

ATTACHMENT NO. B.6
PLANNING AUTHORITY / PERMISSIONS

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B.6 (b)**Environmental Impact Statements (E.I.S.)**

Please find attached E.I.S. submitted with Cork County Council Planning Reference No. 12/6635 (An Bord Pleanála Reference No. 04.241892). This E.I.S. was prepared in 2012 and in order to take into consideration Planning Inspectors comments and to bring certain sections up to date, the following areas have been updated or additional information provided:

Section 4. Ecology

Within Appendix 1 of the E.I.S. a report on Fauna (mammals and birds) and related habitats has been included.

Section 5. Hydrology

Within Appendix 2 of the E.I.S. a revised Groundwater Risk Assessment report has been prepared to support this revised IED Licence application.

Section 7. Air Quality & Noise

Within Appendix 3 of the E.I.S. an Odour Assessment report for the proposed development has been included.

Planning Decision and Planners Report

With reference to the above please find attached a copy of the planning decisions and planners reports for the relevant planning permission:

- Cork County Council Planning Reference No. 12/6635, Notification of Decision to Grant Permission and Planners Report.
- An Bord Pleanála Reference No. 04.241892, Final Grant of Permission and the Inspector's Report.

CORK COUNTY COUNCIL

ORDER NO: 13/4374 **O.S. NO.** 66/11,15.

SUBJECT: Application Reg. Ref. No. 12/06635

for: Demolition of 6no. buildings consisting of 3no. fattening houses, weaner house, dry sow/farrowing house, and pump house. Construction of 8no. low emission pig houses consisting of 4no. fattening houses, 2no. weaner houses, dry sow house and farrowing house. The development also includes an extension to the existing farrowing house. Construction of a covered loading bay/yard area, computer room/ pump house, store/office building, and 5no. feed bins, 4no. water tanks, yard area with 2m high perimeter fencing, 2no. covered underground pig manure storage tanks, landscaped earth berm to screen the site. Construction of additional internal road areas, storm/soiled water collection systems and associated site works for the extension to the existing integrated pig farm.

at: Annistown
Killeagh
Co.Cork

ORDER: **Conditional Permission** is hereby GRANTED subject to the provision of Subsection 11 of Section 34 of the Planning and Development Acts, 2000 - 2010 for the reason set out in the First Schedule attached hereto.

to: Eoin O'Brien

of: C/O Tony Dunlea
Murphy McCarthy Consulting Engineers Limited
EastPark House, Marina Commercial Park
Centre Park Road
Cork

for: Demolition of 6no. buildings consisting of 3no. fattening houses, weaner house, dry sow/farrowing house, and pump house. Construction of 8no. low emission pig houses consisting of 4no. fattening houses, 2no. weaner houses, dry sow house and farrowing house. The development also includes an extension to the existing farrowing house. Construction of a covered loading bay/yard area, computer room/ pump house, store/office building, and 5no. feed bins, 4no. water tanks, yard area with 2m high perimeter fencing, 2no. covered underground pig manure storage tanks, landscaped earth berm to screen the site. Construction of additional internal road areas, storm/soiled water collection systems and associated site works for the extension to the existing integrated pig farm.

at: Annistown, Killeagh,
Co.Cork,

in accordance with plans and particulars lodged by the applicant
on 21/12/2012 and subject to the conditions (13 no.) set out in
the Second Schedule attached hereto.

The Permission is to be granted subject to the conditions
provided no appeal is made to An Bord Pleanála within the
statutory time for the making of such appeals.



SIGNED:

Declan Daly
Divisional Manager

Dated this 26/03/2013

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FIRST SCHEDULE

Planning Ref. No. 12/06635

The proposed development is considered to be in accordance with the proper planning and sustainable development of the area having regard to the Planning Authority's development policies for the area, as contained in the current County Development Plan, and having regard to the planning history of the site. Subject to compliance with the conditions attached to the Second Schedule it is considered that the proposed development will not significantly adversely impact on the environment.

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SECOND SCHEDULE

No.	Condition	Reason
1	The proposed development shall be carried out in accordance with plans and particulars lodged with the Planning Authority on 21/12/12 and 8/3/13 save where amended by the terms and conditions herein.	In the Interests of clarity.
2	At least one month before commencing development or at the discretion of the Planning Authority within such further period or periods of time as it may nominate in writing, the developer shall pay a contribution of €131367.95 to Cork County Council in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority. The value of this contribution is calculated in accordance with the Council's Development Contributions Scheme on 25/3/13, and shall be increased monthly at a rate of 8% per annum in the period between the date on which this value was calculated, and the date of payment.	It is considered appropriate that the developer should contribute towards the cost of public infrastructure and facilities benefiting development in the area of the Planning Authority, as provided for in the Council's Development Contributions Scheme, made in accordance with section 48 of the 2000 Planning and Development Act, and that the level of contribution payable should increase at a rate which allows both for inflation and for phasing in of the target contribution rates, in the manner specified in that Scheme.
3	During the construction/demolition phase all solid wastes arising on the site shall be recycled as far as possible. Materials exported from the site for recovery, recycling or disposal shall be managed at an approved facility and in such a manner as is agreed with the Planning Authority. Adequate on site arrangements shall be made to the satisfaction of the Planning Authority for the storage of recyclable materials prior to collection. The developer shall ensure that the site and its environs are maintained at all times in a clean and tidy condition.	To safeguard the amenities of the area.
4	Existing roadside drainage arrangements shall be preserved to the satisfaction of the Planning Authority.	To preserve proper roadside drainage and to prevent the flooding of the public road.
5	Existing road drainage shall not be obstructed and any the new entrance shall be designed and constructed to ensure the uninterrupted flow of road surface	To maintain proper roadside drainage and to prevent the flooding of the public road.

	run-off.	
6	Existing inlets or drains taking surface water from the public road into the site shall be preserved and maintained.	To prevent flooding of the public road.
7	Construction activities shall be carried out in accordance with good practise as set out in CIRIA Guidelines Control of Water Pollution From Construction Sites – Guide to Good Practice	To protect water quality
8	During the construction phase no dust, mud or debris from the site shall be carried onto or deposited on the public road/footpath. Public roads and footpaths in the vicinity of the site shall be maintained in a tidy condition by the developer.	To protect the amenities of the area and in the interests of road safety.
9	During the construction phase operations on site shall be carried out in such a manner that no polluting material, rubble, waste material or contaminated surface water enters any adjacent watercourses or public roadway around the site. No burning of waste material shall take place on site.	In the interests of environmental protection.
10	Landscaping of the earthen banks shall be of native species of local origin only.	In the interest of protecting local biodiversity
11	Prior to demolition of the existing structures a bat survey will be conducted. If roosting bats are present or suspected, the applicants shall contact the local NPWS ranger as a derogation licence maybe required.	To protect local biodiversity
12	All mitigation measures outlined in the Construction Managment Plan shall be implemented	To ensure the protection of the Environment
13	The design of the development shall be amended in the following respects:- a minimum of 4 no. single pig isolation pens and 2 no. multi pig isolation pens, such as the Trowbridge pens, are required to be provided and, before development commences, revised drawings making provision for the above requirements shall be submitted to and agreed with the Planning Authority.	In the interests of animal welfare.

PLANNER'S REPORT

PRIMARY

APPLICATION NO.	12/06635
APPLICANT	Eoin O'Brien
DESCRIPTION	Demolition of 6no. buildings consisting of 3no. fattening houses, weaner house, dry sow/farrowing house, and pump house. Construction of 8no. low emission pig houses consisting of 4no. fattening houses, 2no. weaner houses, dry sow house and farrowing house. The development also includes an extension to the existing farrowing house. Construction of a covered loading bay/yard area, computer room/ pump house, store/office building, and 5no. feed bins, 4no. water tanks, yard area with 2m high perimeter fencing, 2no. covered underground pig manure storage tanks, landscaped earth berm to screen the site. Construction of additional internal road areas, storm/soiled water collection systems and associated site works for the extension to the existing integrated pig farm.
LOCATION	Annistown Killeagh Co.Cork
DECISION DUE DATE	25/02/2013

1. Site Notice and Date of Inspection

Site inspected on 30/1/13 and the site notice was correctly displayed.

2. Site Description

This site is located in a rural area circa 1.5 km east of Mogeely and 3.5 km west of Killeagh. It contains a well established pig farm complex that is approximately 150 metres in from the public road. The site is well screened from the public road due to a combination of topography, hedgerows and an existing earth berm around the pig farm.

