

This Report has been cleared for submission to the Board by Programme Manager, Marie O'Connor

Signed: *Marie O'Connor* **Date:** 08 August 2024



INSPECTOR'S REPORT ON AN INDUSTRIAL EMISSIONS LICENCE APPLICATION, LICENCE REGISTER NUMBER P1157-01

TO: BOARD

FROM: Brian Coffey, ICER Inspector

DATE: 08 August 2024

Applicant:	Mullan Poultry Products Ltd.
CRO number:	694891
Location/address:	Drumturk, Emyvale, County Monaghan
Application date:	20 July 2021
Class of activity (under EPA Act 1992 as amended):	6.1(a): The rearing of poultry in installations where the capacity exceeds 40,000 places.
Category of activity under IED (2010/75/EU):	6.6(a): Intensive rearing of poultry with more than 40,000 places for poultry.
Main CID:	CID (EU) 2017/302 (15 February 2017). Establishing (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the intensive rearing of poultry or pigs.
All relevant CIDs, BREF documents and legislation are listed in appendices of this report.	
Activity description/background: A proposed expansion of an activity for the rearing of poultry (broilers). The capacity of the existing farm is 39,400 birds in one poultry house. The proposal was for an increase to 90,000 birds in two houses.	
Additional information received:	Yes (24 December 2021, 04 May 2022, 23 November 2023)
No of submissions received:	Eight
Environmental Impact Assessment required: Yes	Stage 2 Appropriate Assessment required: Yes
Environmental Impact Assessment Report submitted (EIAR): Yes (20 July 2021)	Natura Impact Statement (NIS) submitted: Yes (23 November 2023)
Site visit: None.	Site notice check: 10 August 2021

1. Introduction

This is an assessment of an application for an Industrial Emissions Directive (IED) licence to carry on an activity under Part IV of the Environmental Protection Agency Act 1992, as amended (hereafter referred to as the EPA Act). It is recommended that the application be refused.

Mullan Poultry Products Ltd. has applied to operate a 90,000-place poultry (broiler) farm at Drumturk, Emyvale, County Monaghan. Details of the current and proposed site capacity and infrastructure are provided in Table 1.1 below.

Table 1.1. Application details.

	Existing	Proposed
Bird type	Broiler	Broiler
Bird numbers	39,400	90,000
No. of animal houses	1	2

A map of the proposed site layout is included in Appendix 1 of this report.

2. Description of activity

The existing poultry house is located in a rural location, with most development near the installation consisting of dwelling houses and farmyards. The existing poultry house was recently constructed on a greenfield site. The applicant did not confirm the date of stocking of this poultry house or provide evidence of same.

The main activities proposed at this installation would occur during normal working hours between 06:00 and 20:00. Stock inspections would be carried out every day, including weekends and bank holidays and additional essential activities may be undertaken outside of core working hours.

The process involves the rearing of stock specifically bred for lean poultry meat production, from day old chicks delivered from the hatchery, until they are removed from site and taken to the processing installation (at approximately five to seven weeks). At the end of each rearing cycle the houses are destocked, and the birds are sold for processing. Following the removal of poultry litter (also termed organic fertiliser¹), the poultry houses are cleaned and left empty for a period of one to two weeks, to allow for complete drying after the cleaning process. The houses are then restocked.

The type of broiler house used for this activity is a simple closed building of concrete, steel and pre-fabricated panel construction on an impervious concrete base. The houses would be thermally insulated, with a computer-controlled ventilation system and artificial lighting. Automatic feeding and ventilation systems operate on a 24-hour basis. The solid flooring of each broiler house would be bedded with wood

¹ Any fertiliser other than that manufactured by industrial process, and includes livestock manure, dungstead manure, farmyard manure, slurry, soiled water, silage effluent, non-farm organic substances such as sewage sludge, industrial by-products and residues from fish farms.

shavings/chopped straw over its entire area immediately prior to housing each new batch brought from the hatchery. The principal inputs to the operation are bedding, feed, water, veterinary medicines and energy (electricity, diesel for back-up generator, and gas for heating). The main by-product of poultry rearing is organic fertiliser (poultry litter and wash water). These are discussed in further detail below.

3. Planning Status

On 17 January 2020, Monaghan County Council granted planning permission (Ref: 19/423) for the construction of two new poultry houses to accommodate an overall capacity on the farm of 90,000 places. This development work has not yet been completed. The applicant has stated that one of the poultry houses has been built and is operating below the licensing threshold. Details of this planning permission has been provided with the application.

The applicant has submitted the EIAR associated with planning permission ref: 19/423.

4. Environmental Impact Assessment (EIA) Screening

In accordance with section 83(2A) of the EPA Act, the Agency must ensure that before a licence or revised licence is granted, that the application is made subject to an EIA, where the activity meets the criteria outlined in section 83(2A)(b) and 83(2A)(c).

In accordance with the EIA Screening Determination, the Agency has determined that the activity is likely to have a significant effect on the environment.

The activity exceeds the following threshold in Part 1 of Schedule 5 of the Planning and Development Regulations 2001, as amended:

- 17(a) Installations for the intensive rearing of poultry with more than 85,000 places for broilers.

An EIAR was submitted to the Agency as part of the application on 20 July 2021.

5. Assessment of the impact of ammonia and nitrogen on Natura 2000 sites from intensive agriculture installations

The Agency issued a guidance document in May 2021, titled "Assessment of the impact of ammonia and nitrogen on Natura 2000 sites from intensive agriculture installations" (EPA, May 2021²), to assist applicants and licensees in undertaking an assessment of the impacts of ammonia and nitrogen.

