

<b>Title of Report:</b>	<b>Planning Committee Report – LA01/2017/1162/F</b>
<b>Committee Report Submitted To:</b>	<b>Planning Committee</b>
<b>Date of Meeting:</b>	<b>28<sup>th</sup> June 2023</b>
<b>For Decision or For Information</b>	<b>For Decision</b>

<b>Linkage to Council Strategy (2021-25)</b>	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Principal Planning Officer

<b>Budgetary Considerations</b>	
Cost of Proposal	Nil
Included in Current Year Estimates	N/A
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

<b>Screening Requirements</b>	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:
	EQIA Required and Completed:	N/A	Date:

Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

**No:** LA01/2017/1162/F                      **Ward:** Clogh Mills

**App Type:** Full Application

**Address:** Approximately 220m NW of 81 Glenbuck Road Dunloy, BT44 9EL

**Proposal:** Erection of two new broiler units for up to 37,000 birds per unit, extension of existing concrete apron, new meal silos, drainage, associated landscaping and retention of site works.

**Con Area:** N/A                                      **Valid Date:** 08-09-2017

**Listed Building Grade:** N/A

**Agent:** Revelins Hill Design. 43 Kurin Road, Garavagh. BT51 5NS

**Applicant:** Mr William Calderwood

**Objections:** 9                      **Petitions of Objection:** 0

**Support:** 1                      **Petitions of Support:** 0

## Executive Summary

- The application proposes to erect two new broiler units for up to 37,000 birds per unit (74,000 birds in total), extension of existing concrete apron, new meal silos, drainage, associated landscaping and retention of site works.
- The application is a major application under Article 2(1) of The Planning (Development Management) Regulations (NI) 2015 because the proposal meets the threshold of major development under section 1 of the associated Schedule. A PAN was submitted under LA01/2017/0408/PAN.
- The proposal will increase the site capacity to a maximum capacity of 125,000 broilers. The Planning Authority is obliged under Regulation 10 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 to determine whether the planning application should be accompanied by an Environmental Statement. The proposed development falls within category 17A of Schedule 1 of the 2015 Regulations and constitutes EIA development therefore the application is required to be accompanied by an Environmental Statement.
- The Environmental Statement was submitted with the application on 08-SEP-2017 with additional addenda submitted 19-APR-2018, 21-NOV-2018 and 13-MAY-2022.
- 5 objections have been received from 4 addresses and 4 objections received from 3 e-mail addresses. 1 letter of support has been received from a local MLA.
- All relevant consultees have been consulted and SES has recommended refusal.
- The proposed development is unacceptable in this location having regard to the area plan and other material considerations. The Planning Authority must apply the precautionary principle when considering impacts of a proposed development on national or international significant natural heritage resources. The proposed development is contrary to Paragraphs 6.174 – 6.178 of the SPPS, CTY12 of PPS21 and Policy NH1 of PPS2 Natural Heritage, in that development would, if permitted, have the potential to have an unacceptable adverse impact on Main Valley Bogs in light of the

conservation objectives of the designated site and is contrary to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995.

- The application is recommended with refusal.

**Drawings and additional information are available to view on the Planning Portal- <https://planningregister.planningsystemni.gov.uk>**

## **RECOMMENDATION**

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 9 and the policies and guidance in section 7 and 8 and resolves to **REFUSE** planning permission subject to the reasons set out in section 10

## **2 SITE LOCATION & DESCRIPTION & CHARACTER OF AREA**

- 2.1 The application site is located north of Glenbuck Road, within the rural area. The site includes two existing free range broiler poultry houses with a maximum capacity of 51,500 birds, feed bins, concrete apron and area of associated hardstanding with adjacent agricultural fields.
- 2.2 The site is located approximately 120m back from the public road, is accessed from an existing shared laneway located between numbers 81 and 83 Glenbuck Road and serves the existing poultry sheds as well as the nearby Glenbuck wind farm. No 81 comprises a farm grouping and incorporates a separate access.
- 2.3 The subject site is located to the immediate south of a large, elevated rock outcrop and comprises significant variations in levels from west to east. The existing facilities comprise an open flat site which has been created by means of regrading the land. The current proposal incorporates additional regrading of the land to create a flat area elevated above the existing yard and buildings. The existing boundaries are generally defined by post and wire fencing.