3. History

On site:

06/4260 – permission granted for 12 no. low emission pig houses consisting of dry sow house, farrowing house, services house, first stage weaner house, 3 no. second stage weaner houses, 5 no. fattening houses with loading bay, feed and pump house and 8 no. feed bins, covered slurry storage basin, servicing concrete and hardcore yard areas complete

PLANNER'S REPORT

PRIMARY

with storm and foul water collection collection systems and associated site works including landscaped earthen berm to screen the site

05/9587 – invalid planning application

98/2457 – permission granted to Dairygold Farms Ltd for construction of pig housing (change of plan)

96/2863 – permission refused to Dairygold Co-operative Ltd for construction of pig housing at existing pig unit – this was appealed to An Bord Pleanala and granted on appeal

4. Proposed Development (including supporting material)

Permission is sought for the demolition of 6 no. buildings consisting of 3 no. fattening houses, weaner house, dry sow / farrowing house, and pump house. Construction of 8 no. low emission pig houses consisting of 4 no. fattening houses, 2 no. weaner houses, dry sow house and farrowing house. The development also includes an extension to the existing farrowing house. Construction of a covered loading bay / yard area, computer room / pump house, store / office building and 5 no. feed bins, 4 no. water tanks, yard area with 2 m high perimeter fencing, 2 no. covered underground pig manure storage tanks, landscaped earth berm to screen the site. Construction of additional internal road areas, storm / soiled water collection systems and associated site works for the extension to the integrated pig farm.

5. Pre-Planning
Yes – on 14th August 2012 with the SEP

6. EIS

The existing facility is subject to an IPPC licence NO. P0790-02.

An EIS has been submitted as the proposed extension to the integrated pig unit exceeds the thresholds in Schedule 5, Part 2, Section 13a of the Irish Planning and Development Regulations, 2001.

7. Internal Consultants

The **Area Engineer** has no objection to the proposed development subject to conditions 1-6 of his report of 30/1/13.

PLANNER'S REPORT

PRIMARY

The **Environmental Officer** has no objection to the proposed development subject to conditions 1-3 of his report of 6/2/13.

The **Veterinary Officer** in his report of 31/1/13 states:

1. The applicant wishes to extend an existing 600 sow unit such that 1,500 sows can be accommodated on the same site. This is to be achieved by a process of demolition, rebuilding and re-configuring of some existing buildings and by the construction of additional buildings on adjacent lands owned by the applicant.
2. The applicant should be required to furnish details as to the provision of suitable isolation facilities including separate and self-contained effluent storage to be used in the event of a suspected or actual Class A disease outbreak.
3. The existing veterinary medicines storage facility requires re-furbishing or re-appointment to a standard suitable for a 1,500 sow unit.
4. EIS Part A Section 2.5 details a projected annual production of 3,335 pig carcasses for disposal. I note in Appendix 17 that the agreement with the Category III Animal By-Product haulier is dated 2005 and that no copy of the hauliers Cat III ABP haulage license is attached contrary to the agreement. The said haulier should be required to provide a new in-date contractual agreement which indicates the frequency of animal carcass collection and an undertaking that the said service will additionally be provided on an "as required" basis to reflect variations in animal carcass generation by the facility and variation in environmental conditions such that more frequent collections may be required.
5. In the interest of animal welfare, the applicant should consider re-orientating the sow farrowing pen structure and/or the ventilation such that the posterior end of the sows can be visually assessed for discharges, bleeding, perineal tears, prolapse etc during the peri-parturient period

The **Heritage Officer** in his report of 8/2/13 recommends that this application be deferred for the following further information:

As the facility is subject to IPPC licence the PA are restricted to dealing with the potential for construction related discharges to impact on the SPA and SAC. This application should be deferred subject to the following information. The applicants are advised to submit a Construction Management Plan incorporating CIRIA Guidelines Control of Water Pollution From Construction Sites – Guide to Good Practice. In addition to this details as to whether or not the construction works will be phased or not should be incorporated into the Construction Management Plan.

8. External Consultants

PLANNER'S REPORT
PRIMARY

A submission was received from the **Environmental Protection Agency** on 24/1/13 – they state the existing pig farm was issued an IPPC licence on 4/4/12 for a 600 sow integrated pig unit. The application associated with this licence was accompanied by an EIS. The licence may need to be reviewed or amended to accommodate the expansion proposed in this planning application.

The EIS submitted with this planning application 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 1992-2012. If and when a licence review 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. 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 of the activities. They state the Agency cannot issue a Proposed Determination on any licence review application relating to the development until a planning decision has been made.

9. Public Submissions
Submission received from An Taisce on 29/1/13 – they state they would like to receive a copy of the EIS with this application.
10. Public Representative Submissions
None received.
11. Assessment and Conclusion

This pig farm currently has full planning permission to operate as a 600 sow integrated pig farm granted under planning reference no. 06/4260. The site is covered by an IPPC Licence No. P0790-02.

It is stated that the main reasons for increasing the operation to a 1500 sow integrated pig farm are:

PLANNER'S REPORT
PRIMARY

- The facility is at present supplying pigs for fattening to a leased pig farm located more than twenty miles away and the lease is due to expire.
- The proposed development will secure the future economic viability of the operation on the site and will lead to improved bio-security and also ensure the optimum environmental performance of the facility.
- The proposed development is to comply with the E.U. Regulations on Animal Welfare Statutory Instrument 311 2010 and the Farm Animal Advisory Council Code of Practice for the Welfare of Pigs and Council Directive 2008 120. The new Animal Welfare Regulations (SI 311 of 2010) require greater floor space for weaner and finisher pigs. There are changes to washing / cleaning requirements as well as sows being kept in groups for periods of time during gestation, this has led to a requirement for larger buildings.
- The proposed works include the demolition of 6 no. existing buildings that are approximately 40 years old and are no longer fit for purpose.
- The proposed extension to the integrated pig unit exceeds the thresholds in Schedule 5, Part 2, Section 13a of the Irish Planning and Development Regulations, 2001.

The proposal also involves the consolidation of the existing production facility by eliminating the requirement to transport pigs for finishing to a leased facility. It is stated that both the new buildings and replacement buildings for those being demolished will be low emission buildings incorporating emission reduction measures. The proposed storage tanks will be reinforced concrete, will be underground and covered. The other buildings such as a computer room / pump house and store / office building are necessary for the running of the facility. The bins and water tanks will be similar to the existing equipment on site. It is proposed to screen the development by extending the existing earth berm and providing additional earth berms on site from the material excavated during construction. Landscaping details have been submitted under Appendix 9 of the EIS.

The proposed buildings consist of single storey, steel framed structures with concrete block plastered walls and fibre cement roof sheeting. The proposed building layouts and design match the existing buildings on site.

PLANNER'S REPORT

PRIMARY

The proposed development is located approximately 800 metres away from the nearest archaeological feature. Therefore it is considered it will not impact on any recorded monument.

It is stated that the proposed development will generate a maximum of 30 no. vehicles per day which equates to 4 no. vehicles per hour. The Area Engineer in his report of 30/1/13 states he has no objection to the proposed development subject to 6 no. engineering conditions. The existing entrance has wide splays on both sides and already accommodates HGVs to enter and exit the site.

Within the EIS a Groundwater Risk Assessment has been submitted. The Environmental Officer in his report of 6/2/13 states:

The major issues of environmental concern for this directorate with regard to a pig unit of this size are; water quality, odour & noise nuisance, & management of manure from the unit.

The applicant has submitted an EIS with the application which addresses the above issues.

Water quality;

The EIS refers to a Groundwater Risk assessment carried out by IE Consulting/GIS Limited, dated 7th July 2010, which was carried out to support the IPPC Licence application. This risk assessment was prepared on the basis of a 600 sow integrated pig unit on the site, rather than the proposed 1500 sow integrated unit. The report identified the major potential sources of contamination to groundwater on site as, underground pipework, slurry storage tanks, & existing onsite waste water treatment system. The same type of potential contamination sources will be present in the proposed development, although there will obviously be a significantly larger area of slurry storage tanks in the proposed development.

The potential groundwater receptors will remain the same, i.e. the groundwater on site, the existing/proposed well on site, & the source protection area of the Dower Spring. Groundwater vulnerability in the area on which the development is proposed is classed as being Moderate to High vulnerability. There is rock outcrop to the north of the site, but previous investigations indicate that the depth to bedrock ranges from 12m to more than 30m in the site area. The depth to the watertable in the on site well was shown to be approx. 12m. There appears to be a considerable depth of overburden on the site to facilitate construction of the proposed buildings & tanks.