On 18 June 2021, intensive agriculture sector applicants and licensees were notified of the significant implications of the guidance document on the IED licensing of new and existing installations (wishing to expand) within a 10 km radius of the three Natura 2000 sites in the Cavan Monaghan region - Slieve Beagh SPA (004167), Kilroosky

² It has since been updated to Instruction Note 1. <https://www.epa.ie/publications/licensing--permitting/industrial/ied/Assessment-of-Impact-of--Ammonia-and-Nitrogen-on-Natura-sites-from-Intensive-Agriculture-Installations-2023.pdf>

Lough Cluster SAC (001786), and Lough Oughter SAC (000007) and SPA (004049)). The notification stated, "any increase in emissions, impacting on these Natura sites, cannot at this time be authorised". The ammonia guidance document was updated in March 2023, as part of a regular review.

The proposed installation is within 10 km of Slieve Beagh SPA. The application was received on 20 July 2021, after the publication of the guidance and Agency notification discussed above.

The applicant was reminded of the EPA's ammonia guidelines on 26 November 2021 and was requested to provide evidence to support compliance with the guidelines. The applicant's response of 24 December 2021 stated that the applicant was aware of the guidelines, that planning permission was granted prior to the guidelines being issued and that the emissions from the proposed development when complete would not be greater than those from the part of the development operating below the licensing threshold (referred to as Phase 1).

The Agency notified the applicant on 24 March 2022 that, for the approach outlined in their correspondence of 24 December 2021 to be applicable, the part of the development operating below the licensing threshold (Phase 1) must have been fully operational prior to the publication of the EPA guidance "Assessment of impact of ammonia & nitrogen on Natura sites on intensive agriculture installations", i.e. prior to May 2021.

The applicant was requested to confirm the date of commencement of the poultry rearing activity on-site within the Phase 1 poultry house, and to provide documented evidence to support this in the form of dated receipt(s) from the processor of acceptance of broilers for slaughter from this installation.

The applicant's response of 04 May 2022 did not provide confirmation of the date of commencement of the poultry rearing activity on-site within the Phase 1 poultry house or documented evidence to support the date of commencement as requested. The response stated that the applicant's opinion was that the appropriate threshold to address these circumstances, i.e. where planning permission was granted before the coming into force of these guidelines but where the development was not yet completed, was the sub-threshold level of production, that is permissible in the absence of an IED licence. The applicant also stated that they would upgrade the proposed development to include low emission housing to ensure that overall emissions do not exceed the sub-threshold level.

On 06 October 2023, the Agency requested the applicant to submit a Natura Impact Statement (NIS), as defined in Regulation 2(1) of the European Communities (Birds and Natural Habitats) Regulations 2011 as amended. The applicant was advised that the NIS should be prepared in accordance with the EPA guidance document "Assessment of the impact of ammonia and nitrogen on Natura 2000 sites from Intensive Agriculture Installations" and should be accompanied by a detailed ammonia assessment carried out using detailed modelling which includes cumulative impact assessment.

The applicant's response of 23 November 2023 included a NIS. However, the applicant did not submit a detailed ammonia assessment based on detailed modelling. The NIS states that as the final emissions from the farm upon completion of the construction and upgrading works (to low emission housing) will be lower than the baseline levels,

detailed atmospheric modelling is not required. The baseline levels the applicant refers to is the licensable threshold of 40,000 birds. However, as stated previously, the applicant has not confirmed the date of stocking of the existing poultry house.

Background levels for ammonia and nitrogen deposition can be obtained from the free on-line tool, Simple Calculation of Atmospheric Impacts Limits (SCAIL <http://www.scail.ceh.ac.uk/>). The SCAIL model background levels can be taken to apply from 2018. Although the applicant has not confirmed the date of stocking of the existing house, it would not be accounted for in the background data as planning permission for the development was granted on 17 January 2020. Background levels for ammonia and nitrogen deposition are already exceeded for Slieve Beagh SPA.

For Slieve Beagh SPA, the critical level for ammonia is 3 µg/m³ but the background ammonia level at this European Site is 4.39 µg/m³. The critical load for nutrient nitrogen is 10 kg N/ha/yr but the background level is 11.06 kg N/ha/yr.

The ammonia guidance document outlines the procedure for cumulative/in-combination assessments. Other sources of nitrogen and ammonia to Natura 2000 sites, which could act in combination with emissions from the proposed installation to impact the protected habitat, must be accounted for at relevant stages of the appropriate assessment process.

The in-combination assessment which needs to be conducted, is dependent on the size of the activity and the distance from the Natura site. At the target Natura 2000 site(s) (i.e. that/those identified, as possibly impacted by emissions from the proposed installation), all intensive agriculture installations (IAI), which meet the following two criteria and which (with abatement in place), have a PC of ≥4% of the critical level for ammonia and/or ≥5% of the critical load for nitrogen deposition at the relevant Natura site must be included:

- 1) Developments that have planning permission and/or licences but are not yet (fully) operating; including those both above and below licensing thresholds that may contribute to ammonia and nitrogen emissions; and
- 2) Developments that started operating/increased their numbers, after the most recent update of background levels; including those both above and below licensing thresholds, that may contribute to ammonia and nitrogen emissions.

The criteria to use in order to determine the geographical range of the installations, which meet the above criteria, to include in the in-combination assessment is outlined below:

- All below threshold installations within 5 km of the Natura site,
- All licensed installations within 10 km of the Natura site, and
- In the case of the IAI within 10 km of the following Natura sites; Slieve Beagh SPA, Kilroosky Lough Cluster SAC and Lough Oughter SAC & SPA, the in-combination assessment shall include all installations (EPA licensed and unlicensed) within 10km of the Natura site.

6. Appropriate Assessment

Appendix 1 lists the European sites assessed, their associated qualifying interests and conservation objectives along with the assessment of the effects of the proposed activity on the European sites.

A screening for Appropriate Assessment (AA) was undertaken to assess, in view of best scientific knowledge and the conservation objectives of the site, if the activity, individually or in combination with other plans or projects is likely to have a significant effect on any European Site. In this context, particular attention was paid to the European Sites at Slieve Beagh SPA (Site Code: 004167), Slieve Beagh – Mullaghfad – Lisnaskea SPA (Site Code: UK9020302), Slieve Beagh SAC (Site Code: UK0016622) and Magheraveeley Marl Loughs SAC (Site Code: UK0016621).

