 The site management and control with adverse environmental significance

shall be carried out or commenced without prior notice to, and without the prior written agreement of, the Agency.

- 1.3 This licence is for the purposes of IPC licensing under the EPA Act, 1992 only and nothing in this licence shall be construed as negating the licensee's statutory obligations or requirements under any other enactments or regulations.
- 1.4 Any reference in this licence to 'site' shall mean the plan area edged in black and labelled 'Map No. 2 Site Location, Drumscruddan Unit', and the plan area edged in black and labelled 'Map No.3 Site Location, Duffcastle Unit' in Attachment 8, in the IPC licence application.
- 1.5 This licence relates to a facility with the capacity to house a maximum number of animals as described in Schedule 1(i) Animal Numbers Housed at the Facility.

Reason: To clarify the scope of this licence.

Condition 2 Management of the Activity

2.1 Corrective Action

2.1.1 The licensee shall establish procedures to ensure that corrective action is taken should the specified requirements of this licence not be fulfilled. The responsibility and authority for initiating further investigation and corrective action in the event of a reported non-conformity with this licence shall be defined.

2.2 Awareness and Training

2.2.1 The licensee shall establish and maintain procedures for identifying training needs, and for providing appropriate training, for all personnel whose work can

have a significant effect upon the environment. Appropriate records of training shall be maintained.

2.2.2 Personnel performing specifically assigned tasks shall be qualified on the basis of appropriate education, training and/or experience, as required. The licensee must ensure that contractors/agents involved in landspreading of waste are appropriately trained and/or experienced, and receive adequate supervision.

2.3 Responsibilities

2.3.1 The licensee shall ensure that a person in charge, as defined under the terms of the Environmental Protection Agency Act, 1992 shall be available on-site to meet with authorised persons of the Agency at all reasonable times.

2.4 Communications

- 2.4.1 The licensee shall put in place a programme to ensure that members of the public can obtain information concerning the environmental performance of the licensee at all reasonable times.
- 2.4.2 The licensee shall submit to the Agency, eighteen months from the date of grant of this licence, and each calendar year by 1 November thereafter, an AER which shall be to the satisfaction of the Agency: This report shall include as a minimum the information specified in Schedule 4(i) Recording & Reporting to the Agency and shall be prepared in accordance with any relevant guidelines issued by the Agency.
- 2.5 Vermin Control
 - 2.5.1 The licensee shall maintain sufficient and continuous vermin control at the site.

Reason: To make provision for management of the activity on a planned basis having regard to the desirability of organia assessment, recording and reporting of matters LEAN/ affecting the environment.

Condition 3 Notification

- 2 MAR 2015

3.1 The licensee shall notify the Agency by both telephone and facsimile, if available, to the Agency's Headquarters in Wexford, or to such other Agency office as may be specified by the Agency, as soon as practicable after the occurrence of any of the following:

3.1.1 Any unauthorised emission from the facility.

- 3.1.2 Any incident with the potential for environmental contamination of surface water or groundwater, or posing an environmental threat to air or land, or requiring an emergency response by the Local Authority.
- 3.2 The licensee shall include as part of the notification, the date and time of the incident, details of the occurrence, and the steps taken to minimise the emissions and avoid recurrence. The licensee shall make a record of any incident as set out in Condition 3.1 above. The notification given to the Agency shall include details of the circumstances giving rise to the incident and all actions taken to minimise the effect on the environment and minimise wastes generated.
- 3.3 A summary report of reported incidents shall be submitted to the Agency as part of the AER. The information contained in this report shall be prepared in accordance with any relevant guidelines issued by the Agency.

EPA Export 10-08-2018:04:00:19

- 3.4 In the case of any incident as set out in Condition 3.1.2 above which relates to contamination of surface or groundwater, the licensee shall notify the relevant Regional Fisheries Board and the North Eastern Health Board as soon as practicable after such an incident.
- 3.5 In the event of any incident, as set out in Condition 3.1.2, having taken place, the licensee shall notify the Local Authority as soon as practicable, after such an incident.

Reason: To provide for the notification of incidents and update information on the activity.

Condition 4 Emissions to Atmosphere

4.1 The licensee shall ensure that all operations on-site shall be carried out in a manner such that air emissions and/or odours do not result in significant impairment of, or significant interference with amenities or the environment beyond the site boundary.

Reason: To provide for the protection of the environment by way of control, limitation, treatment and monitoring of emissions.

Condition 5 Waste Management

- 5.1 Disposal or recovery of waste shall take place only as specified in Schedule 2(i) High Risk/ Hazardous Wastes for Disposal/Recovery and Schedule 2(ii) Other Wastes for Disposal/Recovery of this licence and in accordance with the appropriate National and European legislation and protocols. No other waste shall be recovered on-site or disposed of/recovered off-site without prior notice to, and prior written agreement of, the Agency.
- 5.2 Animal tissue or carcasses stored on-site pending disposal shall be placed in covered, leak proof containers and shall at a minimum be removed weekly for disposal in accordance with Schedule 2(i) High Risk/Hazardous Wastes for Disposal/Recovery.
- 5.3 Waste sent off-site for recovery or disposal shall only be conveyed by a waste contractor, as agreed by the Agency, and only transported from the site of the activity to the site of recovery/disposal in a manner which will not adversely affect the environment.
 - 5.3:1) Animal tissue or carcasses sent off site for disposal/recovery shall be transported in covered, leak proof containers.
 - 5.3.2 The transport of slurry/manure via the public road shall be carried out in sealed containers such that no spillage can occur.
 - For wastes other than those destined for landspreading, a full record, which shall be open to inspection by authorised persons of the Agency at all times, shall be kept by the licensee on matters relating to the waste management operations and practices at this site. This record shall as a minimum contain details of the following:
 - 5.4.1 The names of the agent and transporter of the waste.

THE 2 LINE 5.45 TO

EPA Export 10-08-2018:04:00:19

- 5.4.2 The name of the persons responsible for the ultimate disposal/recovery of the waste.
- 5.4.3 The ultimate destination of the waste.
- 5.4.4 Written confirmation of the acceptance and disposal/recovery of any hazardous waste consignments sent off-site.
- 5.4.5 The tonnages and EWC Code for the waste materials listed in Schedule 2(i)
 High Risk/Hazardous Wastes for Disposal/Recovery and Schedule 2(ii) Other
 Wastes for Disposal/Recovery, sent off-site for disposal/recovery.
- 5.4.6 Details of any rejected consignments.

A copy of this Waste Management Record shall be submitted to the Agency as part of the AER for the site.

- 5.5 Where wastes are destined for landspreading the following conditions apply:
 - 5.5.1 Monitoring of available storage capacity for slurry/manure shall be undertaken as outlined in Schedule 2(iii) Waste Monitoring and Analysis. Results shall be submitted to the Agency monthly and a summary report included as part of the AER.
 - 5.5.2 Slurry composition shall be analysed as outlined in Schedule 2(iii) Waste Monitoring and Analysis and a summary report included as part of the AER.
 - 5.5.3 The licensee shall ensure that in cases where there is transfer of slurry or manure from the facility to storage provided on farms in the landbank that it is contained in a purpose built slurry holding structure adequate for the protection LEANALA of groundwater and surface water.
 - 5.5.4 Landspreading shall not take place on lands identified in Schedule 2(iv) pands where Landspreading of Organic Wastes from this Facility are Excluded.
 - 5.5.5 Subject to Condition 5.5.4 above all lands where waste from the activity is to be FROM landspread must be as outlined in the IPC licence application. Alterations to this landbank must be agreed in advance in writing with the Agency.
 - 5.5.6 The licensee shall ensure that no slurry/manure from the facility to which this licence relates, is provided to lands in the landbank, which receive waste for landspreading from any other off-farm source which are not included in the Nutrient Management Plan, other than by agreement with the Agency.
 - 5.5.7 The licensee shall provide the Agency with a copy of relevant details of REPS plans for all farms in the landbank, submitted by the licensee, who are involved in REPS, prior to application of slurry from this facility on these lands.
 - 5.5.8 Agreements between the licensee and recipients of wastes for landspreading shall not conflict with any conditions in this licence.
 - 5.5.9 All landspreading activities shall be undertaken in accordance with a Nutrient Management Plan which must be agreed in advance with the Agency and submitted not later than six months from date of grant of this licence and each calendar year thereafter as part of the AER.
 - 5.5.10 The licensee shall carry out ambient soil monitoring in accordance with Schedule 3(iii) Ambient Soil Monitoring of this licence. The results of such monitoring shall be reported annually as part of the AER.

- 5.5.11 Landspreading shall be carried out in accordance with Schedule 2(v) Buffer Zones for Landspreading of Organic Waste and Schedule 2(vi) Code of Practice for Landspreading of Organic Waste. All landspreading activities shall be carried out in such a manner as to avoid contamination of surface and groundwaters, and so as to minimise odour nuisance from the activity.
- 5.5.12 Landspreading shall be undertaken using soil injection, bandspreading, or low trajectory splashplate methods. Any other method must receive prior written agreement from the Agency.
- 5.5.13 A register of the lands used for the landspreading of slurry/manure ('Slurry/Manure Register') shall be maintained on site on a daily basis and shall be available for inspection by authorised personnel of the Agency at all times. This register shall include details of the following:

2 MAR 2015

(iii)

(i) / date of slurry/manure spreading,

(ii) / contractor/agent spreading slurry/manure,

weather and ground conditions at the time of spreading and weather forecast for subsequent 48 hours,

- (iv) nutrient requirements for individual fields/plots,
- (v) volumes of slurry/manure applied toindividual fields/plots.
- 5.5.14 The details, as per Condition 5.5 to from the register shall be reported to the Agency monthly, and annually as part of the AER.
- A septic tank or other suitable treatment system shall be installed (to standard SR6 or as agreed with the Agency) to ascept discharge of domestic sewage from the Duffcastle yard not later than three months from date of grant of this licence.
- 5.7 Domestic sewage from the Drumscruddan yard shall be discharged to septic tank or other suitable treatment system.
- 5.8 The licensee shall prepare proposals and a programme (including timeframes) for agreement with the Agency addressing:
 - the reduction of the concentration of phosphorus in animal feeds used in the activity, and
 - (ii) reduction of the intensity of slurry spreading from this activity, and/or,
 - (iii) options for slurry treatment methods such as anaerobic digestion and thermal drying, to reduce landspreading requirements for organic wastes from the activity.

The programme shall be agreed with the Agency within six months of the date of grant of this licence and implemented within two years of the date of grant of this licence.

Reason: To provide for the disposal of waste and the protection of the environment.

Condition 6 Noise

6.1 Activities on-site shall not give rise to noise levels off site, at noise sensitive locations, which exceed the following sound pressure limits (Leq, 30 minute):

6.1.1 Daytime:

55 dB(A)

6.1.2 Night-time:

45 dB(A).