The applicant is proposing the removal of the older slurry storage tanks on site, these will be replaced with new concrete tanks under the proposed buildings as well as new concrete slurry collection tanks. All the proposed slurry tanks will be constructed to Dept. of Agriculture specifications, & will have leak detection systems built in under the tanks, these will be monitored as part of the IPPC licence.

There is a river to the west of the existing pig unit which flows in a southerly direction. There is no proposed surface water discharge from the site, stormwater is to be discharged to soakaways on site.

PLANNER'S REPORT
PRIMARY

The existing IPPC licence sets out a programme of surface & groundwater monitoring for the site which it is presumed will be reviewed & amended as necessary by the EPA if the proposed development is granted permission.

The proposed development, if constructed in accordance with the proposed plans, & monitored in accordance with an IPPC licence, will not in my opinion significantly increase the risk to surface water or groundwater on site.

Odour & noise nuisance.

The pig unit is located in an agricultural area, & there is a long history of pig production on this site. The proposed buildings are designed to incorporate the latest technology for ventilation, & are stated to be low emission buildings. The numbers of pigs on site will be very significantly increased by the proposed development, however the existing facility is large & has not given rise to any odour complaints to Cork County Council. The existing large pig unit has not given rise to any noise complaints to Cork County Council, it is anticipated that the noise levels created by the proposed development will not be any greater than the existing noise levels generated on site.

Management of Pig Manure

The applicant has submitted an outline of the spreadlands which are available in the locality for the management of pig manure (slurry) from the holding. There is more than adequate spreadlands available based on the information submitted by the applicant. The pig unit is located in an agricultural area where there are a lot of tillage crops grown which provide the ideal spreadlands for pig manure. The applicant is providing more than 12 months storage capacity for pig manure on site which will allow manure to be stored until conditions are suitable for spreading. The farmers who import the pig manure onto their holdings are responsible for ensuring that the manure is spread in accordance with the regulations. The applicant will be required to maintain a pig manure register on site which records all movements of manure off site.

Demolition of existing buildings on site.

The proposed development will involve the demolition of existing older buildings on site. There will be a significant amount of waste from these buildings to be removed off site for disposal, which may include asbestos cement roof sheeting. The management of construction/demolition wastes arising on site can be dealt with by condition.

The Environmental Officer recommends that permission be granted subject to 3 no. conditions.

Within the EIS in Section 4.1 an Ecological Screening Report has been carried out as required under the Habitats Directive. The Heritage Officer in his report of 8/2/13 states:
The nearest Natura 2000 designations are Ballymacoda (Clonpriest and Pillmore) Special Area of Conservation (SAC site code 0077) and Ballymacoda Bay Special Protection Area (SPA site code 004023) which are circa 8 km downstream of the proposed development. There is a stream on the western boundary of the site which is a minor tributary of the Womanagh River. The Womanagh River discharges into the sea in

PLANNER'S REPORT

PRIMARY

Ballymacoda. As part of the application a mandatory Environment Impact Statement was submitted as the proposal was for the storage of in excess of 900 sows. In addition to this a screening statement for appropriate assessment was also submitted as part of the EIA. The potential impacts on the Ballymacoda (Clonpriest and Pillmore) SAC are impacts on water quality as a result of the discharge of hydrocarbons, sediments, contaminated water and effluent into the SAC during the construction phase and the discharge of effluent into the watercourse during the operational phase. In relation to the SPA the potential impacts are disturbance to birds for which the SPA is designated for during the construction phase. As the SPA is over 8km away potential impacts on the SPA can be ruled out.

Construction Phase:

The new hard core area will be circa 10m from the Aughnasassonagh River. In addition to this the new fattening houses at their closest point are circa 15m from the Aughnasassonagh River. There is no information within the planning documentation outlining protection measures for water quality during the construction period. In addition to this there are no details of whether construction will be phased.

Operational Phase:

The pig manure will be stored in reinforced concrete tanks under the pig houses. The manure is directed to the holding tanks by means of underground channels constructed with reinforced concrete. It is proposed that a leak detection system will be put in place to monitor the integrity of the tank. The pig manure will be spread as organic fertilizer in compliance with the Nitrates Directive. All soiled water from the site is diverted to the pig manure storage tank. All storm water from the site will be directed to a soak away and will be inspected weekly and sampled quarterly in compliance with the conditions set out in current IPPC licence. It is noted that the development requires an IPPC licence from the EPA and in the EPA submission on the planning file; they indicate that a new IPPC licence will be required for the proposed development.

Conclusion:

As the facility is subject to IPPC licence the PA are restricted to dealing with the potential for construction related discharges to impact on the SPA and SAC.

The Heritage Officer recommends that this application should be deferred subject to the following information. The applicants are advised to submit a Construction Management Plan incorporating CIRIA Guidelines Control of Water Pollution From Construction Sites – Guide to Good Practice. In addition to this details as to whether or not the construction works will be phased or not should be incorporated into the Construction Management Plan.

The Veterinary Officer also recommends that this application is deferred for further information.

I recommend that this application is DEFERRED for the following further information.

PLANNER'S REPORT
PRIMARY

Ester Goulding
Area Planner
13/2/13

The following further information is required to be submitted:

1. Full details as to the provision of suitable isolation facilities including separate and self-contained effluent storage to be used in the event of a suspected or actual Class A disease outbreak.
2. The existing veterinary medicines storage facility requires re-furbishing or re-appointment to a standard suitable for a 1,500 sow unit. Please submit proposals to address this issue.
3. EIS Part A Section 2.5 details a projected annual production of 3,335 pig carcasses for disposal. In Appendix 17 the agreement with the Category III Animal By-Product haulier is dated 2005 and no copy of the hauliers Cat III ABP haulage license is attached contrary to the agreement. The haulier is required to provide a new in-date contractual agreement which indicates the frequency of animal carcass collection and an undertaking that the said service will additionally be provided on an "as required" basis to reflect variations in animal carcass generation by the facility and variation in environmental conditions such that more frequent collections may be required. Please submit proposals to address this issue.
4. In the interest of animal welfare, the Veterinary Officer requests that you should consider re-orientating the sow farrowing pen structure and/or the ventilation such that the posterior end of the sows can be visually assessed for discharges, bleeding, perineal tears, prolapse etc during the peri-parturient period.
5. Please submit a Construction Management Plan incorporating CIRIA Guidelines Control of Water Pollution From Construction Sites – Guide to Good Practice. Details as to whether or not the construction works will be phased should be incorporated into the Construction Management Plan.

Conditions/Reasons

Defer Application

PLANNER'S REPORT
PRIMARY

Ester Goulding

Ester Goulding
13/02/2013

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PLANNER'S REPORT
FURTHER INFORMATION ASSESSMENT

APPLICATION NO.	06635/12
APPLICANT	Eoin O'Brien
DESCRIPTION	Demolition of 6no. buildings consisting of 3no. fattening houses, weaner house, dry sow/farrowing house, and pump house. Construction of 8no. low emission pig houses consisting of 4no. fattening houses, 2no. weaner houses, dry sow house and farrowing house. The development also includes an extension to the existing farrowing house. Construction of a covered loading bay/yard area, computer room/pump house, store/office building, and 5no. feed bins, 4no. water tanks, yard area with 2m high perimeter fencing, 2no. covered underground pig manure storage tanks, landscaped earth berm to screen the site. Construction of additional internal road areas, storm/soiled water collection systems and associated site works for the extension to the existing integrated pig farm.
LOCATION	Annistown Killeagh Co.Cork
DUE DATE	02/05/2013

This application was deferred on 20/2/13 for the following further information:

1. Full details as to the provision of suitable isolation facilities including separate and self-contained effluent storage to be used in the event of a suspected or actual Class A disease outbreak.
2. The existing veterinary medicines storage facility requires re-furbishing or re-appointment to a standard suitable for a 1,500 sow unit. Please submit proposals to address this issue.
3. Part A, Section 2.5 of the EIS details a projected annual production of 3,335 pig carcasses for disposal. In Appendix 17 the agreement with the Category III Animal By-Product haulier is dated 2005 and no copy of the haulier's Cat III ABP haulage license is attached contrary to the agreement. The haulier is required to provide a new in-date contractual agreement which indicates the frequency of animal carcass collection and an undertaking that the said service will additionally be provided on an "as required" basis to reflect variations in animal carcass generation by the facility and variation in environmental conditions such that more frequent collections may be required. Please submit proposals to address this issue.
4. In the interest of animal welfare, the Veterinary Officer requests that you should consider re-orientating the sow farrowing pen structure and/or the ventilation such that that all animals can be more easily examined and visually assessed for discharges, bleeding, perineal tears, prolapse, etc. during the peri-parturient period.
5. A Construction Management Plan incorporating CIRIA Guidelines Control of Water Pollution From Construction Sites – Guide to Good Practice. Details as to whether or not the construction works will be phased should be incorporated into the Construction Management Plan.