The activity is not directly connected with or necessary to the management of any European Site and the Agency considered, for the reasons set out below, that it cannot be excluded, on the basis of objective information, that the activity, individually or in combination with other plans or projects, will have a significant effect on any European Site and accordingly determined that an Appropriate Assessment of the activity was required, and for this reason determined to require the applicant to submit an NIS.

- Air emissions from the installation have the potential for adverse impact on sensitive receptors due to elevated ammonia levels and nitrogen deposition at European sites.

An NIS was received by the Agency on 23 November 2023. The Agency had regard to the NIS, the ammonia guidance document, SCAIL model, NPWS website and additional material submitted with the application.

This Appropriate Assessment is focused on the potential impacts of air emissions, specifically ammonia emissions to air and nitrogen deposition to land/soil. Other potential emission pathways, such as water, will not have an adverse effect on the integrity of any European sites as there are no direct process emissions to surface water or groundwater from this activity.

The report "*Ireland's Informative Inventory Report 2024*³" (EPA, 2024) identifies agriculture as the primary contributor (99.4%) of Irish ammonia emissions in 2022, emitting a total of 128.64 kilotonnes (kt) of ammonia in that year. According to that report, ammonia emissions from the poultry sector in 2022 were approximately 4.9 kt. The Department of Agriculture, Food and the Marine (DAFM) has published a '*Code of Good Agricultural Practice for reducing Ammonia Emissions from Agriculture*⁴', as required by the National Emission Ceiling Directive (NECD).

The existing, below IE licensing threshold, poultry house with a conventional housing system and stocked with 40,000 broilers will emit 3.2 tonnes of ammonia. If licensed, the proposed expanded installation would emit approximately 3.15 tonnes of ammonia per annum with low emission housing or 7.2 tonnes of ammonia per annum with standard housing.

Ammonia emissions from this activity have the potential to impact sensitive receptors in the vicinity of the installation.

³https://www.epa.ie/publications/monitoring--assessment/climate-change/air-emissions/IIR_Ireland_2024v1.pdf

⁴ <https://www.gov.ie/en/publication/9a6c6-code-of-good-agricultural-practice-for-reducing-ammonia-emissions-from-agriculture/>

There is a the high number of intensive agriculture installations in the Cavan and Monaghan region, which together with other activities in the region, have a cumulative impact of ammonia emissions from intensive agriculture installations (above and below the IED licensing threshold in Ireland and Northern Ireland) on three Natura 2000 sites in the Cavan Monaghan region; (Slieve Beagh SPA (004167), Kilroosky Lough Cluster Special Area of Conservation (SAC) (001786), and Lough Oughter, designated as both a SAC (000007) and a SPA (004049)).

All three Natura 2000 sites experience an exceedance of their respective critical level for ammonia and critical load for nutrient nitrogen over part or all of the designated sites as a result of the cumulative impact of ammonia emissions.

The NIS submitted 23 November 2023 did not include a cumulative/in-combination assessment as required by the ammonia guidance document outlined above.

The cumulative impacts section of the NIS states that “there are other agricultural activities ongoing close to the current application site, therefore cumulative impacts arising from the operation of these farms together were considered. All farms, regardless of whether licensed by the EPA or not, are required to operate within the legalisation defined in S.I. 113 of 2022 regarding manure storage, minimisation of soiled water and general good agricultural practice, etc. Therefore, cumulative impacts arising from the combined operation of these activities with the proposed operation of the poultry farm at Drumturk will be negligible”.

This statement does not satisfy the requirements of a cumulative/in-combination assessment and does not provide any details on the other sources of nitrogen and ammonia to the Natura 2000 sites, which could act in combination with emissions from the proposed installation to impact the protected habitats.

There are approximately 53 licensed intensive agriculture sites within 10 km of Slieve Beagh SPA. Twenty-one of these are existing farms that expanded their operation but showed a net reduction in ammonia emissions after the most recent update of background levels. With regards to farms operating below the licensing threshold, there are an estimated 141 unlicensed pig and poultry farms within 10 km of Slieve Beagh SPA. Since the start of 2019, planning has been granted for approximately 29 below IE licensing threshold poultry farms within 10 km of Slieve Beagh SPA.

The applicant has not demonstrated that that qualifying interest in Slieve Beagh SPA, i.e. Hen Harrier (*Circus cyaneus*), will not be adversely affected by ammonia emissions from the installation.

Excess ammonia emissions and nitrogen deposition lead to nutrient enrichment, which can alter the plant composition of the Hen Harrier’s habitats.⁵ Slieve Beagh SPA is

⁵ Kelleghan, D.B., Fogarty, M., Welchman, S., Cummins, T., & Curran, T.P. (2022) Agricultural atmospheric ammonia: identification & assessment of potential impacts. *Irish Wildlife Manuals*, No. 135. National Parks and Wildlife Service, Department of Housing, Local Government and Heritage, Ireland.

characterized by blanket bogs and heather moorlands, habitats that are sensitive to nutrient inputs.⁶ Increased nitrogen levels can promote the growth of competitive grasses and reduce the prevalence of heather and other native plant species essential for nesting and foraging.

Changes in vegetation due to nitrogen enrichment affect the abundance and diversity of prey species. Hen Harriers rely on a diet of small mammals and birds, which thrive in diverse, structurally complex habitats. A shift to grass-dominated landscapes, because of excess nitrogen deposition, reduces the availability of suitable prey, impacting the birds' ability to find adequate food for themselves and their chicks.

Ammonia can directly damage vegetation, particularly mosses and lichens, which are integral components of the bog and moorland ecosystems found in Slieve Beagh SPA. The decline of these species further degrades the habitat quality, making it less suitable for the Hen Harrier's nesting and hunting activities.