6.2 There shall be no clearly audible tonal component or impulsive component in the noise emission from the activity at any noise sensitive location.

Reason: To provide for the protection of the environment by control of noise.

Condition 7 Protection of Surface Water and

AN BORD PLEANALA

Groundwaters

7.1 Surface water.

- 2 MAR 2015

- 7.1.1 The licensee shall provide and subsequently maintain a rainwater collection and drainage system for all pig housing on-site.
- 7.1.2 The licensee shall divert all uncontaminated surface water runoff from roofs and non-contaminated impervious areas of the site, to the surface water drainage system. This drainage system shall discharge through 4 outfalls, as referenced in Schedule 3(i) Surface Water Discharge Monitoring. The licensee shall provide an inspection chamber at each outlet of the surface water drain.
- 7.1.3 There shall be no discharge of contaminated water to any surface water discharge system.
- 7.1.4 The licensee shall monitor surface water discharges in accordance with Schedule 3(i) Surface Water Discharge Monitoring of this licence. This shall be reported annually as part of the AER.
- 7.1.5 In the event that any analyses or observations made on the quality or appearance of surface water runoff should indicate that contamination has taken place, the licensee shall,
 - carry out an immediate investigation to identify and isolate the source of the contamination,
 - (ii) put in place measures to prevent further contamination and to minimise the effects of any contamination on the environment,
 - (iii) and notify the Agency, in accordance with Condition 3.1, as soon as is practicable.
- 7.2 Facilities for the Protection of Groundwater and Surface Water
 - 7.2.1 No potentially polluting substance or matter shall be permitted to discharge to ground or groundwater under the site.
 - 7.2.2 The licensee shall ensure that a freeboard of at least 200 mm is maintained at all times on all slurry storage tanks
 - 7.2.3 The licensee shall carry out groundwater monitoring in accordance with Schedule 3(ii) Groundwater Monitoring of this licence. The results of such monitoring shall be reported annually as part of the AER.

- 7.2.4 The licensee shall provide a minimum of six months slurry storage capacity at the site for waste destined for landspreading. This storage capacity shall be a minimum 5,240 m³ at the Drumscruddan Yard and a minimum of 3,200 m³ of slurry at the Duffcastle Yard.
- 7.2.5 Underground, partly underground or overground concrete storage facilities shall conform to the Department of Agriculture, Food and Forestry specifications (S108, S123) or equivalent standard.
- 7.2.6 The licensee shall within three months from the date of grant of this licence submit a programme for agreement with the Agency on the assessment of effluent storage tanks and pipelines to ensure that all effluent storage tanks and pipelines are assessed within six months of the date of grant of this licence and at least once every five years thereafter. A report on such assessment shall be included in the AER, together with proposals for repair of any significant defects found.
- 7.2.7 Fuel tank storage areas shall, as a minimum be bunded, either locally or remotely, to a volume not less than the greater of the following;
 - (i) 110% of the capacity of the largest tank or drum within the bunded area
 - (ii) 25% of the total volume of substance which could be stored within the bunded area.

Drainage from bunded areas shall be diverted for collection and safe disposal. All bunds shall be tested at least once every five years. A report on such tests shall be included in the AER.

- 7.2.8 The licensee shall, within six months of the date of grant of this licence, submit for agreement with the Agency, proposals with timeframes for the upgrading of yard surfaces, the separation of contaminated yard water and the minimisation of dirty yard water being created at the Drumscruddan Yard.
- 7.2.9 The licensee shall, within three months of the date of grant of this licence, submit for agreement with the Agency, proposals with timeframes for the installation of high level alarms on draw-off slurry tanks at the site.

Reason: To provide for the protection of surface waters and groundwater.

Condition 8

Energy Use

-2 NA

The licensee shall carry out an audit of the energy efficiency of the site. The licensee shall consult with the Agency on the nature and extent of the audit and shall develop an audit programme to the satisfaction of the Agency. A copy of the audit report shall be available on-site for inspection by authorised persons of the Agency and a summary of the audit findings shall be submitted to the Agency as part of the Annual Environmental Report. The energy efficiency audit shall be repeated at intervals as required by the Agency.

Reason: To provide for the efficient use of energy in all site operations

Monitoring Condition 9

9.1 The licensee shall carry out such sampling, analyses, measurements, examinations, as set out in Schedules:-

Schedule 2(iii) Waste Monitoring and Analysis

Schedule 3(i) Surface Water Discharge Monitoring

Schedule 3(ii) Groundwater Monitoring

Schedule 3(iii) Ambient Soil Monitoring

of this licence.

- 9.2 The frequency, methods and scope of monitoring, sampling and analyses, as set out in this licence, may be amended with the written agreement of the Agency following evaluation of test results. The licensee shall install on all emission points such sampling points or equipment, as may be required by the Agency. All such equipment shall be consistent with the safe operation of all sampling and monitoring systems.
- 9.3 The licensee shall install and maintain a water meter on all the water supplies serving the pig unit within six months from date of grant of this licence. Records of water usage shall be maintained on site and a summary report shall be submitted annually as part of
- The licensee shall provide safe and permanent access to the following sampling and EANA. 9.4 monitoring points:

and safe access to any other sampling and monitoring points required by the Agency. FROM

Waste storage areas on-site 9.4.1

9.4.2 Surface water discharge points.

To ensure compliance with the requirements of other conditions of this licence by

- 2 MAR 2015

Reason: provision of a satisfactory system of measurement and monitoring of emissions.

Condition 10 Recording and Reporting to Agency

- 10.1 The licensee shall record all sampling, analyses, measurements, examinations and maintenance carried out in accordance with the requirements of this licence.
- 10.2 The licensee shall record all incidents which affect the normal operation of the activity and which may create an environmental risk.
- 10.3 The licensee shall record all complaints of an environmental nature related to the operation of the activity. Each such record shall give details of the date and time of the complaint, the name of the complainant and give details of the nature of the complaint. A record shall also be kept of the response made in the case of each complaint. The licensee shall submit a report to the Agency, during the month following such complaints, giving details of any complaints which arise. A summary of the number and nature of complaints received shall be included in the AER.
- 10.4 The format of all records required by this licence shall be to the satisfaction of the Agency. Records shall be retained on-site for a period of not less than seven years and shall be available for inspection by the Agency at all reasonable times.

- 10.5 Reports of all recording, sampling, analyses, measurements, examinations, as set out in Schedule 4(i) Recording and Reporting to the Agency in this licence, shall be submitted to the Agency Headquarters as specified in this licence. The format of these reports shall be to the satisfaction of the Agency. One original and three copies shall be submitted as and when specified.
- 10.6 All reports shall be certified accurate and representative by the licensee or other senior officer designated by the licensee.
- 10.7 All written procedures controlling operations affecting this licence shall be available onsite for inspection by the Agency at all reasonable times.
- 10.8 The frequency and scope of reporting, as set out in this licence, may be amended with the written agreement of the Agency following evaluation of test results.

Reason: To provide for the collection and reporting of adequate information on the activity

Condition 11 Emergency Response

11.1 The licensee shall ensure that an Emergency Response Procedure is in place which shall address any emergency situation which may originate on-site. This Procedure shall include provision for minimising the effects of any emergency on the environment.

Reason: To provide for the protection of the environment.

Condition 12 Financial Provisions

12.1 Agency Charges

12.1.1 The licensee shall pay to the Agency an annual contribution of £1,215, or such sum as the Agency from time to time determines, towards the cost of monitoring as the Agency considers necessary for the performance of its functions under the Environmental Protection Agency Act, 1992. The licensee shall in 2001 and subsequent years, not later than January 31 of each year, pay to the Agency this amount updated in accordance with changes in the Public Sector Average Earning Indices from the date of grant of the licensee by the Agency. For 2000, the licensee shall pay a pro rata amount from the date of this licence to December 31, 2000. This amount shall be paid to the Agency within one month of the date of grant of this licence.

Reason:

To provide for adequate financing for monitoring and financial provisions for measures to protect the environment.

Schedule 1(i) Animal Numbers Housed at the Facility

Animal Class	Numbers Notice 1 and 2
Farrowing/Suckling Sows	340
Dry Sows	1170
Maiden Gilts	290
Boars	60
Weaners	4935

Note 1: This excludes suckling pigs maintained on site.

Note 2: Variation in these numbers requires prior approval by the Agency.

Schedule 2(i) High Risk/Hazardous Wastes for Disposal/Recovery

AN BORD PLEANÁLA

- 2 MAR 2015

LTR DATED FROM

Waste Materials	Further Treatment On-Site	On-site Recovery, Reuse or Recycling	Method of Off-Site Disposal Note 1
Veterinary Waste	None	None 😞 .	Agreed contractor
Animal tissue or carcasses Other Note 2	None	None Other III	Agreed contractor

Note 1: Any variation from those contractors named in the IPC Dicence application, or subsequent agreements, must have the prior written agreement of the Agency in such cases where a previously agreed waste contractor is considered by the Agency not to exercise due care in respect of the transport and disposal of the licensees waste, the Agency may at any time instruct a licensee to stop using this contractor.

Note 2: No other hazardous waste shall be disposed of or recovered off-site without prior notice to, and prior written agreement of the Agency.

Schedule 2(ii) Other Wastes for Disposal/Recovery

Waste Materials	Further Treatment On-Site	On-Site Recovery, Reuse or Recycling Note 1	Method of Off-Site Disposal/Recovery Note 2
Domestic and canteen waste	None	None	Agreed disposal contractor
Animal slurry/manure Other Note 3	None	None	Landspreading

Note 1: The licensee may further treat, reuse, recycle or recover waste subject to the prior written agreement of the Agency.

Note 2: Any variation from those contractors named in the IPC Licence application, or subsequent agreements, must have the prior written agreement of the Agency. In such cases where a previously agreed waste contractor is considered by the Agency not to exercise due care in respect of the transport and disposal of the licensees waste, the Agency may at any time instruct a licensee to stop using this contractor.

Note 3: No other waste shall be disposed of or recovered off-site without prior notice to and prior written agreement of the Agency.

Schedule 2(iii) Waste Monitoring and Analysis

Waste Monitoring Reference(s):

As described in Tables, page 17 and 25 of the IPC Licence Application

Waste Materials	Frequency	Parameter	Waste Monitoring Reference
Slurry/Manure	Annually	%Dry matter, total N, total P, total K	Tank No. 2 – Drumscruddan Tank No. 7 – Drumscruddan Tank No. 8 – Drumscruddan Tank No. 2 – Duffcastle
Sturry/Manure	Weekly	Available storage capacity	Tanks No. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14 - Drumscruddan Tanks No. 1, 2, 3, 4 - Duffcastle

Schedule 2(iv) Lands where Landspreading of Organic Wastes from this Facility are Excluded

Location

Land areas identified in IPC Licence Application as:

Farm No. 10 - Plot 19; Farm No. 15 - Plots 1, 2; Farm No. 21 - Plots 4, 6, 7, 40 and Farm No. 31 - Plot 6.