The applicant replied on 8/3/13 to the above request for further information.

They have submitted revised drawings showing 6 no. isolation pens with separate effluent storage and an external manhole / draw off point for the pig manure / slurry. There has been no alteration to elevations or extension of floor.

The veterinary medicines storage facility is to be located in the proposed offices / stores building as noted on drawings submitted.

PLANNER'S REPORT
FURTHER INFORMATION ASSESSMENT

A copy of the current agreement for carcass disposal with the haulier and also a copy of the haulier's ABP haulage licence has been submitted. It is stated the procedures in place for the handling and transportation of Category 111 Animal By-Products from the installation are in compliance with condition 8 of its Integrated Pollution Prevention and Control Licence issued by the EPA.

With regard to modifying the layout of the farrowing pen structure a letter has been submitted from Monaghan Veterinary Consultants, Clones Road, Monaghan, Ireland outlining the advantages of proposed layout submitted on 21/12/12.

A Construction Management Plan has been submitted as requested outlining the Methodology and Phasing of the proposed development.

The Veterinary Officer in his report of 19/3/13 states he is satisfied with the additional information and undertakings given by the applicant save in the following regard:

- The letter confirming the service provision furnished by the licensed ABP transporter Mr Michael Duggan, Approval No. MD22, is not dated and does not stipulate the duration of contractual agreement.
- The veterinary consultant has advised the provision of 2 no. Trowbridge Pens while the applicant refers to the provision of 6 no. isolation pens. The Veterinary Officer requires a minimum of 4 no. single pig isolation pens and a further 2 no. multi pig isolation pens such as the Trowbridge pens in a unit of this nature in order to ensure adequate animal welfare and disease control measures.

Unsolicited further information was received on 22/3/13 in response to the Veterinary Officer's concern expressed in point 1 above. A revised response has been submitted stating '*This service is provided as often as required over the duration of the calendar year. The collection service contract agreement is renewed in January of each year*'. The letter is dated 21/3/13.

The Veterinary Officer's concern expressed in point 2 can be dealt with by way of condition.

PLANNER'S REPORT
FURTHER INFORMATION ASSESSMENT

The Heritage Officer in his report of 14/3/13 states:

As part of a further information request a construction management plan has been submitted. The construction management plan takes into account CIRIA 133 Waste minimisation during construction and CIRIA Guidelines Control of Water Pollution from Construction Sites – Guide to Good Practice. Having reviewed the construction management plan I have no objection to the proposed development. As the facility is subject to IPPC licence the PA are restricted to dealing with the potential for construction related discharges to impact on the SPA and SAC.

He has screened the proposed development for Appropriate Assessment and concludes:

Significant impacts on Ballymacoda (Clonpriest and Pillmore) SAC and Ballymacoda Bay SPA can be screened out. There are sufficient measures in place to ensure there will be no contamination of the adjacent watercourse which is part of the Womanagh River Catchment which discharges to the SAC and SPA.

As all outstanding issues have now been addressed I recommend that permission be GRANTED subject to the following conditions.

Ester Goulding
Area Planner
25/3/13

Contributions to be levied as follows:

New buildings 16507.3 sq metres
Buildings to be demolished 2181.46 sq metres

Floor area to be levied 14325.84 sq metres

$14325.84 \times \text{€}9.17 \text{ (roads and amenity)} = \text{€}131367.92$

Conclusion
Grant

PLANNER'S REPORT
FURTHER INFORMATION ASSESSMENT

Conditions/Reasons

No.	Condition	Reason
1	The proposed development shall be carried out in accordance with plans and particulars lodged with the Planning Authority on 21/12/12 and 8/3/13 save where amended by the terms and conditions herein.	In the interests of clarity.
2	All soiled water, slurry spillages, yard washings and any other contaminated run-off, arising in the yards and adjacent areas, etc., shall be discharged to a holding tank or tanks to the satisfaction of the Planning Authority. The tanks shall be maintained to the Planning Authority's satisfaction and the contents shall be disposed of as required by the conditions herein.	To prevent water pollution..
3	Storage of slurry shall be provided in watertight tanks. These tanks shall be maintained to the satisfaction of the Planning Authority.	To prevent water pollution.
4	Slurry/soiled water shall not be allowed to drain onto or across the land nor shall it be discharged at any one point without using approved spreading equipment.	To prevent water pollution.
5	Existing roadside drainage arrangements shall be preserved to the satisfaction of the Planning Authority.	To preserve proper roadside drainage and to prevent the flooding of the public road.
6	Existing road drainage shall not be obstructed and any the new entrance shall be designed and constructed to ensure the uninterrupted flow of road surface run-off.	To maintain proper roadside drainage and to prevent the flooding of the public road.
7	Existing inlets or drains taking surface water from the public road into the site shall be preserved and maintained.	To prevent flooding of the public road.
8	During the construction phase no dust, mud or debris from the site shall be carried onto or deposited	To protect the amenities of the area and in the interests of road safety.

PLANNER'S REPORT
FURTHER INFORMATION ASSESSMENT

	on the public road/footpath. Public roads and footpaths in the vicinity of the site shall be maintained in a tidy condition by the developer .	
9	During the construction phase operations on site shall be carried out in such a manner that no polluting material, rubble, waste material or contaminated surface water enters any adjacent watercourses or public roadway around the site. No burning of waste material shall take place on site.	In the interests of environmental protection.
10	During the construction/demolition phase all solid wastes arising on the site shall be recycled as far as possible. Materials exported from the site for recovery, recycling or disposal shall be managed at an approved facility and in such a manner as is agreed with the Planning Authority. Adequate on site arrangements shall be made to the satisfaction of the Planning Authority for the storage of recyclable materials prior to collection. The developer shall ensure that the site and its environs are maintained at all times in a clean and tidy condition.	To safeguard the amenities of the area.
11	Landscaping of the earthen banks will be of native species of local origin only.	In the interest of protecting local biodiversity
12	Prior to demolition of the existing structures a bat survey will be conducted. If roosting bats are present or suspected, the applicants are advised to contact the local NPWS ranger as a derogation licence maybe required	Protect local biodivesity
13	Construction activitiles shall be carried out in accordance with good practise as set out in CIRIA Guidelines Control of Water Pollution From Construction Sites – Guide to Good Practice	Protection of water quality
14	All mitigation measures outlined in the Construction Managment Plan shall be implemented	To ensure the protection of the Environment
15	The design of the development shall be amended in the following	In the interests of adequate animal welfare and to ensure disease

PLANNER'S REPORT
FURTHER INFORMATION ASSESSMENT

	<p>respects:- a minimum of 4 no. single pig isolation pens and 2 no. multi pig isolations pens such as the Trowbridge pens are required to be provided and, before development commences, revised drawings making provision for the above requirements shall be submitted to and agreed with the Planning Authority.</p>	<p>control measures.</p>
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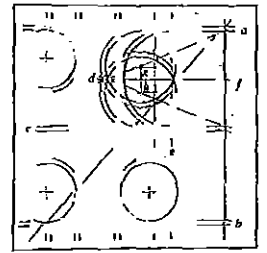
Ester Goulding

Ester Goulding
25/03/2013

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Our Ref: PL 04.241892
P.A.Reg.Ref: 12/06635
Your Ref: Eoin O'Brien

An Bord Pleanála



Murphy McCarthy,
EastPark House,
Marina Commerical Park,
Centre Park Road,
Cork.

15 OCT 2011

Appeal Re: Demolition of 6 buildings & construction of 8 no. low emission pig houses, extension of farrowing house 2 underground pig manure storage tanks, internal roads & site works.
Annistown, Killeagh, Co. Cork.

Dear Sir/Madam,

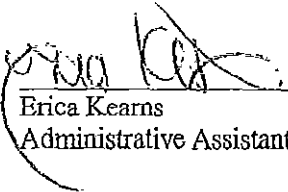
An order has been made by An Bord Pleanála determining the above-mentioned appeal under the Planning and Development Acts 2000 to 2011. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website (www.pleanala.ie). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

In cases where a grant of (full) planning permission is notified by the Board, it is policy to include a copy of the Department of the Environment and Local Government's Leaflet PL11 - **Guide to the Building Control System** and a copy of the Health and Safety Authority's leaflet **Safety and Health on Construction Projects - The Role of Clients** with the notification. These leaflets are issued at the request of the above bodies.