Regarding the potential for ammonia emissions from the landspreading of poultry litter, it is important to note that the IE licence relates to the site of the activity for which the licence application is made and does not extend to the lands on which organic fertiliser may be used as fertiliser.

The Nitrates Regulations specify when organic fertiliser can be applied to land and the application rates, and these are enforced by the DAFM and Local Authorities.

Appropriate Assessment Conclusion

An Inspector's Appropriate Assessment has been completed and it cannot be determined, based on best scientific knowledge in the field and in accordance with the European Communities (Birds and Natural Habitats) Regulations 2011 as amended, pursuant to Article 6(3) of the Habitats Directive, that the activity, individually or in combination with other plans or projects, will not adversely affect the integrity of a European Site, in particular Slieve Beagh SPA, having regard to its conservation objectives and may affect the preservation/restoration of the site at favourable conservation status if carried out for the following reasons:

- Slieve Beagh SPA is approximately 9 km away from the applicant's installation site. Ammonia can disperse over long distances, especially in areas with multiple emission sources such as numerous pig and poultry farms within 10 km of Slieve Beagh SPA. The atmospheric transport of ammonia means that even sources 9 km away can contribute to local nitrogen deposition levels in this sensitive habitat.
- The area around Slieve Beagh has a high density of pig and poultry IE licensed farms and sub-IE threshold farms. The in-combination impact of ammonia emissions from these multiple sources will exacerbate the negative environmental effects on the SPA as the critical levels for both ammonia and

⁶ [Slieve Beagh SPA Site Synopsis \(National Parks and Wildlife Service\)](#)

nitrogen are already exceeded at the SPA.

- Background nitrogen deposition is 11.06 kg N/ha/yr and background ammonia is 4.39 µg/m³, both above their respective critical load and level of 10 kg N/ha/yr and 3 µg/m³. As such, Slieve Beagh SPA is already experiencing ammonia and nitrogen levels beyond what it can tolerate without adverse effects. Additional ammonia emissions from a new source, such as the emissions proposed in this application, would further exacerbate these conditions, having an adverse effect on the habitat that the Qualifying Interest, the Hen Harrier, is dependent on in Slieve Beagh SPA.
- Process emissions from the proposed bird numbers at the installation, in combination with other plans and projects, will contribute to ammonia levels and nitrogen deposition loads that exceed the critical level and critical limit respectively at Slieve Beagh SPA.

7. Submissions

While the main points raised in the submissions are briefly summarised in the table below, the original submission should be referred to at all times for greater detail and expansion of particular points.

The issues raised in the submissions are noted and addressed in this Inspector’s Report and the submissions were taken into consideration during assessment of the application.

Table 7.1: Submissions summary

1.	<p>Name & Position</p> <p>Ms. Michaela Kirrane, Senior Fisheries Environmental Officer</p>	<p>Organisation:</p> <p>Inland Fisheries Ireland, Dublin</p>	<p>Date received:</p> <p>23 September 2021</p>
<p>Issues raised:</p> <p><i>The submission stated that the IFI had no objection to the application from a fisheries perspective, provided that:</i></p> <ul style="list-style-type: none"> • <i>The number of birds housed shall not exceed that in the application;</i> • <i>All effluent, soiled water (wash water) and solid wastes shall be stored on-site in adequately sized and sited watertight structures;</i> • <i>Buildings shall comply with Department of Agriculture standards and regulations;</i> • <i>All effluent and wash water to be disposed of by landspreading shall be carried out in accordance with the Department of Agriculture’s booklet Good Farming Practice;</i> • <i>Only clean, uncontaminated storm water shall be discharged to a soak-away system or to surface water. The receiving waters associated with storm water discharges should be regularly inspected; and</i> • <i>The EPA’s Pollution Impact Potential maps should be referred to in relation to landspreading locations for this facility. It is vital that any land spreading carried out is strictly controlled and ideally should be carried out in low risk areas in order to protect surface waters.</i> 			

	<p><i>The submission also notes the following:</i></p> <ul style="list-style-type: none"> • <i>Soiled water is to be landspread on lands close to the outflow from Emy Lough and the Ulster Blackwater River.</i> • <i>Poultry litter is to be collected by a contractor with the final destination being unclear in the documents.</i> • <i>The facility is located close to the outflow from Emy Lough, which then flows into the Ulster Blackwater River a short distance downstream. Emy Lough outflow contains valuable fisheries habitat and support stocks of trout and lamprey among other species. The Ulster Blackwater River supports stocks of salmon, trout, pike and coarse fish and is a valuable angling resource. Salmon and Lamprey species are Annex II listed species in the Habitats Directive.</i> • <i>The ecological status of the waterbody adjacent to the site (Emy Lough outflow) is currently Unassigned. It is important to ensure the proposed development does not have a negative impact on these aquatic habitats.</i> <p>Agency Response:</p> <p>Landspreading of organic fertiliser occurs outside of the licensed boundary and will be carried out in accordance with the Nitrates Regulations and Animal By-product Regulations. This is enforced by the DAFM and the Local Authorities.</p> <p>In relation to potential impacts to the aquatic catchment area, there are no emissions to water from this installation, only clean storm water will be permitted to be discharged from the site.</p> <p>The other issues raised in this submission have not been assessed as this Inspector's Report recommends rejection of the proposed activity on the basis of the Appropriate Assessment carried out.</p>		
2.	<p>Name & Position</p> <p>Ms Claire O'Dwyer, Principal Environmental Health Officer</p>	<p>Organisation:</p> <p>Health Service Executive, Cavan.</p>	<p>Date received:</p> <p>23 September 2021</p>
	<p><i>Issues raised:</i></p> <p><i>The HSE submission is based on a report by Ms Claire O'Dwyer, Principal Environmental Health Officer and Mr. Thomas Mangan, Environmental Health Officer. It provides a summary of their findings. The submission makes a number of observations in relation to the licence application. The topics/issues raised include site location, water supply, soiled water (wash water), storm/ surface water, manure (organic fertiliser), waste, odour, noise and pest control. The submission only comments on those areas within the remit of the HSE.</i></p> <p><i>Specific observations/recommendations highlighted by the HSE include:</i></p> <ul style="list-style-type: none"> • <i>There are no third-party dwellings within 185 m;</i> • <i>The EIAR did not provide adequate information on local groundwater supplies in the vicinity in the area. The applicant should consult the Geological Survey of Ireland (GSI) well database in order to identify</i> 		

local wells that may exist and carry out a door to door well survey of dwellings in close proximity to ensure water supplies are protected;