Schedule 2(v) Buffer Zones for Landspreading of Organic Waste

No organic waste shall be spread within the following buffer zones:

Area For Wildle	Buffer zone (m)
Sensitive buildings (hospitals, schools and churches)	200
Dwelling houses	100 Note 1
Karst features Control	30
Lakes and main river channels	20
Small watercourses Note 2	10
Public Roads Note 2	10
Domestic wells Note 2	50
Public water supplies Note 2 & Note 3	300 m or 100 days travel time

Note 1: This distance may be decreased with the written consent of the occupier and prior written agreement by the Agency.

Note 2: The above distances to be increased if the gradient is greater than 6% (1:17).

Note 3: The appropriate distance depends on vulnerability and groundwater flow direction.



Schedule 2(vi) Code of Practice for Landspreading of Organic

Waste Note 1

Spreading shall not take place:

- On wet or waterlogged ground
- On frozen or snow covered ground
- On exposed bedrock
- Where surface gradients are excessive (preferably <18% (1:5))
- On fields that display cracks over pipe or mole drainage systems
- On fields that have been pipe or mole drained or subsoiled over a pipe or mole drainage system in the last 12 months
- During November to February inclusive except with the agreement of the Agency
- Outside daylight hours
- In a manner which would have an adverse effect on a National Monument

Loadings:

- Regardless of the dilution factor, the maximum hydraulic loading per single application shall not exceed 25 m³ per hectare on shallow limestone soils and in no case shall exceed 50 m³ per hectare.
- Application of slurry/manure shall not be made on soils with a Morgan's P test in excess of 15 mg P/litre sampled to a depth of 10 cm.

Organic Waste application shall be in accordance with the following guidelines:

- Landspreading on lands with extreme groundwater vulnerability ratings Note 2 would be considered Not Generally Acceptable.
- Application shall be made such that the rate of application of nitrogen from organic wastes does not exceed 250 kg N/ha per annum.
- . No application when the risk of causing odour objects to the public is greatest e.g. Sundays or public holidays
- No application during meteorological conditions which increase the risk of odour nuisance.
- No application where significant rain is foresast within 48 hours.
- Note 1: This Code of Practice may be amended by the Agency as further environmental information becomes available.
- Note 2: As defined in Groundwater Protection Schemes, DoELG/EPA/GSI joint publication 1999,

Schedule 3(i) Surface Water Discharge Monitoring

Emission Point Reference No's.:

SW2 (Drumscruddan) - SW outfall along roadside boundary as shown in Map No.

12, Surface Waters in IPC License Application.

SW3 (Drumscuddan) - SW outfall to rear of site as shown in Map No. 12, Surface

Waters in IPC Licence Application

SW1 (Duffcastle) - SW outfall at NE boundary as shown in Drawing No. 2548 of

the EIS

SW2 (Duffcastle) - SW outfall at SE boundary as shown in Drawing No. 2548 of

the EIS

Parameter	Monitoring Frequency	Analysis Method/Technique
Visual Inspection	Weekly	Not Applicable
COD or BOD	Quarterly	Standard Methods
		TIME TIME
		BY
		~ 2 MAR 2015
Schedule 3(ii) Groui	ndwater Monitoring	~ 2 MAR 2015
Schedule 3(ii) Groui	ndwater Monitoring	- 2 MAR 2015 LTR DATED FROM

GW3, Duffcastle well No. 1

Parameter	Monitoring Frequency	Analysis Method/Technique
Nitrate	Annually	Standard Methods
Total Ammonia	Annually	Standard Methods
Faecal coliforms	Annually	Standard Methods

Note 1: Additional monitoring points may be necessary with amendments to the spreadlands.

Schedule 3(iii) Ambient Soil Monitoring

Monitoring Point Reference No's. Note 1,2;

For all spreadlands utilised in this IPC licence

Conditions	Monitoring frequency	Analysis Method/Technique
Where no soil test available	Within 12 months of grant of licence	Morgan's P test Mate 3
Where soil test ≤ 10 mg P/litre	Every 2 years	Morgan's P Test
Where soil test > 10 mg P/litre but ≤ 15 mg P/litre	Annually	Morgan's P Test

Note 1: Additional sample monitoring locations may be required if the spreadlands are altered,

Note 2: Each sample shall be representative of a maximum area of 4 ha except where uniform cropping and landuse has been in place for the previous 5 years or more. In the latter situation a sample area of 12 ha is acceptable. Each sample shall be taken in accordance with the Teagasci softsampling guidelines.

Note 3: M Peach & L English (1944) 'Rapid micro-chemical tests'. Soil Science 57: 167.



Schedule 4(i) Recording and Reporting to the Agency

Completed reports shall be submitted to:

The Environmental Protection Agency P.O. Box 3000 Johnstown Castle Estate Wexford

<u>or</u>

Any other address as may be specified by the Agency

Reports are required to be forwarded as set out below:

Recurring Reports:

Report	Reporting Frequency	Report Submission Date
Slurry/manure register	Monthly	Ten days after end of the month being reported on.
Available slurry/manure storage capacity	Monthly	Ten days after end of the month being reported on.
Complaints (where they arise)	Monthly	Tendays after end of the month being reported on.
Nutrient Management Plan	Annually of Solid	Six months from the date of grant of licence; thereafte as part of the AER.
Annual Environment Report (AER)	Annually coll	Eighteen months from the date of grant of licence an each calendar year by 1 November thereafter.
Tank and pipeline assessment and inspection programme	Every 5 years	Three months from the date of grant of licence thereafter as part of the AER.

Annual Environmental Report Content

Waste Management Report (arising from Condition 5) including details of the Waste Management Record, Waste Monitoring and Analysis, and Slurry/Manure Register

Nutrient Management Plan

Ambient soil monitoring report

Groundwater monitoring report

Surface water discharge monitoring

Tank and pipeline assessment and inspection report (Every five years)

Energy efficiency audit

Bund Inspection test (Every five years)

Reported incidents summary

Complaints summary

Summary report of water usage

Report on feed usage and feed concentration

Investigation of the possibility of alternative treatment technologies such as thermal treatment and/or digestion for the disposal of slurry

Once-off Reports:

Report	Report Submission Date
Treatment and feed reduction options (Condition 5.8)	Within six months of the date of grant of this licence
Yard surfaces upgrading proposal (Condition 7.2.8)	Within six months of the date of grant of this licence
High level alarms proposal (Condition 7.2.9)	Within three months of the date of grant of this licence

Laurence Kavanagh

Authorised person

Dated this 18th day of October 2000

Consent of Conference and Forting and F

Appendix 2

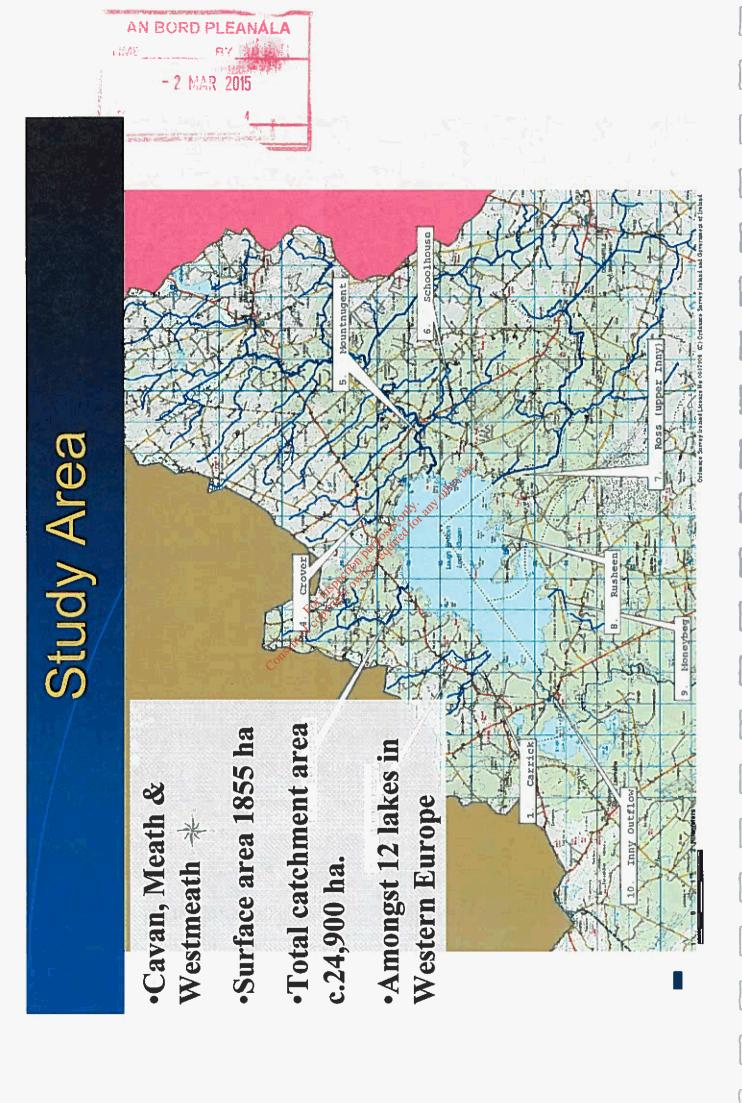
Lough Sheelin Nutrient Loadings 1998 – 2005, Catherine Kerins, SRFB Presentation, 29th January 2008



Consent of copyright owner required for any other use.