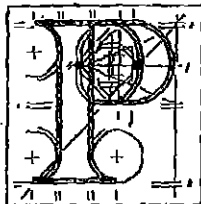
Yours faithfully,


Erica Kearns
Administrative Assistant

Encl:

BP 100LN.ltr

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2011

Cork County

Planning Register Reference Number: 12/06635

An Bord Pleanála Reference Number: PL 04.241892

APPEAL by An Taisce of The Tailor's Hall, Back Lane, Dublin against the decision made on the 26th day of March, 2013 by Cork County Council to grant subject to conditions a permission to Eoin O'Brien care of Murphy McCarthy Consulting Engineers Limited of East Park House, Marina Commercial Park, Centre Park Road, Cork in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Demolition of six number buildings consisting of three number fattening houses, weaner house, dry sow/farrowing house, pump house, construction of eight number low emission pig houses consisting of four number fattening houses, two number weaner houses, dry sow house and farrowing house. The development also includes an extension to the existing farrowing house, construction of a covered loading bay/yard area, computer room/pump house, store/office building, five number feed bins, four number water tanks, yard area with two-metre high perimeter fencing, two number covered underground pig manure storage tanks, landscaped earth berm to screen the site and construction of additional internal road areas, storm/soiled water collection systems and associated site works for the extension to the existing integrated pig farm, all at Annistown, Killeagh, County Cork.

FOR

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

In coming to its decision, the Board had regard to the following:

- (a) the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2010,
- (b) the European Communities (Welfare of Farmed Animals) Regulations, 2010,
- (c) the provisions of "Food Harvest 2020 - a Vision for Irish Agri-Food and Fisheries" issued by the Department of Agriculture, Fisheries and Food (2010),
- (d) the nature and scale of the proposed development,
- (e) the location of the site, the characteristics of the area, and the pattern of development in the vicinity, including the distance to dwellings,
- (f) the characteristics of the proposed development, the characteristics of its potential impacts, and the mitigation measures proposed,
- (g) the planning history of the site,
- (h) the nature and scale of the existing facility on the site and its management practices,
- (i) the operation of the facility under an Integrated Pollution Control (IPPC) Licence issued by the Environmental Protection Agency.

FOR

- (j) the IPPC licence history at this site, the long period of operation of the existing facility, and the absence of complaints in relation to its operation, and
- (k) the submissions on file, and the report of the Inspector.

The Board considered that the environmental impact statement submitted with the application, supplemented by the further information submitted to the planning authority and to the Board over the course of the application and the appeal, the submissions of the planning authority, the other submissions on file, and the report of the Inspector, were adequate in identifying and describing the likely significant effects of the proposed development. The Board generally agreed with the Inspector in his assessment of the likely significant effects of the proposed development, and with his conclusions on the acceptability of the mitigation measures proposed and residual effects. Following consultation with the Environmental Protection Agency, the Board completed an environmental impact assessment, and concluded that the proposed development would not be likely to have unacceptable direct, indirect or cumulative adverse effects on the environment.

In this respect, and having regard to the submissions on file in relation to odour, the provisions of "Odour Impacts and Odour Emission Control – Measures for Intensive Agriculture", issued by the Environmental Protection Agency (2001), the report of the Inspector and his observations on site, the distance to dwellings, the IPPC licence history of the site, the long period of operation of the existing facility, and the absence of complaints in relation to its operation, the Board was satisfied that the proposed development would not be likely to give rise to unacceptable impacts in relation to odour.

The Board also carried out a screening exercise in relation to the potential impacts of the proposed development on European sites, having regard to its nature and scale, the receiving environment, the distance of pathways to European Sites, the assessment undertaken by the planning authority in relation to Appropriate Assessment screening, the submissions on file generally, and the Inspector's assessment, which is noted, and concluded that the proposed development, in itself or in combination with other plans or projects, would not be likely to have a significant effect on any European site.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

FOR

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the plans and particulars submitted to the planning authority on the 8th day of March, 2013, and by the further information submitted to An Bord Pleanála on the 23rd day of May, 2013 and the 12th day of August, 2013, including the environmental mitigation measures contained therein, except where otherwise may be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The landscaping berm to the west of the proposed development shall be omitted.

Reason: To prevent reduction of natural flood storage capacity, and accordingly to prevent exacerbation of flooding elsewhere.

3. Landscaping of the earthen banks shall be of indigenous deciduous tree and shrub species only.

Reason: In the interest of protecting local biodiversity.

4. The design of the development shall be amended so that a minimum of four number single pig isolation pens and two number multi-pig isolation pens, such as Trowbridge pens, shall be provided. Prior to commencement of development, revised drawings showing compliance with the above requirement shall be submitted to, and agreed in writing with the planning authority.

Reason: To ensure an appropriate standard of development.

FOR

5. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall be constructed in compliance with the requirements of the planning authority for such works and services. In this regard:
- (a) the surface water run-off drainage system shall comprise a sealed on-site system, which shall be constructed so as to provide for all uncontaminated roof water from buildings and clean yard water to be separately collected and discharged in a sealed system to adequate soakpits, and
 - (b) all soiled waters shall be directed to a storage tank through properly constructed channels.

Drainage construction details shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

6. Details including samples of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be in accordance with the details submitted to the planning authority on the 8th day of March, 2013, and shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

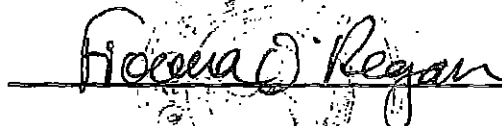
Reason: In the interest of public safety and amenity.

FOR

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

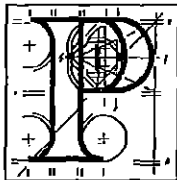
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Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this 14th day of October 2013.

An Bord Pleanála



Inspector's Report

Reference: PL04.241892

P.A. Reference: 12/06653

Title: Demolition of 6 no. buildings consisting of 3 no. fattening houses, weaner house, dry sow house, etc. Construction of 8 no. pig houses consisting of 4 no. fattening houses, 2 no. weaner houses, dry sow house and farrowing house.

Location: Annistown, Killeagh, Co. Cork

Applicant: Eoin O'Brien

Appellant: An Taisce

Observers: None

PA: Cork County Council

Type of Appeal: Third party against decision to grant

Decision: Permission granted with conditions

Date of Site Visit: 5th July 2013

Inspector: Philip Davis

1. Introduction

This appeal is by An Taisce against the decision of the planning authority to grant permission for the demolition and replacement of buildings and plant as part of an intensive pig farm in east County Cork. An EIA accompanies the application and the proposed development would be subject to an IPPC license. The grounds of appeal relate to the adequacy of the EIA and to recent ECJ court decisions.

2. Site Description

Photographs of the site and environs are attached in the appendix to this report.

Annistown

The townland of Annistown is located between the villages of Mogeely and Killeagh, and north of Castlemartyr at the boundary where the lowlands of south-east Cork meet the upland ridge of north-east County Cork. It is generally characterised by flat, fertile land in pasture with some tillage and conifer plantation, and parts to the north appear to have been formerly demesne lands. The area generally slopes to the south, with rising levels to the north, which rapidly rise in the less fertile foothills of the extended ridge which extends across north-east Cork. The farmland is generally bounded by ditches and high hedges, with field sizes generally quite large. The area is relatively sparsely populated, with farmsteads interspersed with individual dwellings, the latter of which are mostly off minor roads to the south. To the west, there are more dwellings associated with the outer edge of Mogeely, which has a small centre and a number of housing estates. The area is served by a relatively good third class road which links Mogeely to Killeagh, with a number of minor roads running north and south serving farming areas. The N25 runs east to west approximately 1 km south of Annistown.

The site and environs

The appeal site is an unoccupied farm with a site area given as 5.357 hectares. The main part of the farm is located off an access track running north from the public highway. This consists of a complex of low level buildings used as a piggery. There are 3 fattening houses, a weaner house a dry sow house and a number of other structures used for storage (mostly food and water) and ancillary plant and storage, including two mobile homes which appear to be used as office space. A bund protects most of this complex from views from the highway. The overall landholding is otherwise used for grazing. It is relatively flat to the south, along the road, with rapidly rising levels to the north. The

land appears to be mostly on deep clay deposits, with a small area of what appears to be an outcrop of rock to the north. The southern boundary of the site runs along the public highway. To the west the boundary is marked by a stream (known as the Dower River) in a natural valley averaging around 2-3 metres deep. To the east is a landholding with a small farm complex. To the north-west is a large area of semi-mature conifer plantation, while to the north is farmland on rising land of a lower general agricultural quality. The nearest dwellings are to the south, on the opposite side of the road – this house appears to be unoccupied but habitable. Another dwelling bounds the site to the south-east.