- *The HSE recommend that the applicant be aware of all poultry manure and soiled water storage requirements on and off-site, including six months storage capacity, certified construction work, and leak detection facilities, as well as BAT in relation to spreading, the installation of high-level indicators and, that monitoring of groundwater nutrients be included in the Nutrient Management Plan and that the plan be approved by the Agency;*
- *That soiled water does not contaminate clean surface water, all discharge points are labelled and that surface water and groundwater in the vicinity are monitored;*
- *That adequate storage and removal of dead bird carcasses is ensured, that all other wastes are appropriately disposed/recycled and there is no accumulation of waste on-site;*
- *The HSE recommends that odour from the installation is monitored on a continuous basis and that any odour management plan contain a robust complaints procedure whereby any complaints by the local population are recorded and properly investigated;*
- *The HSE have not received any complaints relating to noise from the installation to date; and*
- *A pest control programme should be implemented on-site and records maintained.*

Agency Response:

As per the 'Emissions to ground/groundwater' section of this report, there are no emissions to ground/groundwater.

Landspreading of organic fertiliser occurs outside of the licensed boundary and will be carried out in accordance with the Nitrates Regulations and Animal By-product Regulations. This is enforced by the DAFM and the Local Authorities.

The other issues raised in this submission have not been assessed as this Inspector's Report recommends rejection of the proposed activity on the basis of the Appropriate Assessment carried out.

3.	<p>Name & Position: Mr. Peter Sweetman</p>	<p>Organisation: Peter Sweetman and Wild Ireland Defence CLG</p>	<p>Date received: 27 October 2022</p>
<p>Issues raised:</p> <p><i>The submission states that the CJEU has found that compliance with European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2017 (S.I. 605 of 2017) cannot be considered a mitigation measure when conducting an appropriate assessment.</i></p>			

	<p>Agency Response:</p> <p>The submission did not provide a reference to the Court of Justice of the European Union (CJEU) case to which it refers. However, the judgments of the CJEU form part of this application assessment, as appropriate. The landspreading of organic fertilizer was considered in carrying out Appropriate Assessment and regard was had to the regulatory systems in place, i.e. European Union (Good Agricultural Practice for Protection of Waters) Regulations 2022 (S.I. 113 of 2022).</p>		
4.	<p>Name & Position: Aislinn Byrne</p>	<p>Organisation: Member of the public</p>	<p>Date received: 14 December 2022</p>
	<p>Issues raised:</p> <p><i>The issues raised in the submission are as follows:</i></p> <p><i>"I am objecting to the following applications on the grounds that factory farming, or intensive agriculture, is seriously damaging the environment. The systems currently in place in the respective counties of the applicants are insufficient to deal with the current level of animal agriculture. Approving licenses for additional intensive farming would be wilfully destroying the land and the environment and putting people's health at risk. Separately it is cruel to farm animals in this manner. It's raises questions around the health of the animals and therefore the end product that is being sold to humans. It is putting smaller farmers out of business".</i></p> <p><i>The submission goes on to list by Reg. No. the pig and poultry licence applications upon which the submission is to be made.</i></p> <p>Agency response:</p> <p>The submission also mentions animal cruelty concerns and Ireland has legislation governing animal welfare, which are the responsibility of the Dept. of Agriculture, Food and the Marine (DAFM).</p> <p>The submission also mentions financial implications of intensive farming over "smaller farmers". The viability of a business, including farming, is beyond the scope of the EPA Licensing Process.</p> <p>The other issues raised in this submission have not been assessed as this Inspector's Report recommends rejection of the proposed activity on the basis of the Appropriate Assessment carried out.</p>		
5.	<p>Name & Position Laura Broxson</p>	<p>Organisation: National Animal Rights Association</p>	<p>Date received: 17 December 2022</p>
	<p>Issues raised:</p> <p><i>The issues raised in the submission are as follows:</i></p> <ul style="list-style-type: none"> • <i>The submitter states that the application should be refused as it is "not ethically acceptable to kill or consume any living creature".</i> • <i>The submission states that "Ireland's ammonia emissions have not met EU limits for 7 out of the last 9 years" and that "almost all of Ireland's ammonia emissions come from agriculture". It states that "more than half are located in Monaghan and Cavan, counties already struggling with excess manure".</i> 		