And the state of t

Lough Sheelin - Nutrient Loadings The Shannon Regional Fisheries Board Fisheries Environmental Officer 1998-2005 29th January 2008 Catherine Kerins,



- 2 MAR 2015

FROM

LTR DATED

Sources of pollution

Eutrophication in Lough Sheelin since early 1970's

Point sources

* Intensive agriculture, piggeries, mushroom growers, poultry, dairy farming, meat plants

* Wastewater Treatment plants

* Industry

Diffuse sources

* Septic tanks * Agriculture

* Forestry

IN DATED

FHOM

Water Samples of Sheelin tributaries 3 times per week

-analysed for nutrients

1. Total Phosphorus

2. Orthophosphate (MRP)
4. Total oxidised nitrogen

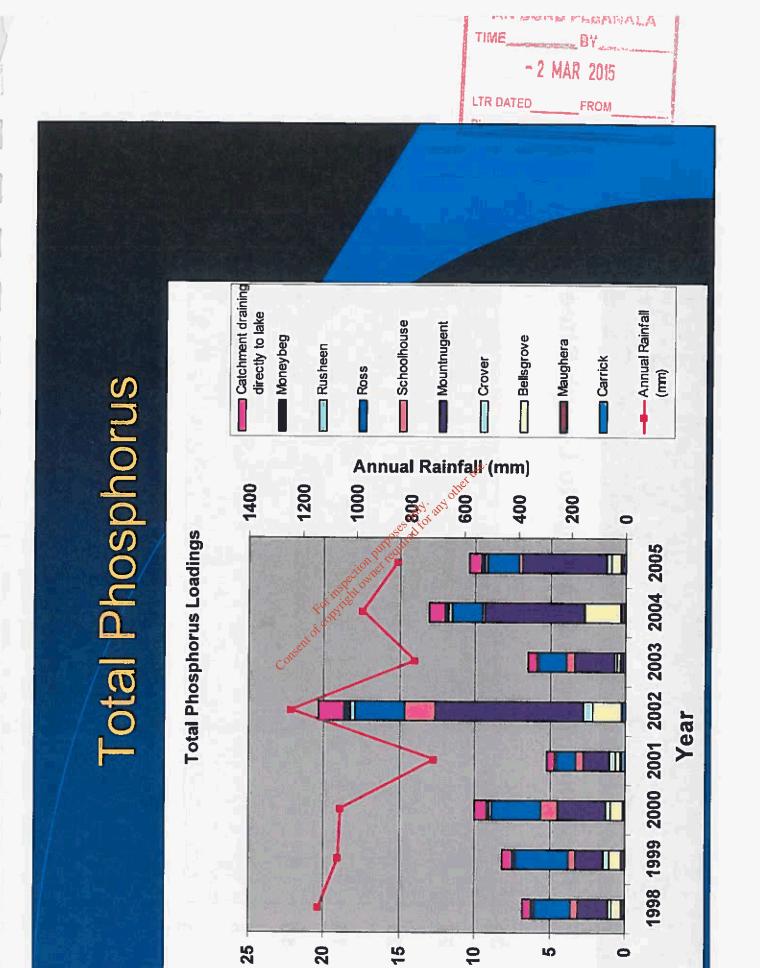
3. Total Nitrogen

Nutrients, chlorophyll, secchi disc (transparency) Monthly lake samples:

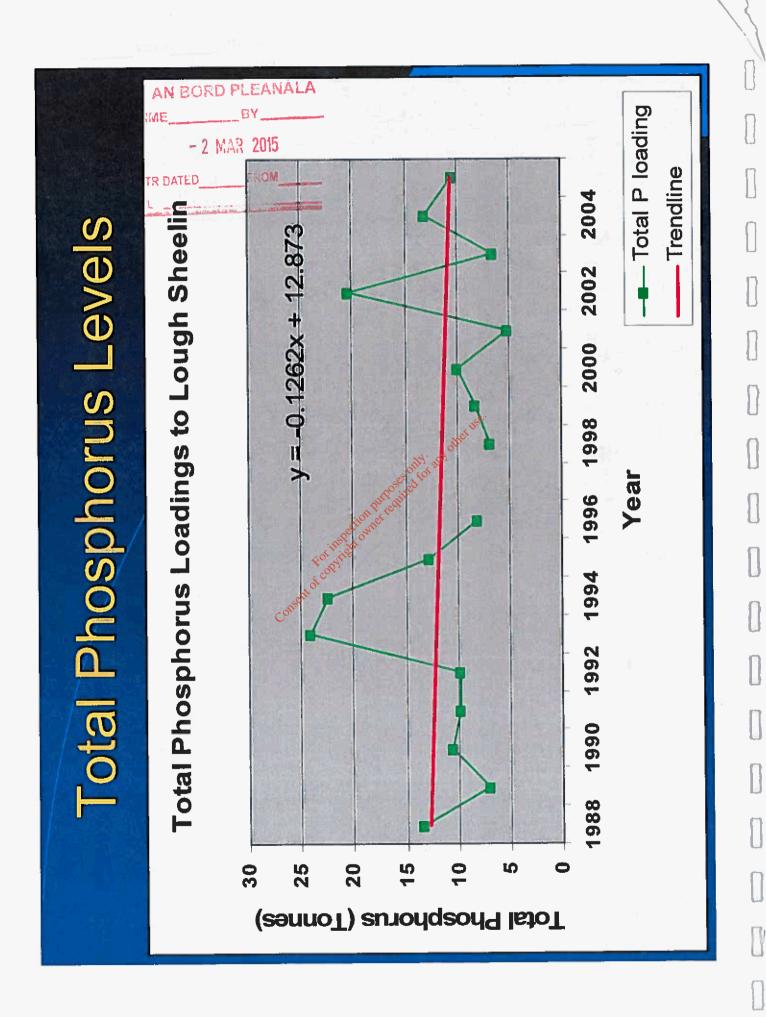
Flow gauge readings

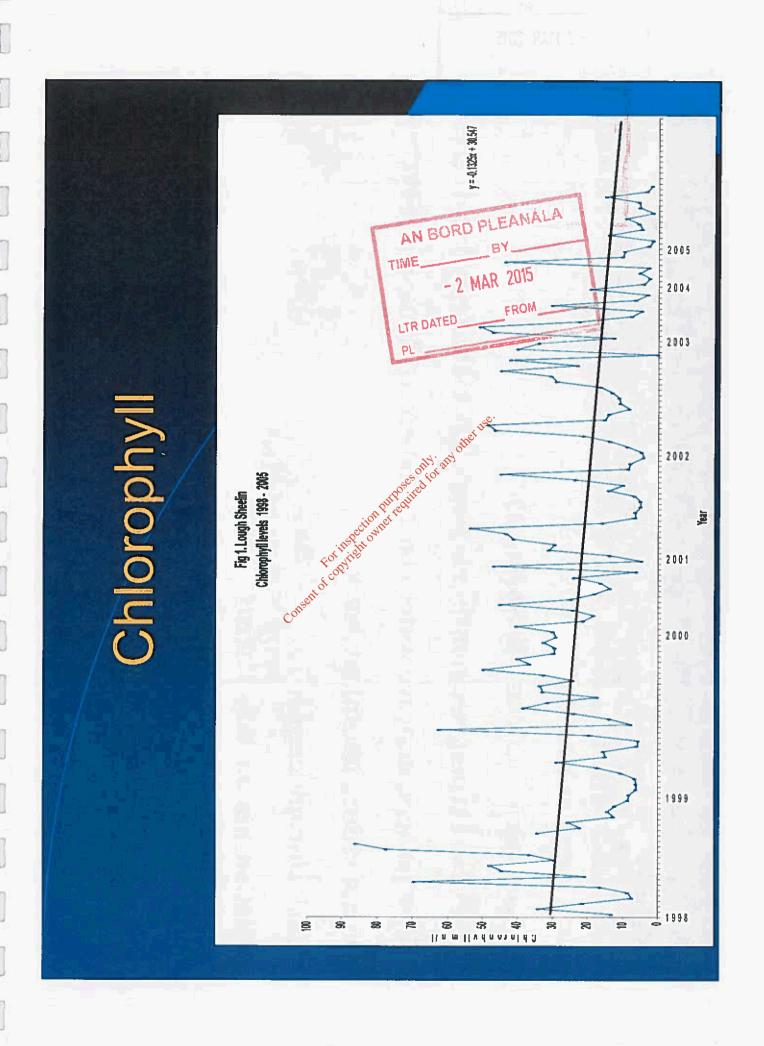
Climate data, daily rainfall, evaporation, nutrient levels in

rain



Tonnes





Findings

 Decrease in the nutrient loadings to the lake over the period 1988-2005 - considerable time lag

Chlorophyll levels declining

•Clear relationship between rainfall and loadings to the lake.

·Mountnugent Stream and the Ross River have the greatest influence

influence disproportionate with the size/flow of these streams. Belsgrove and Schoolhouse streams have a considerable

 The impact of large shock loadings to the system is massive, with one single three day event giving rise to 87% of the Belsgrove's Total phosphorus loadings in 2004. TR DATE

ROM

Policy and Legislation

 Establishment of inter-agency group to oversee the Management of Water Quality within the Lough Sheelin catchment

Recommendations

- Comprehensive waste management strategy for the catchment must be devised.
- catchment for use by intensive agricultural operations, environmental factors •Waste treatment systems with phosphate removal should be installed in the must be given equal weighting with sociological and economic factors.
- licensing. Regulations must target the practice of spreading to dispose of waste •The EPA should continue to regulate and monitor waste management through on soils that are not phosphorus deficient.
- Upgrading of Oldcastle wwtp as a matter of urgency, monitor Ballyjamesduff wwtp and upgrade in advance of reaching capacity.

Recommendations

Policy and Legislation cont.

Review of bye-laws relating to farm waste should be undertaken and th of appropriate bye-laws in the remainder of the catchment.

permission where a wwwp has insufficient capacity or is not meeting sta Local Authorities to exercise appropriate planning policies and controls to the capacities of wwtp's to ensure developments are not granted plan effluent quality.

developments in the catchment which give rise to further phosphorus ld Shannon Regional Fisheries Board should maintain its policy of opposi the lake.

Sampling regime and nutrient loading model

Current monitoring programme to be maintained and updated, on-going monitoring by the Shannon Regional Fisheries Board, Local Authoritie must continue. 21.00

Recornmendations

Enforcement

Continued vigilance on 24/7 basis by Local Authorities, EPA and SHRFB to identify and target polluters. Rigorous inspections and cross compliance verification of intensive agricultural sector.

encouraged to report suspected cases of pollution to the competent The public and stakeholders should be made aware and actively authorities. Continued compliance monitoring and court action where necessary by state and semi-state bodies. Including compliance at wwtp's.

Education

Education of stakeholders and initiatives to provide advice and education on waste management to industry, farmers and the intensive agricultural sector should continue.

The Shannon Regional Fisheries Board



1998-2005



Acknowledgements

Thank you to staff of SHRFB, especially Brenda Montgomery and

Trevor Champ, CFB

Appendix 3

Extract from Judicial Studies Institute Journal, G Simmons BL

AN BORD PLEANALA	
TIME_	BY
	- 2 MAR 2015
LTR DATED FROM	
PL	A CONTRACTOR OF THE PARTY OF TH

Consent of copyright owner required for any other use.

PLANNING INJUNCTION: SECTION 160

AN EURO PLEANALA

TIME PY GARRETT SIMONS*

- 2 MAR 2015

LTR DATED FROM I. INTRODUCTION

The Planning and Development Act, 2000 has introduced a number of important changes to planning law. Perhaps the one which will prove the most significant in terms of the practice and procedure of the Circuit Court is that in relation to the planning injunction.