3. Proposal

The proposed development, as described on the site notice, is as follows:

The demolition of 6 no. buildings consisting of 3 no fattening houses, weaner house, dry sow/farrowing house, pump house, the construction of 8 no. low emission pig houses consisting of 4 no. fattening houses, 2 no. weaner houses, dry sow house and farrowing house. The development also includes an extension to the existing farrowing house, to construct a covered loading bay/yard area, computer room/pump house, store/office building, 5 no. feed bins, 4 no. water tanks, storage tanks, landscaped earth berm to screen the site and construction of additional internal road areas, storm/soiled water collection systems and associated site works for the extension to the existing integrated pig farm.

4. Technical reports and other planning file correspondence

Planning application

The planning application was accompanied by a supporting letter, EIS, in addition to plans and specifications and a letter of support from the Pig Development Department, Teagasc – it was received by the planning authority on the 21st December 2012.

Following a request for further information, the applicants submitted on the 8th March 2013 additional information including revised layout and elevational drawings, letters from Veterinary consultants and an animal by-product haulier, confirming certain details, and a Construction Management Plan.

External correspondence

EPA: A letter dated 23rd January 2013 stated that the site is subject to an IPPC licence (Register NO: P0790-02) – an EIS was submitted with this licence application in April 2012, although the EIS itself seemed to relate to a planning application in December 2005. It is stated that the Licence may need to be reviewed or amended to accommodate the expansion. It states that 'it appears' that the EIS with the planning application addresses the key points in relation to environmental aspects of the proposed activity, as they relate to the functions of the EPA. It is noted that there are a number of guidance documents relating to intensive pig production, and that a proposed determination on any licence review application cannot be made until a planning decision has been made (23rd January 2013).

An Taisce – Requested a copy of the EIS (22nd January 2013).

HSE – No comments, but notes that Environmental Health was not included at the screening/scoping stage of the EIA (12th February 2013).

Interdepartmental correspondence and reports

Area Engineer: Stated that the site entrance is satisfactory and there are no engineering issues. 6. No conditions recommended relating to slurry storage and disposal and roads issues. (30/01/2013). This was repeated following the submission of additional information – (12/03/13)

Veterinary Inspector – A number of conditions are recommended, in addition to a request for additional information on isolation facilities in the event of disease outbreaks (31/01/2013).

Environment Report – States that water quality and odour and noise nuisance issues have been addressed adequately in the EIS and states there are no objections, subject to 3 no. conditions (06/02/2013).

Heritage Unit – It is stated that as the facility is subject to IPPC licence the PA is restricted to dealing with construction related discharges and their impact on the SPA and SAC only. It recommended a deferral subject to the submission of a Construction Management Plan (08/02/2013). Following the submission of additional information and a CMP, a screening for AA was included concluding that there were no significant impact on EU designated sites. 4 no. conditions were recommended (14/03/2013).

Planners Reports – The first report, dated 13th February 2013, recommended deferring the application subject to 6. no. items of additional details.

A SEP report appended on 20th February 2013 states that the EIS is adequate and notes that the existing piggery appears to be well managed and no complaints have been received and there were no third party objections.

The final planners report (with supplementary SEP report which notes that the PA is precluded to attaching conditions relating to discharges), dated 25th March 2013 concluded that all outstanding issues had been addressed and recommended a grant of permission subject to 15 no. conditions.

5. Planning Context

Planning permissions – appeal site

In June 2006 the planning authority decided to grant permission (06/4260) for 12 no. pig houses, subject to 13 no. standard conditions.

In July 1998, the planning authority decided (98/2457) to grant permission to Dairygold Farms Ltd for construction of pig housing subject to 4 no. conditions.

In 1996, the planning authority decided to refuse permission (96/2863) for construction of pig housing at existing unit – appealed to the Board, and granted on appeal (PL04-102634).

Planning permissions – general vicinity

None relevant on file.

Other permissions/licences

The existing pig farm operates under IPPC licence P0790-02 (copy on file). It is indicated that this will require updating if the proposed works are implemented.

Development Plan

The site is in open countryside without any specific zoning or statutory designations. There are no policies within the County Development Plan specific to intensive farming facilities.

6. Decision

The planning authority decided to grant permission subject to 13 no. conditions. Most are standard conditions – condition no. 13 states that a minimum of 4 no. single pig isolation pens and 2 no. multi pig isolation pens are to be provided.

7. Grounds of Appeal

The decision to grant has been appealed by An Taisce. The main grounds are that it is submitted that the County Council failed to address ECJ judgements in Case C50-09 and Case C183-05.

C50-09

This court case relates to the failure of a Member State (Ireland) to ensure a competent environmental authority carries out an assessment of the effects of projects on the environment and to ensure an assessment of the interaction between factors likely to be directly or indirectly affected.

- There has been a failure to coordinate regulation of the facility with the EPA;
- The planning authority have erroneously stated that they are restricted to dealing with only construction related discharges and those with regard to EU habitats;
- The EPA letter (24th January) does not resolve the legal issues raised in C50-09.

Case C183-05

This ECJ case relates to the failure of the Member State to properly implement Council directive 92/43/EEC (Habitats Directive).

- It is submitted that the EIS is inadequate and should not have been accepted – baseline information and mitigation left to be resolved as part of mitigation.
- The decision does not address the ECJ judgement and subsequent DoECLG circulars PD2/02 and NPWS 1/07.

8. Applicants response to appeal

It is denied that the EIS is deficient – it is noted that the planning authority states that there have been no objections or complaints relating to past operations or the current application.

It is noted that issues arising from emissions and related environmental matters lies with the EPA under the proposed revised IPPC licence (solicitors letter attached addressing legal issues).

There are a number of attachments to the response:

Letter from Teagasc:

The letter outlines the background to the application and Teagasc's association with the proposals.

Thomas Barry & Company, Solicitors:

The letter refers to the overall legal context with regard to ECJ C50-09, and notes the legislative response by the Irish government. It argues that on the basis of the planners report and correspondence with the EPA, the statutory obligations have been followed. It is noted that as the Board assesses the application *de novo*, it is the responsibility of the Board to come to its own conclusions with regard to the environmental impacts of the proposed development. With regards to deficiencies highlighted by the appellant, additional information is submitted (report by Dixon Brosnan, summarised below).

With regard to ECJ C-183/05, it is accepted that certain aspects with regard to bats should have been addressed earlier, and a report is appended to this end (i.e. a survey for bats was undertaken which found no evidence of roosts).

Dixon Brosnan Report on fauna and related habitats:

This report summarises surveys for bats, otters, badgers and other protected species. It indicates that there is no evidence of bats on the site, and no otter in the adjoining river. It concludes that there would be no significant impacts on fauna in the area.

9. Planning authority response

The planning authority did not respond to the appeal.

10. EPA response to Section 87 (EPA Act 1002) request

- It is stated that it appears likely that a review of existing licence P0790-02 will be required, although the EPA has not received any notification or review application to date.
- The EIS is noted, and it is stated that an EIA which will cover those matters covered by the licence will be required by the EPA.
- Any conditions set by the Agency will be designed to ensure national and EU standards and BAT will be applied.
- With regard to the EIS, it is considered to address the key points in relation to surface and ground water. It does not appear to include detailed data in relation to odour. It does appear to address the indirect and direct effects of the development for the matters listed in Section 83(2A)(a) of the EPA Acts).

11. Further correspondence – An Taisce 17th June 2013

An Taisce responded to the applicants response to state that the response does not address the level of information required for development under the EIA Directive including direct and indirect impacts. It also states that the level of inputs and outputs of production facility is inadequate, and also that while it is satisfied that the issue of fauna is now resolved, the issues relating to ECJ case C50-09 have not been resolved.

A further letter from An Taisce (1st August 2013), in response to the EPA S.87 submission, expresses disappointment at the limited response. It notes that issue of a lack of detail in information on the assessment of odour, and states that this is not an issue which can be left to post consent conditions.

In response to the EPA S.87 letter, the applicants sent in a detailed response (12th August 2013). It is noted that the EPA states that they cannot issue a determination on an IPPC license until the planning decision has been made, and that the EPA has advised them that an EIA will be required for the license. An additional odour assessment has been submitted with this letter.