	<ul style="list-style-type: none"> • <i>The submission goes on to include some of the damage that can be caused by ammonia pollution and PM2.5 to the environment and human beings.</i> • <i>It concludes that "for animal rights, human health and safety, and the impact it would have on the environment, these 36 applications need to be refused".</i> <p><i>The submission goes on to list by Reg. No. the pig and poultry licence applications upon which the submission is to be made.</i></p> <p>Agency response:</p> <ul style="list-style-type: none"> • The principle of whether or not it is ethical to consume meat is beyond the remit of the EPA. • Ireland is addressing ammonia emissions from the agricultural sector through the implementation of 'Ag Climatise – A roadmap towards Climate Neutrality'. The recommendations of this document, regarding the national reduction of ammonia levels, are considered during the assessment of licence applications. • All intensive agriculture EPA licensed facilities are required to operate to the best available techniques (BAT) standard as specified in the Commission Implementing Decision (CID) for the intensive rearing of poultry or pigs. This includes the requirement to implement techniques for the reduction and control of ammonia emissions. • Due to the number of intensive agriculture applications/reviews and licences, especially in the Cavan/Monaghan, the EPA published guidance on how applicants should assess the predicted impact of air emissions. This has specific restrictions on applications in the Cavan/Monaghan area. • The assessment of this application included the assessment of emissions to air, including ammonia and dust emissions. This Inspector's Report recommends rejection of the proposed activity on the basis of the Appropriate Assessment carried out. 		
6.	<p>Name & Position: Caroline Rowley</p>	<p>Organisation: Ethical Farming Ireland</p>	<p>Date received: 30 December 2022</p>
	<p>Issues raised: <i>The issues raised in the submission are as follows:</i></p> <ul style="list-style-type: none"> • <i>The submitter cites the Agency's responsibilities under Section 52(2) of the EPA Act, in relation to the Agency's need to keep itself informed of policies and objectives of public authorities, of the requirement to have regard for the need for high standard of environmental protection and the requirement to have regard to the need for precaution in relation to potentially harmful effects of emissions.</i> • <i>The submission discusses the government's targets for reducing greenhouse gas emissions under the programme for government, DAFM's 'Ag Climatise – A Roadmap towards Climate Neutrality' (Ag Climatise) and the Climate Action Plan 2023.</i> 		

- *The submission states, the Programme for Government (inter alia) commits Ireland to an average 7% per annum reduction in overall greenhouse gas emissions from 2021 to 2030 (a 51% reduction over the decade) and to achieving net zero emissions by 2050.*
- *It cites the following from the government's Ag document: "In total, approximately 80% of the agricultural GHG inventory is related directly to the number of animals and the management of the manure they produce. This roadmap is based on stabilising methane emissions and a significant reduction in fertiliser related nitrous oxide emissions, leading to an absolute reduction in the agricultural greenhouse gas inventory by 2030. Any increase in biogenic methane emissions from continually increasing livestock numbers will put the achievement of this target in doubt".*
- *The submission notes that the Climate Action Plan 2023, emphasises that agriculture is the largest source of Ireland's emissions (33.3%).*
- *The submission notes that the application documents do not model chicken or pig population numbers and therefore it was assumed they remain stable.*
- *The submission states that approval of the application is likely to exacerbate Ireland's ongoing breach of its National Emission Reduction Target relating to ammonia. It again states that the relevant documents do not appear to model pig and poultry populations, and instead appear to assume the populations of these livestock types remains stable.*
- *The submission states that the increase in pig or poultry numbers proposed in the application contradicts this assumption, with the resulting increase in greenhouse gases and ammonia increasing the risk of Ireland breaching (a) the greenhouse gas emissions targets to which it has committed and (b) the exacerbating its existing non-compliance with ammonia targets. This amounts to a failure of duty by the Agency and would breach sections 52(2)(a), (b) and (c) of the EPA Act.*

Ethical Farming Ireland urges the Agency to reject the application.

Agency response:

- Ireland is addressing greenhouse gas emissions from the agricultural sector through the implementation of 'Ag Climatise – A roadmap towards Climate Neutrality'. Biogenic methane is primarily associated with ruminants, which produce methane while digesting their food, and not with poultry, which are a monogastric animal.
- Ammonia emissions are discussed in the relevant section of this report. Regard was had to government policy and national plans.
- The EPA has published guidance on how applicants should assess the predicted impact of ammonia emissions from their proposed installation. This application has been assessed in accordance with that guidance document.

The other issues raised in this submission have not been assessed as this Inspector's Report recommends rejection of the proposed activity on the basis of the Appropriate Assessment carried out.

7.	Name & Position: Mr Peter Sweetman	Organisation: Peter Sweetman	Date received: 25 March 2023
<p>Issues raised: <i>In the submission Mr. Sweetman quotes the following from the Courts of Justice of the European Union judgement for cases C-29317 and C-29417:</i></p> <p><i>1. Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that the grazing of cattle and the application of fertilizers on the surface of land or below its surface in the vicinity of Natura 2000 sites may be classified as a 'project' within the meaning of that provision, even if those activities, in so far as they are not a physical intervention in the natural surroundings, do not constitute a 'project' within the meaning of Article 1(2)(a) of Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.</i></p> <p>Agency response: Organic fertiliser is something which may be distributed to farmers for use on their farms, but that ultimate use does not form part of the project in respect of which the Agency considers a licence application. Ultimately, the location on which landspreading of organic fertiliser from the installation may occur, can vary across and within any given year.</p> <p>The spreading of organic fertiliser on farms is regulated by the European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2022 (S.I. 113 of 2022) which gives effect to the 5th Nitrates Action Programme (2022 to 2025), published in accordance with the Nitrates Directive.</p> <p>In 2022, the 5th Nitrates Action Programme was subject to appropriate assessment (as referred to in this Agency's Inspector's Report) and a strategic environmental assessment. In addition, the referenced Courts of Justice ruling stated that "Article 6(3) of Directive 92/43 must be interpreted as not precluding national programmatic legislation which allows the competent authorities to authorise projects on the basis of an 'appropriate assessment' within the meaning of that provision, carried out in advance and in which a specific overall amount of nitrogen deposition has been deemed compatible with that legislation's objectives of protection."</p> <p>The appropriate assessment conducted as part of this application is considered in compliance with the rulings of the Courts of Justice of the European Union judgement for cases C-29317 and C-29417.</p>			
8.	Name & Position: Mr. Peter Sweetman	Organisation: Peter Sweetman and Wild Ireland Defence CLG	Date received: 15 June 2023
<p>Issues raised: <i>The submission:</i></p>			

- States that the EPA must assess the disposal of the waste from these developments;
- States that the threshold for Appropriate Assessment is set out in Kelly -v- An Bord Pleanála [2014] IEHC 400 (25 July 2014);
- References four CJEU judgements in the context of Article 6 of the Habitats Directive, specifically C-323/17, C-258/11, C-293/17 and C-294/17.