II. OVERVIEW OF SECTION 160

Section 160 of the Planning and Development Act, 2000 provides a procedure whereby an application may be made to either the High Court or the Circuit Court for orders in respect of unauthorised development. The section is widely drafted and a variety of orders may be made; for example, orders may be made requiring the discontinuance of unauthorised development, or the restoration of any land so far as practicable to its condition prior to the commencement of any unauthorised development. The side note to the section refers to in "injunction" in relation to unauthorised development: this is somewhat misleading given the breadth of the orders which may be made.1 The most notable feature of the procedure is that there is no *locus standi* or standing requirement: it is expressly provided under section 160(1) that an application may be made by the planning authority or any other person, whether or not the person has an interest in the land. For this reason, the courts had indicated that the grant of relief under the equivalent section of the previous legislation was discretionary.²

^{*} B.L. Garrett Simons is a practising barrister and the author of *Planning and Development Law* (Thomson Round Hall, Dublin, 2004). The following text is based to a limited extent on material from that book. All copyright and other rights are reserved in this regard.

¹ See comments of Barrington J. in *Stafford v. Roadstone Ltd.* [1980] 1 I.L.R.M. 1 at 19 (H.C.): "While the word 'injunction' is not used in this section it is clear that the section confers on the High Court jurisdiction to issue both restraining and mandatory injunctions". See also *Avenue Properties Ltd. v. Farrell Homes Ltd.* [1982] I.L.R.M. 21 at 26 (H.C.).

² See generally Simons, G., "Judicial Enforcement of Planning Control" (2002) 9 I.P.E.L.J. 143.

III. PREVIOUS LEGISLATION

Section 160 is the successor of section 27 of the Local Government (Planning and Development) Act, 1976 (as amended by section 19 of the Local Government (Planning and Development) Act, 1992). A number of significant amendments have been made. however. First, the procedure has been streamlined: under the previous legislation, a distinction was drawn between development in breach of planning permission, and unauthorised development i.e. development without the benefit of any planning permission.3 Secondly, quia timet or anticipatory relief is now available; thus the lacuna identified in the Lansdowne Road case4 has been legislated for. Thirdly, the jurisdiction of the Circuit Court has been limited to cases where the rateable valuation of the land the subject-matter of the application does not exceed I.R. £200. Fourthly, the time limit with respect to the taking of enforcement proceedings has been increased from five years to seven years. Finally, it is now expressly provided that planning permission shall not be required in respect of PLEANALA development required by an order under section 160.5 AN BORD PLEANALA

IV. CRITICISMS OF SECTION 160

Although most of the amendments introduced under the new procedure under section 160 are welcome, it has to be said that there are a number of aspects of same which are open to criticism. In particular, the new section is silent on several key issues. The most obvious of these is in relation to the change in the limitation period from five years to seven years. No provision is made for what is to happen in respect of those unauthorised developments of the vintage five to seven years. To elaborate: there will be a bracket of unauthorised development which had achieved immunity under the previous legislation (by virtue of having been commenced more than five years previously) prior to the 11 March 2002 (commencement date), but which was still shy of the seven years stipulated under the Planning and Development Act, 2000. Is the prospect of enforcement action to be revived in respect of such development? The Act is silent on this point. Although the argument might be made that to revive

³ One consequence of this is that a breach of the terms or conditions of a planning permission may not now be actionable *per se*.

⁴ Mahon v. Butler [1997] 3 I.R. 369 (S.C.) cited with approval in Birmingham v. Birr U.D.C. [1998] 2 I.L.R.M. 136 (H.C.); Westport U.D.C. v. Golden [2002] 1 I.L.R.M. 439 (H.C.); and O'Connell v. Dungarvan Energy Ltd., High Court, unreported, Finnegan J., 27 February 2001.

⁵ Section 163.

2004] MAR ²⁰¹⁵ Planning Injunction: Section 160

201

the possibility of enforcement action would in some way represent a form of retrospective legislation, the better view would seem to be that no "rights" had been acquired on the expiration of the five year limitation period, rather the unauthorised development retained a status as unlawful but immune.

A second criticism is this. The basis for the division of function between the Circuit Court and the High Court is not made clear. Under the previous legislation, the jurisdiction of the Circuit Court and the High Court was co-extensive. Under section 160 conversely, it seems that the Circuit Court's jurisdiction is confined to cases where the rateable valuation of the land the subject-matter of the application does not exceed I.R. £200.7 Thus in cases involving lands with a greater rateable valuation, the proceedings may only be brought in the High Court. The question which remains unanswered by the legislation, however, is as to whether an applicant may choose to proceed in the High Court even in those cases where the Circuit Court would have jurisdiction. Further if the applicant does choose to proceed in the High Court, should be or she be limited in terms of any costs award to Circuit Court costs? In the absence of any express provision in this regard, it would seem that an applicant will in certain cases have a choice as to court, but will be on hazard as to costs pursuant to the provisions of section 17 of the Courts Act, 1981.

V. PROCEDURE

Proceedings under section 160 are instituted by way of originating notice of motion.⁸ The procedure under section 160 is thus a summary procedure, and although both the Rules of the Superior Courts, and the Circuit Court Rules, appear to envisage the possibility of oral evidence, the better view would appear to be that the matter should generally proceed by way of affidavit evidence only.⁹ Indeed, the procedural limitations of the equivalent provision of the previous legislation had been emphasised in a number of

⁶ Dublin Corporation v. Mulligan, High Court, unreported, Finlay P., 6 May 1980.

⁷ Section 160(5).

^{*} Section 160(3). See also Ord. 103, R.S.C., 1986; Ord. 56, Circuit Court Rules, 2001.

⁹ Cf. Cork Corporation v. O'Connell [1982] I.L.R.M. 505 (S.C.); Galway Corporation v. Lackagh Rock Ltd. [1985] I.R. 120 (H.C.); Monaghan County Council v. Brogan [1987] I.R. 333 (S.C.); Dublin County Council v. Tallaght Block Company Ltd. [1982] I.L.R.M. 534 (H.C.) and Supreme Court, unreported, 17 May 1983; Furlong v. A.F. & G.W. McConnell Ltd. [1990] I.L.R.M. 48 (H.C.); Dublin Corporation v. Moore [1984] I.L.R.M. 339 (S.C.).

- 2 MAR 2015

decisions. In particular, the Supreme Court had indicated in its decisions in Mahon v. Butler¹⁰ and Waterford County Council v. John A. Wood Ltd.¹¹ that summary proceedings under the (then) section 27 of the Local Government (Planning and Development) Act, 1976 were not appropriate where novel questions of law and complex questions of fact were involved. Subsequently, in Dublin Corporation v. Lowe¹² Morris P. had indicated, obiter, that proceedings under the (then) section 27 would have been inappropriate where there was an issue to be tried as to a pre-1964 use of lands: this issue could only be tried on full plenary hearing. In Dublin Corporation v. Garland¹³ Finlay P. relied, inter alia, on the summary nature of the procedure in holding that the court had no function, on an application for a planning injunction, in any way to review, alter or set aside a decision of the planning authority-with regard to the granting or withholding of permission.

VI. NO EXCHANGE OF PLEADINGS

There is no provision made under section 160 for the exchange of pleadings between the parties. If the only formal pleading is the originating notice of motion. Two consequences follow from this. First, the absence of pleadings serves to emphasise the summary nature of the procedure, and indicates that the procedure is not appropriate where novel questions of law and complex questions of fact are involved. Secondly, it would seem that a respondent should disclose the nature of any defence on which he or she proposes to rely in any replying affidavits filed. A respondent may not be entitled to raise at the hearing of the motion a point by way of defence not raised on affidavit.

^{10 [1997] 3} I.R. 369 (S.C.).

[&]quot; [1999] 1 I.R. 556 (S.C.)

¹² High Court, unreported, Morris P., 4 February 2000. On appeal to the Supreme Court, the matter was remitted for other reasons, on consent, to the High Court for rehearing.

^{13 [1982]} I.L.R.M. 104 at 106 (H.C.).

[&]quot; Cf. Drogheda Corporation v. Gantley, High Court, unreported, Gannon J., 28 July 1983, at p. 7 of the unreported judgment.

¹⁵ Mahon v. Butler [1997] 3 I.R. 369 (S.C.)

¹⁶ See South Dublin County Council v. Balfe, High Court, unreported, Costello J., 3 November 1995. See also Kildare County Council v. Goode, High Court, unreported, Morris J., 13 June 1997, at p. 13 of the unreported judgment, (applicant planning authority permitted to adduce further evidence in circumstances where counsel for respondent had failed to identify, at the commencement of the case, the alleged absence of a managerial order as an issue in the case).

¹⁷ South Dublin County Council v. Balfe, High Court, unreported, Costello J., 3 November 1995.

AN BO2004] EANALA Planning Injunction: Section 160 TIME BY_

- 2 MAR 2015

VII. PARTIES TO APPLICATION

A. Applicants

Section 160(1) provides that an application may be brought by the planning authority or any other person, whether or not that person has an interest in the land. Thus, there is no locus standi or standing requirement. It is not a precondition to the bringing of an application that the applicant should have suffered or anticipated any loss peculiar to himself.¹⁸ It has to be said, however, that the courts have been alive to the risk of vexatious or meddlesome litigants and, for this reason, have retained a discretion to refuse relief on this ground.19 It is also the case that the courts have recognised the special position of the planning authority (described as its "watch dog role"), and for this reason attach significant weight to its attitude to the development complained of, even in proceedings in which it is not joined as a party.20

Although there is no express provision for same in either the Rules of the Superior Courts, or the Circuit Court Rules, the possibility of joining co-applicants after proceedings have been issued has been recognised.21

BoRespondents

The wording of section 160(1) is very wide and provides for the making of an order requiring "any person" to do or not to do, or to cease to do, as the case may be, anything that the court considers necessary and specifies for the purposes prescribed in the section. In the ordinary course, any person against whom orders are sought should be joined in the proceedings as a respondent, served with the proceedings and afforded an opportunity to be heard on the

¹⁴ Avenue Properties Ltd. v. Farrell Homes Ltd. [1982] I.L.R.M. 21 at 26 (H.C.). See also O'Connor v. Frank Hetherington Ltd., High Court, unreported, Barr J., 28 May 1987, at p. 12 of the unreported judgment.

[&]quot;See especially Stafford v. Roadstone Ltd. [1980] 1 I.L.R.M. 1 at 19 (H.C.).

Mahon v. Butler [1997] 3 I.R. 369 (S.C.). See also Grimes v. Punchestown Developments Company Ltd. [2002] 1 I.L.R.M. 409 (H.C.). In Cavan County Council v. Eircell Ltd., High Court, unreported, Geoghegan J., 10 March 1999, the High Court had indicated that a court should be slow to adjourn such enforcement proceedings pending an application for retention planning permission if such an adjournment is opposed by the planning authority vested with the important statutory function to enforce the planning legislation. Cf. Avenue Properties Ltd. v. Farrell Homes Ltd. [1982] I.L.R.M. 21 at 26 (H.C.): "The section does not distinguish on its face between an application by a planning authority and an application by 'any other person".