12. Assessment

Having inspected the site and reviewed the file documents, I consider it appropriate to assess the proposed development under the following headings:

- Environmental Impact Assessment
- Principle of Development
- Ground and surface water
- Flora and fauna
- Landscape and visual impact
- Amenity Impacts (noise and odour)
- Economic and material assets
- Cultural heritage
- Traffic and other construction impacts
- Direct, indirect, and cumulative impacts
- Concluding remarks

Environmental Impact Assessment

The appeal primarily relates to the quality of the EIA and whether it is compatible with statutory requirements. I would summarise the key issues raised as follows:

- Whether the EIS submitted is adequate with regard to the information submitted and the level of analysis required.

- Whether the assessment of impact on species and habitats protected under the Habitats Directive has been done correctly.
- Whether there is sufficient clarity, with regard to the ECJ court decision in C50-09, that all environmental issues are assessed in a co-ordinated manner with the EPA.

The EIS submitted is quite short and limited in extent, although its layout follows the broad statutory requirements. It is clear from the comments in the planners report – and I would concur with this in principle – that the planning authority put very strong weight in its considerations that the proposal is for the replacement and intensification of an existing permitted piggery, and that the existing facility has had no reported problems, and there were no complaints or objections on file from local residents. The appellant has raised strong concerns about the assumption made by the planning authority that all environmental issues apart from those related to construction impacts are matters solely for the EPA under the IPPC licence. I concur on this point that the EPA letter to the planning authority on file and the existing licence does not provide the necessary clarity on this matter – to this extent I concur that the original application did not satisfy the requirements as set out in Departmental Circular guidance subsequent to the ECJ court decision C50-09. However, as the Board will be assessing the application *de novo* I consider that this can and will be addressed as part of my overall assessment and recommendations in this appeal.

I will assess the content in more detail in the section below, but I consider that the level of technical information provided on the key issues – most notably ground and surface water pollution, is sufficient, and all the key criteria set out Schedule 6 (especially 2(a) and (b) of the Regulations) have been addressed in outline at least. However, there is an absence of any specific subheadings relating to direct and indirect and cumulative impacts (i.e. 2(c) of Schedule 6). Much of the information required to assess direct and indirect and cumulative impacts is within the text and in the additional information supplied with the applicant response.

While I would consider the EIS to be substandard if this was an application for a 'new' facility, the existing piggery gives a good baseline of information to assess whether the local area has the environmental capacity for an intensive farm. To this extent, I consider that the level of information provided is sufficient to allow an assessment, and is just about consistent with the statutory requirements as set out in Schedule 6 of the Regulations and Article 5 of the Directive.

With regards to information on flora and fauna, and in particular the requirements under the Habitats Directive, I concur with the appellant the EIS as originally submitted was clearly substandard and the use by the planning authority of conditions to overcome the absence of certain

information was contrary to Departmental Guidance. I will deal with the details further below in the flora and fauna section, but in general terms I consider that the information submitted subsequently to the Board is satisfactory and will allow for an assessment on impacts and whether there would be significant impacts on the conservation status of any designated habitats or species.

As noted above, I concur with the appellant that on the basis of information on file, the planning authority did not adequately implement Departmental guidance in its approach to the EIA and planning permission – the single short letter from the EPA hardly provides comfort that all environmental pollution issues, apart from construction impacts, will be regulated correctly through the IPPC licence. There is an onus upon the planning and environmental regulators following ECJ C50-09 to ensure that the EIA and Habitat Directives are appropriately implemented. I consider that on the basis of the EPA letter received on the 22nd July, and the other information on file that a final decision can be made consistent with the judgement and subsequent guidance. For clarity, I would state that all controls on noise, odour, water and air emissions is a matter for the EPA post the commencement of on-site operations. Otherwise, the assessment of other impacts, and the overall acceptability and capacity of the receiving environment to take a facility on this scale, and impacts on EU designated habitats and flora and fauna is a matter for the relevant planning authority.

Principle of Development

The site is in open countryside without a specific landscape or other zoning designation. There is an existing long established pig farm on the lands, apparently dating to the 1960's. The existing operation has been permitted through a permission from the Board and a later one from the planning authority, and is operating with an IPPC licence, which would have to be reviewed and revised if the proposed development goes ahead. There are no statutory designated habitats or sites of historic significance in the vicinity which would preclude a grant of permission. The Development Plan does not have specific policies with regard to such intensive farms. I would conclude from this that there would be a general presumption in favour of such developments subject to the satisfactory resolution of any environmental, amenity and traffic impacts.

Ground and surface water

The proposed development would significantly increase the demand for water on the site, and result in an increase in pig effluent for disposal. Water is supplied to the site via an existing well (it is not proposed to alter this), and effluent is collected in slatted tanks and is intended for removal and used in land spreading according to existing regulations.

The site is within the catchment of the Womanagh River, which flows east to Youghal Bay. The Dower River, a tributary of the Womanagh,

flows south and runs along the western boundary of the site (there is no evidence of any direct flow from the existing piggery to the river). The area is indicated as having relatively deep (3-10 metres) depth of well drained mineral soils overlying mudstones, sandstones and limestone, although I note an outcrop on the landholding indicating that the depth could be quite shallow this close to the uplands to the north. There are no karstic features in the immediate area, but a sinkhole is indicated about 1.5 km to the south. Groundwater flow is indicated in the EIS as generally south, following the local grades and the flow of the Dower. The groundwater vulnerability is considered to be Moderate to High, with the aquifer designated as LI (Locally Important). The plans submitted with the existing IPPC License applications indicates that there are a number of domestic wells in the area, including at the two closest dwellings (and these are down-gradient from the site). It is indicated on the groundwater risk assessment document that permission to sample from these wells could not be obtained. There is no indication in the EIS as to the depth to groundwater, although the visual indications would be that it is quite deep – there are no indicators locally of a high water table.

The evidence on file indicates that there is no evidence of any impact on ground or surface water from the existing piggery, although the evidence about baseline groundwater quality in the EIS is quite minimal. The one tested sample, dating from 2010, indicates that the water is within established national and EU drinking water quality standards, although there was quite an elevated level of nitrates and phosphates. As agriculture up-gradient of the site is quite low intensity it would seem likely that this contamination is locally derived.

While I am concerned at the poor level of information provided within the EIS, I would consider that the area has the capacity for an increased intensity of use (i.e. primarily storage of extra effluent), subject to the monitoring and controls which would be part of the IPPC licensing arrangements.

Flora and Fauna

The proposed development is largely on the existing footprint of development – the immediate land around it is improved grassland of obvious low ecological value. There is no evidence of bats or bird species nesting within the existing buildings. There would therefore be no likelihood of direct impacts on protected species or habitats within the curtilage of the site. The stream on the western side of the site is not connected directly via any land drains to the development footprint – any impacts would be indirect.

The screening for AA indicates that the closest Natura 2000 site which could be impacted via ground or surface water run-off is the Ballymacoda Bay SPA, which is downstream some 8 km to the east and south-east of the site. This bay is designated by way of the importance of its tidal waters and associated mud and sand flats,

marshes pastures and lagoons as a feeding area for waterfowl. Its conservation objectives are to maintain or restore the conservation status of these habitats, in particular for two Annex I species, the Golden Plover and the Bar-tailed Godwit.

The EIA states that there is no likely impact on the conservation status of the Natura 2000 site. Any possible impact would be through either an accidental release of slurry into the watercourse or groundwater, or through inappropriate slurry spreading on land. I would consider that the former is unlikely due to the level of attenuation between the appeal site and the SPA and the absence of any evidence of impact from the existing facility. Slurry spreading is controlled through the requirements of EC Regulations 2006 (Good Agricultural Practice for Protection of Waters, SI 378 of 2006). The EIS indicates that there is no evidence that the carrying capacity of local farms would be exceeded by the proposed development, so it can be carried out in accordance with statutory requirements.

I therefore concur with the conclusion of the EIS that there would be no significant impacts on flora and fauna and that there would be no impact on the conservation status of any Natura 2000 site. I further note the additional information submitted by the applicant with regard to fauna (particularly bats and otters) and I am satisfied that protected species are not breeding/nesting on or near the appeal site.