Agency response:

The submitter's reference to "these developments" refers to pig and poultry industrial emissions licence applications.

I am satisfied that I have sufficient information available to complete an Appropriate Assessment Screening, in an appropriate manner, to assess in view of best scientific knowledge and the conservation objectives of the site, if the project individually or in combination with other plans or projects is likely to have a significant effect on a Natura 2000 Site.

The Appropriate Assessment section of this report details the results of the appropriate assessment conducted as part of the licence application.

The submitter quotes Case C-323/17 where the court noted that "*in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site*".

I am satisfied that the screening conducted as part of this application to determine whether or not an Appropriate Assessment was required was consistent with case C-323/17 and did not take into account measures that would mitigate any potential impacts on Natura 2000 sites.

The submitter quotes Kelly -v- An Bord Pleanála [2014] IEHC 400 which references CJEU case C-258/11 where the court noted that in order for a regulatory body such as the Agency to grant approval "*it should be pointed out that it cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned*".

I have concluded that there is insufficient information available to the Agency to conclude beyond reasonable scientific doubt that emissions and discharges from the proposed project will not have any adverse effects on the integrity of any European site, and therefore I recommend that the application be refused.

The submitter quotes cases C-293/17 and C-294/17 where the court ruled "*Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that the grazing of cattle and the application of fertilisers on the surface of land or below its surface in the vicinity of Natura 2000 sites may be classified as a 'project' within the meaning of that provision, even if those activities, in so far as they are not a physical intervention in the natural surroundings, do not constitute a 'project' within the meaning of Article 1(2)(a) of Directive 2011/92/EU of the European*

Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment."

Organic fertiliser is something which may be distributed to farmers for use on their farms, but that ultimate use does not form part of the project in respect of which the Agency considers a licence application. Ultimately, the location on which landspreading of organic fertiliser from the installation may occur, can vary across and within any given year.

The spreading of organic fertiliser on farms is regulated by the European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2022 (S.I. 113 of 2022) which gives effect to the 5th Nitrates Action Programme (2022 to 2025), published in accordance with the Nitrates Directive.

I am satisfied that the appropriate assessment conducted as part of this application is considered in compliance with the rulings of the Courts of Justice of the European Union judgement for cases C-293/17 and C-294/17.

8. Consultations

8.1 Cross Office Consultation

The Industrial & Carbon Emissions Regulation Programme (ICER) and the Office of Environmental Enforcement (OEE) routinely liaise in relation to the licensing of the intensive agricultural sector. This in part has informed the assessment of this application.

8.2 Transboundary Consultations

There were no transboundary consultations undertaken as there were no transboundary impacts identified.

9. Recommendation

The Agency, in considering an application for a licence, shall have regard to section 83 of the EPA Act 1992. Section 83(5)(a)(v) states that the Agency shall not grant a licence unless it is satisfied that emissions from the activity will not cause significant environmental pollution. The assessment is consistent with Article 6(3) of the EU Habitats Directive (92/43/EEC).

This report was prepared by Brian Coffey,.

I recommend that a Proposed Determination be refused as it is not possible to ascertain that the activity, individually or in combination with other plans or projects, will not adversely affect the integrity of a European site, Slieve Beagh SPA, in view of the site's conservation objectives.

Signed



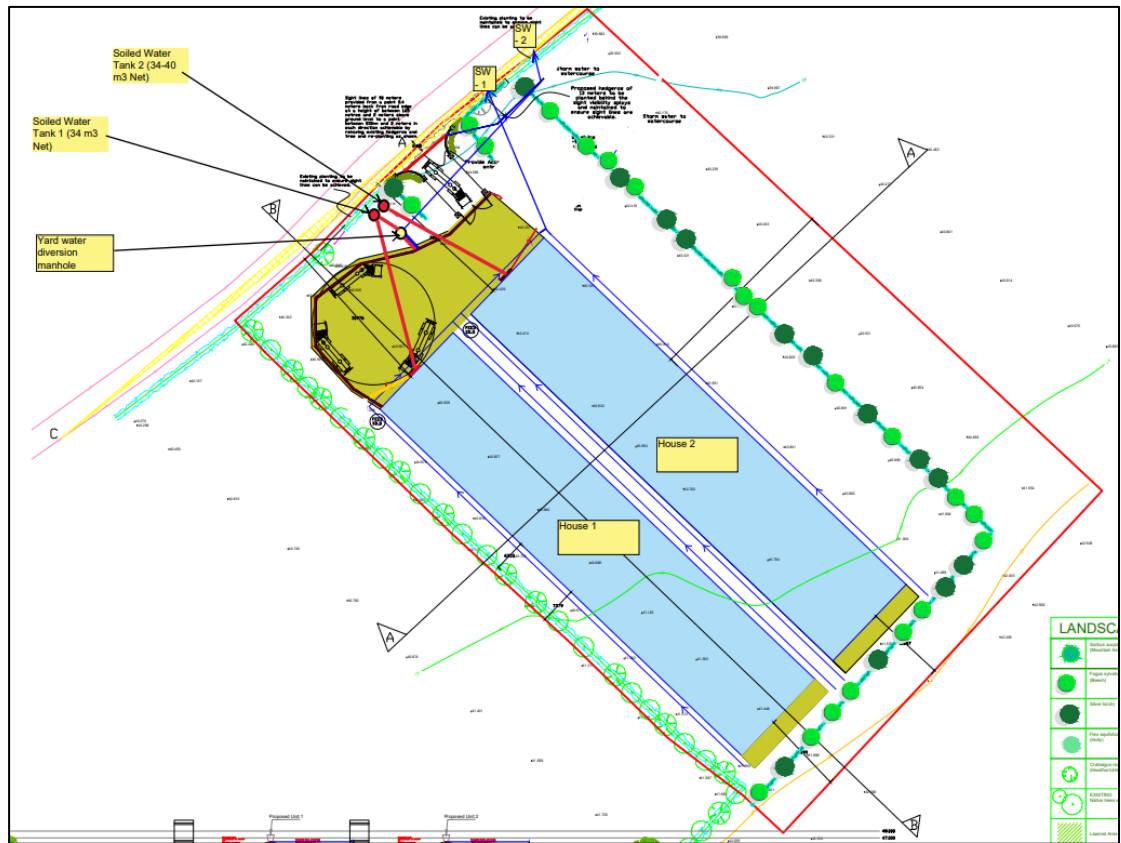
Brian Coffey, ICER Inspector

Procedural Note

In the event that no objections are received to the Proposed Determination on the application, a licence will be granted in accordance with Section 87(4) of the EPA Act, as soon as may be after the expiration of the appropriate period.