²¹ Irish Wildbird Conservancy v. Clonakilty Golf & Country Club Ltd., High Court, unreported, Costello P., 23 July 1996.

application. Special provision had been made under the previous rules for the making of orders against persons whose identity was unknown.22

Generally, it would seem that the appropriate respondents to an application should be the owner and occupier of the relevant lands. This would seem to stem from the fact that compliance with any order under the section will require control over the relevant lands. or at least a right of entry thereon. This would also be consistent with the provisions with respect to enforcement notices,23 which indicate that an enforcement notice should be served on the person carrying out the development and, where the planning authority considers it necessary, the owner or the occupier of the land, or any other person who, in the opinion of the planning authority, may be concerned with the matters to which the notice relates.

Difficulties can arise where the breach of planning control alleged is historic, as opposed to an on-going unauthorised use. It may be that neither the (present) owner nor occupier of the lands was the author of the unauthorised development. For example, the present owner may have purchased the lands with an unauthorised structure already erected thereon. The present owner may wish to argue that it would be unconscionable to require him to make good the default of the previous owner.24 It is submitted, however, that the better view is that the objective of section 160 is remedial rather than regulatory, and accordingly the issue of fault is not directly relevant: this is more properly an issue for any criminal prosecution. The former owner might equally well argue that without a legal right of entry or access to the relevant lands, his ability to comply with the order would be entirely dependent on the co-operation of the present owner.25 As to the position as between lessor and lessee, see Patterson PLEANALA

TIME ----

- 2 MAR 2015

v. Murphy.26

²² Rules of the Superior Courts, 1996 (S.I. No. 5 of 1996); Ord. 56 r. 3, Circuit Court Rules, 2001 (S.I. 510 of 2001).

²³ Section 154.

²⁴ See for example Dublin Corporation v. McGowan [1993] 1 I.R. 405 (H.C.).

²⁵ See Dublin Corporation v. Browne, High Court, unreported, Gannon J., 10 October 1987. Gannon J. appears to have accepted an argument to this effect by counsel for the respondent developer (at p. 18).

^{26 [1978]} I.L.R.M. 85 at 94 (H.C.) et seq.

- 2 MAR 2015

C. Third party procedure

Wicklow County Council v. Fenton (No. 2)²⁷ that the third party procedure under the Civil Liability Act, 1961, is not available in the context of an application under section 160. This would seem to stem from the following considerations: the summary nature of the procedure under section 160 is intended as a fast track procedure to provide urgent relief; there is no provision for the exchange of pleadings as between the parties; and the definition of a "wrong" under the Civil Liability Act, 1961 does not seem apt to capture the statutory relief under section 160.

D. Personal liability of directors

A number of decisions in relation to the previous legislation indicated that the wording was sufficiently wide to allow orders to be made against the directors of development companies personally.28 It is questionable as to whether these cases remain good law under section 160, especially circumstances where the opportunity was not taken under section 158 to extend personal liability of officers of a company to include other than criminal liability. Barrington J. had suggested in Dublin County Council v. Elton Homes Ltd.29 that, particularly in the case of small companies, the most effective way of ensuring that the (solvent) company complies with its obligations would be to make an order against the directors as well as the company itself.30 In order to pierce the corporate veil, however, it appears necessary to establish some evidence of impropriety (such as, for example, by way of fraud, or the siphoning off of large sums of money out of the company).31 The fact that the affairs of the company had been carried out with scant regard to the formalities of, or the requirements of, the companies legislation is not per se a good ground for visiting on the directors of a company a liability to conform with a planning permission at their

²⁷ [2002] 2 I.L.R.M. 469 (H.C.). Cf. County Meath V.E.C. v. Joyce [1997] 3 I.R. 402 (H.C.). See also Drogheda Corporation v. Gantley, High Court, unreported, Gannon J., 28 July 1983.

²⁸ Dublin County Council v. Elton Homes Ltd. [1984] I.L.R.M. 297 (H.C.); Dublin County Council v. O'Riordan [1985] I.R. 159 (H.C.); Dun Laoghaire Corporation v. Parkhill Developments Ltd. [1989] I.R. 447 (H.C.); Coffey v. Hebron Homes Ltd., High Court, unreported, O'Hanlon J., 27 July 1984; Sligo County Council v. Cartron Bay Construction Ltd., High Court, unreported, O'Caoimh J., 25 May 2001.

²⁹ [1984] I.L.R.M. 297 at 300 (H.C.).

¹⁰ See also Coffey v. Hebron Homes Ltd., High Court, unreported, O'Hanlon J., 27 July 1984 (respondents fairly joined to ensure any order against company carried into effect).

own expense.³² Nor is the fact that an application for planning permission was made in the personal name of a director.³³

Again, the summary nature of the proceedings may tell against the making of such orders, however. Murphy J. in *Dublin County Council v. O'Riordan*³⁴ stated as follows.

Similarly, where the application turns upon the relationship between a director or shareholder and a company in which he is interested I would anticipate that in most cases it would be necessary that the relationship be investigated in the first instance by a liquidator in accordance with procedures provided in the Companies Act for that purpose rather than seeking to establish all of the relevant facts on proceedings designed to be heard on a fidavit. 35

BOND FEERING

- 2 MAR 2015

For a recent example of a case where personal liability was imposed on the directors, reference is made to the decision in Sligo County Council v. Cartron Bay Construction Ltd. 36 There had been a failure by a company to comply with the terms of an order made by the High Court under the (then) section 27 of the Local Government (Planning and Development) Act, 1976 (as amended). O Caoimh J. held that insofar as the affairs of the respondent company were inextricably linked to the actions of the two director respondents, if the company had been in wilful default it had been through the medium of the actions of the directors. Insofar as a company can have a will, it must be by those in control of the company. In this connection, Ó Caoimh J. held that whereas the default of a corporate entity will not necessarily give rise to a conclusion of wilful default on its part or on the part of its directors, on the facts, the directors were guilty of a substantial wilful failure to account to the company in respect of rent.

Dublin County Council v. O'Riordan [1985] I.R. 159 (H.C.). See also Dun Laoghaire Corporation v. Parkhill Developments Ltd. [1989] I.R. 447 (H.C.).

³³ Ellis v. Nolan, High Court, unreported, McWilliam J., 6 May 1983.

^{34 [1985]} I.R. 159 (H.C.)

³⁵ [1985] I.R. 159 at 166 (H.C.). See also Ellis v. Nolan, High Court, unreported, McWilliam J., 6 May 1983. Ó Caoimh J. distinguished Dublin County Council v. O'Riordan in Sligo County Council v. Cartron Bay Construction Ltd., High Court, unreported, Ó Caoimh J., 25 May 2001.

³⁶ High Court, unreported, Ó Caoimh J., 25 May 2001.

2004] 2 MAR 2015 Planning Injunction: Section 160

207

LTR DATED FROM VIII. ONUS OF PROOF

It is submitted that the applicant under section 160 bears the onus of establishing that the matter complained of constitutes development, and, further, is not exempted development. This would seem to stem from the wording of the section which is predicated on unauthorised development. Unauthorised development is defined under section 2 in terms which exclude, inter alia, development commenced prior to 1 October 1964; development which is the subject of planning permission; and exempted development.³⁷ Further support for this proposition is to be derived from the fact that it is only in the case of (criminal) proceedings for an offence that express provision is made to the effect that the onus of proving the existence of a planning permission is on the defendant. Reference is also made to the statement in Dublin Corporation v. Sullivan³⁸ to the effect that in the absence of an express provision to the contrary, the onus of proof rests with the applicant to prove the case which he is making.39

Reference is also made to the decision in Fingal County Council v. R.F.S. Ltd. 40 Morris P. found that there were a variety of issues of a factual nature which remained to be resolved as to a pre-1964 use, and that given that the ones of proof rested with the applicant to establish facts from which the High Court could raise a probable inference that the premises had been used at and immediately prior to the 1 October 1964 otherwise than in the manner in which they were now used, the applicant had failed to discharge the onus.

A. Hearsay

There are no grounds for admitting hearsay evidence in support of an application for final orders, such as would be appropriate in the exercise of a discretion as to whether or not to grant an interlocutory application.41 One of the exceptions to the rule against hearsay is in respect of declarations against interest. Accordingly, a

³⁷ As a result of the elision of the former concepts of unauthorised development and development in breach of planning permission, it may be that under section 160 breach of the terms and conditions of a planning permission is not actionable per se.

High Court, unreported, Finlay P., 21 December 1984.

^{**} Furlong v. A.F. & G.W. McConnell Ltd. [1990] I.L.R.M. 48 at 52 (H.C.).

^{*} High Court, unreported, Morris P., 6 February 2000.

⁴¹ Dublin Corporation v. Sullivan, High Court, unreported, Finlay P., 21 December 1984, at p. 3 of the unreported judgment.

special condition in the contract for sale of lands which disclosed the existence of unauthorised development was held to be admissible as evidence of the fact that certain structures had not, in fact, been erected prior to 1 October 1964.⁴²

7 2 MAR 2015

IX. UNDERTAKING AS TO DAMAGES R DATED

It is submitted that (save with the possible exception of circumstances where interim or interlocutory orders are sought) there is no requirement on an applicant for relief under section 160 to provide an undertaking as to damages.⁴³ The purpose of an undertaking as to damages in plenary proceedings is to allow the court to make interlocutory orders safely, on the basis of the limited information then before the court, by ensuring that the other side will be compensated if it subsequently transpires that an order was made which the moving party was not entitled to. In the case of section 160, conversely, the court generally will have made a *final* determination on the issues, in advance of the making of any order, and the question of an undertaking as to damages will thus not normally arise.

Some confusion had arisen as to whether or not an undertaking as to damages was required under the equivalent provision of the previous legislation. It is submitted that the confusion had arisen from the fact that the application proceeded by way of originating notice of motion, grounded on affidavit. Accordingly, the application partook of some of the characteristics of an application for an interlocutory injunction in plenary proceedings. This might suggest that, as in the case of an interlocutory application, an undertaking as to damages should be a quid pro quo for the granting of an injunction. This would, of course, be to miss the vital distinction between such a summary application and plenary proceedings. As is the position under section 160, final orders were made under the previous legislation on the basis of the originating notice of motion and the affidavit evidence; generally, there would be

⁴² South Dublin County Council v. Balfe, High Court, unreported, Costello J., 3 November 1995.

¹³ Cf. Walsh, E.M., Planning and Development Law (2nd ed., Incorporated Law Society of Ireland, Dublin, 1984.), para. 12.46.

[&]quot;See for example, the judgment of the High Court in *Grimes v. Punchestown Developments Company Ltd.* [2002] 1 l.L.R.M. 409 (H.C.) which suggests that, in an appropriate case, the court could require an undertaking as to damages under section 27 of the Local Government (Planning and Development) Act, 1976.

no plenary hearing.⁴⁵ Thus the court would have determined the issues between the parties definitively on the basis of affidavit evidence. This is to be contrasted with the grant of an interlocutory injunction where the court will only have made a preliminary finding that there is a serious issue to be tried: the final resolution of the issues must await the full hearing.