Landscape and visual impact

The lands are at the base of the foothills of the extensive area of uplands which stretches across north-east Cork. The immediate area is relatively flat, with the land rising quite rapidly to the north. The landscape is undesignated in the County Development Plan and there are no scenic routes or views within the immediate area. The main road running through the area is surrounded on both sides with high ditches and hedgerows so there are not particularly good views on either side. The best views are south from the road, as the levels drop gently down towards Castlemartyr. The piggery would be very slightly elevated relative to the road, but is only visible intermittently through gaps in the ditch and vegetation from the road. The bund around the front, while quite crude and is not landscaped, is quite effective at reducing the visual impact of the existing facility. As the Board will note from the photographs attached, the minor third class road which runs north from the main access road, and then loops around a hill, does provide excellent views over the local landscape, and the piggery is a very prominent and visible feature. This road seems very lightly used and there are no dwellings on key views from here and it is not on any tourism routes. The proposed landscaping and bunding would not significantly reduce the impact from these views. However, I do not consider that the replacement buildings would be significantly more intrusive than the existing facility.

I would therefore conclude that the overall impact on the local landscape would be broadly neutral, but I would recommend conditions to ensure the proposed planting of the bunds is carried out appropriately in order to soften the overall effect on the landscape.

Amenity impacts (noise and odour)

There is no dwelling associated with the piggery. The closest dwellings are a small (apparently empty, but not derelict) house just across the road, just over 150 metres from the existing facility, another dwelling to the east 200 metres away, and a farm complex, about 250 metres to the east. There are a dozen or more dwellings within approximately 1 km radius. I note from the evidence on file that there have been no objections or complaints from nearby residents against the existing piggery or the current proposals. The EPA has a number of guidance documents in calculating emission levels and amenity impacts from intensive farm activities, although there is no guidance on acceptable separation distances between facilities and dwellings.

The EIS gives no quantitative assessments or predictions for noise or odour impacts. During my site visit, I noted that there was no detectable noise or odour from the facility from the boundaries of the landholding. As you would expect from an active piggery, the noise and odour was intense in spots within the bounds of the buildings occupied by the sows, but this did not extend beyond the immediate curtilage of the buildings. There are no indications on file from its use that there has ever been a significant issue or impact on adjoining residents or other people in the vicinity. The proposed development represents a significant increase in the scale of activities on the site, but with more modern buildings and control plant. I would therefore consider it unlikely, barring a failure in the management systems, that the impacts would be significantly worse than the existing baseline. Notwithstanding this, I am concerned at the absence of quantitative information within the EIS and the assumption that this can be addressed by the IPPC licence – I note in this regard that the EPA, while not objecting to the EIS, drew attention to the absence of odour measurements.

In its response to the EPA s.89 letter, the applicant submitted an Odour Assessment. I note that this has not been distributed to the parties to the appeal. This report includes an assessment of the existing and proposed buildings and some base research on the impact of diet on pig odour – it does not include any quantitative measurements of odour in the area.

If quantitative measurements are required as part of the IPPC licence, then there is certainly an arguable case that the EIS is inadequate with regard to ECJ C50-09. Notwithstanding this, I am satisfied that in terms of the requirements under the Planning and Development Acts, there would be no fundamental planning issue with a piggery of the scale proposed on this site. I do not consider that there is likely to be

any level of impact significantly greater than the existing baseline, having regard to the higher standard of technical and environmental design in the new units. I also note in this regard that the EPA have not requested additional information or conditions to address this, and have stated that they are satisfied that this issue can be dealt with through the IPPC process. I therefore do not consider this to be grounds for refusal, or for conditions specific to the control of noise and odour (apart from those required as part of the Construction Management Plan).

Economic and material assets

The proposed development would result in the upgrading and expansion of an existing facility – this is in line with national and local guidance with regard to increasing agricultural productivity. The employment impact is likely to be minor, but apart from construction works it would seem likely to create some jobs in the area. The physical upgrading of an existing facility would be positive. I do not consider that there would be any quantitative loss in economic terms or in material assets to the area.

Cultural heritage

The construction works would take place largely within the extent of an already developed area. There are no records of any archaeological features in or adjoining the landholding. There is one small outcrop to the north of the site which appears to be a natural feature, although older OS plans indicate there were a few agricultural buildings here at one time. The lands to the north-west appear to have been demesne lands (it was known as Deer Park Wood), but it has been largely converted to conifer plantation. There are no protected structures or other historic features within a line of sight of the building. The demesne lands of Castlemartyr House (now a spa hotel) are just about visible from high points to the north of the piggery – however, the piggery itself would not be visible from any point within the House or grounds due to distance, local topography, and vegetation. I do not consider that there would be any impacts on cultural heritage or a requirement for any mitigation.

Traffic and construction impacts

The site is accessed via a relatively straight and wide country road with significant existing traffic levels, seemingly mostly connected with local agricultural and forestry activities. The main route to wider areas would be via the village of Mogeely south to the N25 at a junction in Castlemartyr. The site is accessed via a single track, with reasonable sight lines at a straight stretch of road. During operations, there is likely to be a relatively modest number of vehicles accessing the site, including livestock transporters (one a day on average) and feed supplies (one a day on average). The level of traffic would be consistent with this type of rural area.

Construction traffic would be significantly higher, although I would consider it to be within the local network capacity. The planning authority requested a Construction Management Plan and set a condition such that this be followed. While the EIS has little to say on construction issues, I consider the CMP to be adequate and I would recommend that it be confirmed by condition to ensure adequate mitigation of construction impacts. I do not consider that any conditions apart from standard highway access conditions are required to address operational issues.

Direct, Indirect, and Cumulative impacts

The EIS submitted is weak on any assessment of indirect or cumulative impacts of the proposal. As the overall impacts will be quite minor in relation to the existing baseline, I would consider that the most important indirect and cumulative impacts would be on air (odour) and water quality by way of its interaction with other high intensity agricultural activities in the area, in particular within the watershed catchment. In general, farmland in the area (especially on the better lands to the south) is worked at quite a high intensity, although there is no evidence that it has reached a unacceptable level of impact, either on existing dwellings or on the overall quality of ground and surface water. I am satisfied however, that the increased intensity of activities on the site will not have a significant overall impact subject to adequate controls.

Concluding remarks

As I have outlined above, I would consider the EIS and associated information submitted to be barely adequate. If this was an application for a new facility I would recommend a refusal on the basis of inadequate information (or recommend a resubmission of the EIS). However, I concur with the overall approach of the planning authority, which is to consider that the existing facility has provided an adequate baseline of information, and the absence of any evidence of problems over the lifetime of the facility strongly indicates that there is no reason to assume that a more modern, albeit more intensive, piggery on the site would give rise to concerns.

I concur with many of the original objections raised by the appellants, especially with regard to ECJ C50-90. I would consider the original application to have been dealt with in a way which did not conform to statutory requirements with regard to ensuring adequate co-ordination between the planning authority and EPA, and the AA screening was clearly inadequate in the original submission. In particular, I would take issue with the assumption by the planning authority that only the construction impacts of the piggery could be a matter for the planning authority – there was no basis for this assumption from the correspondence on file – I consider the main limitation on conditions being that the Board is precluded from conditions relating to air/water emissions.

Notwithstanding this, I consider that the additional information submitted by the applicant satisfactorily demonstrates that there would be no significant impact on the qualifying interests of any Natura 2000 sites in the area, and the basic requirements for co-ordination with the EPA is satisfied by subsequent correspondence on the appeal file. I would restate however, that I come to this conclusion solely on the basis that I am satisfied that the proposed development would have minimal impacts relative to the existing baseline – a far greater level of information would be required, and a more detailed response from the EPA would be necessary if this was a proposal for a new piggery, or one substantially larger in scale than the existing one.

13. Conclusions and Recommendations

I conclude that the proposed development would not have a significant impact on any designated habitat, and would in other respects be acceptable and consistent with national policy and the County Development Plan.

I recommend therefore that subject to the conditions set out below the proposed development be granted planning permission.

REASONS AND CONSIDERATIONS

Having regard to the existing facility on the site, which is subject to an Integrated Pollution Control Licence issued by the Environmental Protection Agency (which will be replaced with a new or revised licence for the proposed enlarged facility) and to the provisions in relation to land spreading of the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2006 (S.I. 378 of 2006), it is considered that the proposed development, by way of its location in an area with a history of such use and the characteristics of that area, would, subject to the conditions set out below, not seriously injure the amenities of the area or significantly impact upon the conservation status of a protected habitat or species and would otherwise 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 as amended by the drawings and other information received by the planning authority on the 21st December 2012, and the 8th March 2013, and by the further information received by An Bord Pleanála on the 23rd May 2013, except where otherwise may be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of protecting watercourses and natural habitats and the prevention of environmental pollution.

3. Landscaping of the earthen banks shall be of native species of trees and shrubs of local origin only.

Reason: In the interest of protecting local biodiversity.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and amenity.

5. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

**Philip Davis,
Inspectorate.**

19th August 2013