Appendices

Appendix 1: Maps



Appendix 2: AA table

Assessment of the effects of the activity on European sites and proposed mitigation measures.

Site Code	Site Name	Qualifying Interests (* denotes a priority habitat)	Conservation Objectives	Assessment
004167	Slieve Beagh SPA	Species A082 Hen Harrier (<i>Circus cyaneus</i>)	As per NPWS (2022) Conservation objectives for Slieve Beagh SPA 004167. Version 1.0. Department of Housing, Local Government and Heritage (dated 23/09/2022).	<p>The site is located 8.9 km to the west of the installation.</p> <p>I am not satisfied beyond reasonable scientific doubt that ammonia emissions from the proposed activity will not impact on the qualifying interest species and cause an adverse effect on the integrity of this European Site.</p> <p>Given that the critical load for ammonia and critical limit for nitrogen deposition are already exceeded at Slieve Beagh SPA, the introduction of additional ammonia emissions could further degrade the habitat quality.</p> <p>This can lead to increased eutrophication and changes in vegetation composition, which negatively impact the Hen Harrier by reducing the availability of suitable nesting and foraging areas.</p> <p>Additionally, the cumulative impact of ammonia emissions from the high density of existing pig and poultry farms in the region may exacerbate these effects, leading to further declines in prey availability and overall habitat suitability for the Hen Harrier at this European Site.</p> <p>I am satisfied beyond reasonable scientific doubt that storm water discharges will not cause an impact on this European Site due to the lack of hydrological connectivity of the project site with the European site.</p>

Site Code	Site Name	Qualifying Interests <i>(* denotes a priority habitat)</i>	Conservation Objectives	Assessment
UK902302	Slieve Beagh-Mullaghfad-Lisnaskea SPA	Species A082 Hen Harrier (<i>Circus cyaneus</i>)	<i>As per Slieve Beagh-Mullaghfad-Lisnaskea SPA (UK902302) Conservation Objectives. Version 3. Department of Environment Northern Ireland (dated 01/04/2015)</i>	<i>The site is located 11.4 km to the west of the installation. I am satisfied beyond reasonable scientific doubt that ammonia emissions or storm water discharges from the project site will not cause an impact on the conservation objectives for this European Site.</i>
UK0016622	Slieve Beagh SAC	Habitats 3160 Natural dystrophic lakes and ponds 4030 European dry heaths 7130 Blanket bogs (* if active bog)	<i>As per Slieve Beagh SAC (UK0016622) Conservation Objectives. Version 2.1 DAERA (dated 11/10/2017)</i>	<i>The site is located 13.2 km to the west of the installation. I am satisfied beyond reasonable scientific doubt that ammonia emissions or storm water discharges from the project site will not cause an impact on the conservation objectives for this European Site.</i>
UK0016621	Magheraveely Marl Loughs SAC	Habitats: 3140 Hard oligo-mesotrophic waters with benthic vegetation of <i>Chara</i> spp 7210 Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> * 7230 Alkaline fens Species 1092 White-clawed Crayfish (<i>Austropotamobius pallipes</i>)	<i>As per Magheraveely Marl Loughs SAC (UK0016621) Conservation Objectives. Version 2. DAERA (dated 01/04/2015)</i>	<i>The site is located 19.8 km to the south-west of the installation. I am satisfied beyond reasonable scientific doubt that ammonia emissions or storm water discharges from the project site will not cause an impact on the conservation objectives for this European Site.</i>

Appendix 3: Relevant Legislation

The following European instruments which have been transposed into Irish legislation are regarded as relevant to this application assessment and have been considered in the drafting of the Recommended Determination.
National Emissions Ceilings Directive (2016/2284)
Industrial Emissions Directive (IED) (2010/75/EU)
Environmental Impact Assessment (EIA) Directive (2011/92/EU as amended by 2014/52/EU)
Habitats Directive (92/43/EEC) & Birds Directive (79/409/EC)
Water Framework Directive [2000/60/EC]
Waste Framework Directive (2008/98/EC)
Air Quality Directives (2008/50/EC and 2004/107/EC)
Groundwater Directive (80/68/EEC) and 2006/118/EC
Environmental Liability Directive (2004/35/CE)
Regulation (EC) No 1069/2009, as amended (Animal By-products Regulation)
Nitrates Directive (91/676/ EEC)
Energy Efficiency Directive (2018/2002/EU)

Appendix 4: Other CIDs/BREF/BAT documents relevant to this assessment

Commission Implementing Decisions	Publication Date
COMMISSION IMPLEMENTING DECISION of 15 February 2017 establishing best available techniques (BAT) conclusions, under Directive 2010/75/EU of the European Parliament and of the Council, for the intensive rearing of poultry or pigs (2017/302/EU)	February 2017
Sectoral BREF	Publication date
Reference Document on the Best Available Techniques for the Intensive Rearing of Poultry or Pigs	July 2017
Horizontal BREF	Publication date
Reference Document on the Best Available Techniques on Emissions from Storage	July 2006
Reference Document on the Best Available Techniques for Energy Efficiency	February 2009