Matters are slightly complicated by the fact that there is the possibility (under section 160(3)) of obtaining interim or interlocutory relief in the context of section 160 proceedings *i.e.* a holding order can be made even before the section 160 proceedings are finally determined. It is submitted that relief of this type would require the giving of an undertaking as to damages, for the same reasons as an undertaking as to damages is required in any interim or interlocutory injunction.

X. PENDING APPLICATION FOR REFENTION PLANNING PERMISSION

Under the equivalent provisions of the previous legislation, a respondent would very often seek an adjournment in order to allow an application for retention planning permission to be adjudicated upon. Factors to be taken into account in this regard included the attitude of the planning authority⁴⁶ and the culpability of the developer. For example, in *Dublin Corporation v. Maiden Poster Sites*⁴⁷ a stay was refused in that the court would not facilitate the respondents in continuing to derive a substantial income from an unauthorised development: it was indicated, however, that if an appeal to An Bord Pleanála was successful, the injunction should be lifted.

The discretion of the court in this regard seems to have been cut down by section 162(3). This subsection provides, in brief, that no enforcement action, including an application under section 160, shall be "stayed" or "withdrawn" by reason of an application for retention planning permission, or the grant of that permission. It is not at all clear as to what the effect of this subsection is. For

⁴⁵ Mahon v. Butler [1997] 3 I.R. 369 (S.C.).

⁴⁶ Cavan County Council v. Eircell Ltd., High Court, unreported, Geoghegan J., 10 March 1999; O'Connor v. Frank Hetherington Ltd., High Court, unreported, Barr J., 28 May 1987. ⁴⁷ [1983] I.L.R.M. 48 (H.C.).

example, does the Circuit Court retain discretion to adjourn proceedings pending the determination of a retention application? A judge might well think that there is little benefit in forcing on proceedings in circumstances where planning permission might well be granted.

Of even greater concern is the fact that the legislation seems to suggest that enforcement proceedings cannot be "stayed" even in circumstances where retention planning permission has actually been granted before the proceedings have been heard and determined. This is most unsatisfactory: the effect of an actual grant of planning permission must be that there is thereafter no on-going unauthorised development, nor will any remedial orders be required.

-2 MAR 2015

XI.POTENTIAL DEFENCES TO SECTION 160 PROCEEDINGS-FROM

A. No development

The most effective defence to a section 160 application would be to demonstrate that no development had, in fact, occurred. The onus is on the applicant to establish that development has occurred. Generally, this will be a relatively straightforward matter. This is especially so where the alleged development is development by way of works. The concept of "works" is broadly defined under section 3 of the Planning and Development Act, 2000. It includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal. "Alteration" is defined as including any plastering or painting or the removal of plaster or stucco or the replacement of a door or window which materially alters the external appears of a structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures. The concept of "works" enjoys an extended meaning in the context of a protected structure or a proposed protected structure: in that context, it includes any act or operation involving the application or removal of plaster, paint, wall paper, tiles or other materials to or from the surfaces of the interior or exterior of a structure.

⁴⁸ Cf. Marray v. Connaughton, High Court, unreported, O'Hanlon J., 25 January 1984, at p. 5 of the unreported judgment (retention planning permission intended to relate to the houses as they have been erected and is effective to remove the taint of illegality from the development as it has actually been carried out).

2004] MAR 2015 Planning Injunction: Section 160

211

Matters are slightly more complicated, however, where the alleged development is by way of material change in use. It is proposed to consider briefly what is involved in the concept of a "material change" in the use of any structures or other land, before considering briefly the particular difficulties which can arise in the case of (i) an existing planning permission; and (ii) an alleged established use.

In order to determine whether or not there has been a material change in use, it is necessary to identify both the antecedent and subsequent uses of the land. The development is the change from use A to use B. The change must be material before the definition is triggered. There appear to be two aspects to materiality. First, the external effects of the change on the amenities of the area must be considered. Thus, for example, if the change would result in an increase in noise, traffic or odours, the change is probably material. In Galway County Council v. Lackagh Rock Ltd.49 Barron J. suggested a test in the following terms: the court should look at the matters which a planning authority would take into account in the event of an application being made for planning permission for either the antecedent or subsequent use: if the matters are materially different, then the nature of the use must equally be materially different.50

The second aspect of the test seems to suggest that even in the absence of external effects arising from the change, there may nevertheless be development. The second test requires a consideration of the character of the antecedent and subsequent uses of the land. Thus the High Court suggested obiter that a change from use as a dentist's practice to use as a solicitor's office would involve a material change in use: in this regard, the court concentrated on the character of the two uses, stating that the professions were completely different in their training, in their skills and in their general nature, and did not appear to regard the fact that there might be similarities in terms of the external effects to be relevant.51 Reference is also made to the more recent decision in Glancré Teoranta v. Cafferkey52 where the High Court attached significance

[&]quot; [1985] I.R. 120 (H.C.).

⁵⁰ See more recently Glancré Teoranta v. Cafferkey, High Court, unreported, Laffoy J., 26

⁵¹ Cusack v. Minister for Local Government, High Court, unreported, 20 November 1980.

⁴⁴ High Court, unreported, Laffoy J., 26 April 2004.

to the fact that the change of use involved a fundamental difference in purpose: the proposed activity was primarily directed to waste disposal, although it produced a by-product in the form of a granulated fertilizer; the former activity was directed for the manufacture of a fuel product.

B. Existing planning permission

The procedure for determining whether or not there has been an ROM unauthorised material change in use is somewhat more complicated in the context of an existing planning permission. The matter is best approached in two stages. First, the usual comparison needs to be made between the antecedent and subsequent uses of land in order to determine whether or not the change is material. Secondly, in the event that the change in use is material, one then has to consider the terms of the planning permission in order to decide whether or not this fresh act of development might not also be authorised by the planning permission. In other words the range of development permitted under the planning permission might be broad enough to encompass a (later) material change in the use of the lands. This exercise requires a consideration of the nature and extent of development permitted under the planning permission. In this regard, section 39(2) provides that a planning permission may specify the purpose for which a structure may or may not be used. Under the previous legislation, if no use was specified, the structure could be used for the purpose for which it was designed. In this context "designed" was to be interpreted as meaning the purpose for which the structure was intended.53

C. Established use of lands

The requirement to obtain planning permission in its modern form was first introduced on 1 October 1964. Planning permission was not required for the continuation of development commenced before this date. The phrase "established use" is sometimes, inaccurately, used to describe this situation. When faced with enforcement proceedings, a respondent will often seek to argue that

⁵³ See Glancré Teoranta v. Cafferkey, High Court, unreported, Laffoy J., 26 April 2004.

2004] - 2 MAR 2015

TIME

the aetivity being-complained of is simply a continuation of a pre-1964 use. In this regard, it is important to note the following qualifications on the availability of such an argument. First, an established use will be lost if it has been interrupted for any significant period of time. If the use has been discontinued, then it can be said to have been abandoned, with the result that the resumption subsequently of the use will constitute a material change in use and require planning permission. Abandonment can occur not only where there has been a period of non-use, but also where the established use has been replaced by another use. Secondly, planning permission will be required where there has been an intensification of use. The concept of a material change in use is sufficiently flexible so as to capture an intensification of an existing use: in other words, more of the same can amount to a material change in use. This principle is illustrated by a number of cases in relation to quarries, where there was a change in the production methods and scale of activities resulting in adverse external effects on the amenity of the area.

Planning Injunction: Section 160

D. Exempted development

Certain development (usually minor development) is exempted from the requirement to obtain planning permission. The principal exemptions are provided for under section 4 of the Planning and Development Act, 2000. Further exemptions are provided under the Planning and Development Regulations, 2001. The most common exemption asserted is that provided for under section 4(1)(h) of the 2000 Act, as follows.

Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures.

This exemption is not available in the case of a protected

structure or a proposed protected structure.54 The Supreme Court has indicated in Cairnduff v. O'Connellss that the character of the structure must relate to matters such as the shape, colour, design, ornamental features or layout of the structure concerned. Turning now to the Planning and Development Regulations, 2001, it is important to note that there are a number of qualifications on the availability of the benefit of exempted development. These exceptions are principally provided for under Articles 6, 9 and 10. Amongst the more important of the exceptions are the following. The development must not be of a class subject to environmental impact assessment. The development must not contravene a condition attached to an existing planning permission or be inconsistent with any use specified in a planning permission. The development must not consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use.

Somewhat surprisingly, it seems that the onus in demonstrating that the development is exempted is on the respondent, and not on the applicant. In this connection, the Supreme Court has indicated that exempted development represents a privilege. TIME

- 2 MAR 2015

XII. TIME LIMITS

LTR DATED FROM

As indicated previously, a general seven-year time limit now applies with respect to the taking of enforcement proceedings.⁵⁷ This represents an increase on the five-year time limit applicable under the previous legislation. The manner in which the time limits are reckoned has been simplified. In the case of development without planning permission, the seven years runs from the date of the commencement of the development. In the case of development for which planning permission has been granted, the seven years runs from the date of the expiration of the "life" of the planning permission (to include any extension of the life). There is no time limit on the taking of enforcement proceedings in respect of any condition attached to a planning permission concerning the use of land.58

⁵⁴ Section 57 of the Planning and Development Act, 2000.

^{55 [1986]} I.R. 73 (S.C.).

³⁴ Dillon v. Irish Cement Ltd., Supreme Court, unreported, 26 November 1984.

⁵⁷ Section 157(4), and Section 160(6).

⁵⁸ Section 157(4)(b), and Section 160(6)(b).

AN BORD PLEANÁLA
TIME_____BY____

2004[IAR 2015 Planning Injunction: Section 160

215

LTR DATED FROM

In the case of a warning letter or enforcement notice, same must issue within the seven years; this might suggest that it may not be necessary to effect service within the seven years. In the case of proceedings for an offence, same must commence within the seven years. However, in the case of the planning injunction, it is the application which must be made within the seven-year period. It is submitted, by analogy with the previous case-law in relation to judicial review⁵⁹ and in the interests of legal certainty, that section 160 proceedings should be both issued and served within the seven years.

The issue of a warning letter does not stop time running for the purpose of the seven-year limitation period for example, the fact that a warning letter may have been issued within the seven years cannot be relied upon to ground the subsequent issue of injunction proceedings.⁶⁰

Generally, the application of the seven-year time limit should be relatively straightforward. Difficulties can arise, however, where there has been a break in the continuity of an unauthorised use, and a respondent seeks to link a chain of dates in order to achieve seven years. Under the previous legislation, the High Court had held a manifest interruption or abandonment of the development to be sufficient to stop the time running. It is a question of fact and degree as to whether or not applinterruption represents a mere temporary suspension (which does not stop time running), or a manifest interruption or abandonment. Relevant factors include the length in time of the interruption, and the intention of the parties. It may also be relevant to consider whether or not any facilitating works have been retained. The fact that the interruption is in response to the threat of, or the taking of, enforcement action would appear to stop time running.61 Reference is made to the following passage from the judgment in South Dublin County Council v. Balfe:62

> In my opinion when a use has been abandoned and then recommenced nearly four years later an occupant

⁵⁹ See especially K.S.K. Enterprises Ltd. v. An Bord Pleanála [1994] 2 I.R. 128 (S.C.).

The time limits under section 157(4) are not reckoned by reference to the date of the issue of a warning letter.

⁶¹ Kildare County Council v. Goode, High Court, unreported, Morris P., 13 June 1997, at p. 12 of the unreported judgment; disposed of on other grounds by the Supreme Court [1999] 2 I.R. 495 (S.C.); South Dublin County Council v. Balfe, High Court, unreported, Costello P., 3 November 1995.

⁶² High Court, unreported, Costello P., 3 November 1995.

cannot rely on an earlier use to support a claim that the limitation period in the section should run from the earlier date and not from the date of recommencement. If construed in the way urged by the respondents it would be a simple matter to drive a coach and four through the section by discontinuing an unauthorised use after a warning letter had been served and then recommencing again after several years when a limitation period based on the discontinued unauthorised user had expired, and I consider that the section should not be so construed.

Secondly, when a wrongful continuous act (such as an unauthorised user of land) has been discontinued and abandoned then the wrong has ceased. When it is recommenced a new wrongful act occurs, and it is from the date of the recommencement that the time limit in the section begins to pur in respect of this new AN BORD PLEANÁLA unauthorised use. 63

- 2 MAR 2015

XIII. DISCRETIONARY FACTORS LTR DATED FROM

A.Conduct of Applicant

Given the absence of a locus standi or standing requirement, the courts in the exercise of their discretion will have regard to the effect of the development complained of on the applicant. For example, the fact that the applicant may not be resident in the area and would not in any way suffer any injury from the events complained of may well be relevant, especially in circumstances where there was no evidence of any concern by persons closely connected with the area. 64 This is not to say that a remedy will not be granted to selfishly motivated applicants. Remedies have been granted to applicants seeking to protect the privacy of a dwelling house⁶⁵ and trade competitors of a respondent. Similarly, the fact that an applicant is himself in breach of planning control does not per se disentitle him to relief, at least in

⁴¹ High Court, unreported, Costello P., 3 November 1995, at p. 7 of the unreported judgment. ⁶⁴ Grimes v. Punchestown Developments Company Ltd. [2002] 1 I.L.R.M. 409 (H.C.).

⁶³ Cairnduff v. O'Connell [1986] I.R. 73 (S.C.).

[&]quot;See for example National Federation of Drapers and Allied Trades Ltd. v. Allied Wholesale Warehouses, The Irish Times, 29 November 29 1979 cited in Scannell, Y., "Planning Control: Twenty Years On - Part II" (1983) 5 Dublin University Law Journal, 225 at 242.

AN ECONOLEANALA Planning Injunction: Section 160

circumstances where the applicant has placed this fact fairly before

B. Conduct of Respondent

The state of a respondent's knowledge as to the existence of a breach of planning control may be a relevant factor. Keane J. stated in *Dublin Corporation v. McGowan*⁶⁸ that it would be manifestly unjust to have the draconian machinery brought into force against a person who behaved in good faith throughout. If the respondent acted in a *bona fide* belief that the development was authorised (for example, in a mistaken assumption that same constituted exempted development or did not otherwise require planning permission), this may be a factor in favour of withholding relief.⁶⁹ Conversely, if a respondent proceeded with actual knowledge of the breach of planning control, or with a reckless disregard as to whether or not planning permission was required, then he can expect little sympathy from the court.⁷⁰ The fact that unauthorised development had been carried out with a view to deriving a profit is also relevant.⁷¹

The court should not exercise its discretion in favour of the respondent when to do so would lend support to uncooperative conduct.⁷² In this connections it would seem that the court is entitled

⁶⁷ Fusco v. Aprile, High Court, unreported, Morris P., 6 June 1997.

^{4 [1993] 1} I.R. 405 at 412 (H,C.).

⁶⁹ Dublin Corporation v. McGowan [1993] 1 I.R. 405 (H.C.) (respondent unaware of planning permission affecting lands as a result of inaccurate planning searches held to have acted in good faith); Grimes v. Punchestown Developments Company Ltd. [2002] 1 I.L.R.M. 409 (H.C.) (bona fide belief that planning permission not required); Stafford v. Roadstone Ltd. [1980] 1 I.L.R.M. 1 (H.C.) (material change in use by intensification); Dublin County Council v. Sellwood Quarries Ltd. [1981] I.L.R.M. 23 (H.C.) (bona fide belief that planning permission not required); Leech v. O'Reilly, High Court, unreported, O'Hanlon J., 26 April 1983 (rebuilding of previously existing workshop); O'Connor v. Frank Hetherington Ltd., High Court, unreported, Barr J., 28 May 1987 (reliance on representation by planning authority that planning permission not required).

Dublin Corporation v. Maiden Poster Sites Ltd. [1983] I.L.R.M. 48 at 49 (H.C.) (respondents assumed to have known or ought to have known of the need to obtain a planning permission); Dublin Corporation v. O'Dwyer Brothers (Mount Street) Ltd., High Court, unreported, Kelly J., 2 May 1997 (respondent held to be fully alert to the need to apply for retention planning permission); Curley v. Galway Corporation, High Court, unreported, Kelly J., 16 December 1998 (deliberate and conscious violation of terms of planning permission); Mahon v. Butler, High Court, unreported, Costello P., 28 July 1997 (reversed by the Supreme Court on jurisdictional grounds: [1997] 3 I.R. 369 (S.C) (respondent aware of significant risk of challenge); Cavan County Council v. Eircell Ltd., High Court, unreported, Geoghegan J., 10 March 1999 (would have been reckless to proceed without legal advice on planning implications).

⁷¹ Dublin Corporation v. Maiden Poster Sites Ltd. [1983] I.L.R.M. 48 (H.C.); Dublin Corporation v. O'Dwyer Brothers (Mount Street) Ltd., High Court, unreported, Kelly J., 2 May 1997, at p. 11 of the unreported judgment.

Westport v. Golden U.D.C. [2002] 1 I.L.R.M. 439 (H.C.) per Morris P.

to have regard to the conduct of the respondent both prior to, and during the course of, the legal proceedings. Thus, the High Court declined to exercise its discretion in circumstances where the respondent deliberately set out to disregard the planning procedures and had sought to avoid the service of a warning letter;⁷³ and in a case where an unauthorised use continued up to the day of the hearing.⁷⁴ It would also seem that the fact that a respondent fully contests proceedings, and succeeds in delaying same, would tell against a respondent.⁷⁵ A respondent's record in relation to planning FANA A matters may also be considered relevant.⁷⁶

- 2 MAR 2015

C. Prejudice and Hardship to Respondent

It has been accepted that relief may be withheld where an order—would cause gross or disproportionate hardship to the respondent. Hardship will carry little weight, however, if it is brought about as the result of a deliberate and conscious breach of planning control. 78

Delay

In Grimes v. Punchestown Developments Company Ltd.79 Herbert J. (in the context of an application to enjoin the holding of a pop concert) had regard in the exercise of his discretion to evidence to the effect that the event sought be to enjoined had been widely publicised for a very considerable period, and that the applicant did not take any steps to institute proceedings (or to notify the promoters) until shortly before the event was to take place. The facts of this case were somewhat unusual in that the primary finding was

⁷³ Westport v. Golden U.D.C. [2002] 1 I.L.R.M. 439 (H.C.)

⁷⁴ Galway County Council v. Connacht Proteins Ltd., High Court, unreported, Barrington J., 28 March 1980.

⁷⁵ Dublin Corporation v. O'Dwyer Brothers (Mount Street) Ltd., High Court, unreported, Kelly J., 2 May 1997 at p. 9 et seq. of the unreported judgment.

⁷⁶ Galway County Council v. Connacht Proteins Ltd., High Court, unreported, Barrington J., 28 March 1980.

Avenue Properties Ltd. v. Farrell Homes Ltd. [1982] I.L.R.M. 21 (S.C.); Dublin County Council v. Sellwood Quarries Ltd. [1981] I.L.R.M. 23 (H.C.).

¹⁸ See for example Curley v. Galway Corporation, High Court, unreported, Kelly J., 16 December 1998, at p. 10 of the unreported judgment; Mahon v. Butler, High Court, unreported, Costello P., 28 July 1997.

[&]quot; [2002] 1 I.L.R.M. 409 (H.C.).

that a transient event of this type did not require the grant of planning permission.⁸⁰

E. Trivial or technical breach

A court enjoys a discretion to withhold relief where the unauthorised development involves a trivial or technical breach.⁸¹ It appears from the decisions in O'Connell v. Dungarvan Energy Ltd.⁸² and Cork County Council v. Cliftonhall Ltd.⁸³ that the nature of the breach of a planning permission may also be relevant to the question as to whether there has, in fact, been any unauthorised development at all, in that it seems that planning permissions are to be interpreted flexibly so as to allow for a tolerance in respect of what had been described as "immaterial deviations".

F. Public Interest

In exercising its discretion under the section, it would seem that the court is entitled to look not only at the convenience of the parties, but also at the convenience of the public and the public interest. He are the court is entitled to have regard to fact that the respondent is operating an important factory, or to the interests of employees. In Leen v. Aer Rianta cpt. the High Court in the exercise of its discretion refused to make an order against Shannon Airport. He

AN EURO PLEANALA
THAE -2 MAR 2015

Events of this type are now subject to special control under Part XVI of the Planning and Development Act, 2000.

Morris v. Garvey [1983] I.R. 319 (S.C.). See also Dublin County Council v. Matra Investments Ltd. 114 (1980) I.L.T.R. 102 (H.C.).

¹² High Court, unreported, Finnegan J., 27 February 2001.

High Court, unreported, Finnegan J., 6 April 2001.

^{**} Stafford v. Roadstone Ltd. [1980] 1 I.L.R.M. 1 (H.C.).

^{**} Stafford v. Roadstone Ltd. [1980] 1 I.L.R.M. 1 (H.C.). See also Dublin County Council v. Sellwood Quarries Ltd. [1981] I.L.R.M. 23 (H.C.) (very damaging consequences for the respondents and for those in their employment and for those to whom they are bound in contracts).

^{*} High Court, unreported, McKechnie J., 1 August 2003.