- 2.4 The topography of the wider landscape is undulating and although it incorporates a localised fall in levels from south-west to north-east, it is located within a very elevated landscape within the wider context, evident by the nearby windfarm which dominates the landscape.
- 2.5 The proposed application comprises two new broiler poultry units located to the immediate west and east of the rearmost existing shed and comprise a maximum of 37,000 birds per shed. The site for the western poultry shed has already been levelled to that of the existing shed and laid out in hardcore while the land for the siting of the second shed remains generally unaltered. The land currently rises steeply from adjacent the eastern elevation of the existing shed with the finished floor level proposed approximately 3.5m above that of the existing shed. The land continues to rise steeply to the east as part of the adjacent existing rock outcrop which sits elevated above the subject site and dominates the local landscape.
- 2.6 Views of the site exist from approximately 190m south-west of the access lane. In the opposite direction, the site is generally well screened by existing built form and topography when viewed from the north-east.
- 2.7 The application site is located within the rural area, outside of any settlement limit as defined in the Northern Area Plan 2016. The site falls partially within Long Mountain Bogs Site of Local Nature Conservation Importance (BNC 26) and is also partially within an Area of Constraint on Mineral Developments. The wider area comprises an upland landscape predominately characterised by agricultural lands, with the immediate area defined by a number of individual dwellings, agricultural buildings and Glenbuck Windfarm.

### **3 RELEVANT HISTORY**

D/2008/0157/F - New free range poultry house for 25,000 birds.  
Permission Granted 17-7-2008.

D/2009/0308/F - Proposed free range poultry house.  
Permission Granted 9-03-2010.

LA01/2017/0408/PAN - Erection of 2 no. new broiler units for up to 37,000 birds per unit. Extension to existing concrete apron, new meal silos, drainage and associated landscaping. PAN Accepted / Concluded 10-04-2017.

## **4 THE APPLICATION**

- 4.1 The application proposes to erect 2 additional poultry units (broilers) with a maximum capacity of 37,000 birds per unit (74,000), bringing the site total to a maximum of 125,000 birds. The units are approximately 85.9m x 20.6m with a ridge height of 5.3m. The units are mechanically ventilated with fans along the ridge. The application also proposes four additional feed bins, an extension to the existing concrete apron, retention of site works and landscaping proposals.
- 4.2 The application is a major application under Article 2(1) of The Planning (Development Management) Regulations (NI) 2015 because the proposal meets the threshold of major development under section 1 of the associated Schedule. A PAN was required under Section 27 of the 2011 Planning Act and submitted under LA01/2017/0408/PAN. Details of Pre-application Community Consultation are incorporated within the submitted environmental statement. A Design and Access Statement has been submitted with the application.
- 4.3 The application falls under category 17a of Schedule 1 of the EIA Regs and is considered EIA development. The application was accompanied by a voluntary Environmental Statement on 08-SEP-2017 with further addenda submitted 19-APR-2018, 21-NOV-2018 and 13-MAY-2022.

## **5 PUBLICITY & CONSULTATIONS**

### **External:**

- 5.1 **Neighbours:** 5 objections have been received from 4 addresses and 4 objections received from 3 e-mail addresses. 1 letter of support has been received from a local MLA.

Issues raised by objectors are as follows:

- Impact on designated sites including Ballymacaldrick ASSI, Lough Beg ASSI, SPA and Ramsar site. Process Contribution of nitrogen levels is above the critical level at which damage occurs.
- Environmental Information submitted is significantly flawed as it does not contain definitive findings as to the effects on protected areas.
- The HRA undertaken by Shared Environmental Services is based on incomplete information and an inappropriate screening policy.
- The Moy Park Utilisation Strategy (MPLUS) provides no certainty as to destination of waste produced and therefore its adverse impact.
- The MPLUS agreement did not have a Strategic Environmental Assessment completed at time of its approval.
- The MPLUS agreement includes export of waste to another member state. However there is no evidence of permits or licences or impact on protected sites in member state.
- There is no evidence of transboundary consultation on this project.
- The AD plants cited as potential processing facilities for waste did not have an EIA or HRA, nor has it been determined if waste from these plants will have adverse impact on protected species, sites or habitats.
- Screening policy of not undertaking in combination or cumulative assessment when estimated process contribution is less than 1um/m<sup>2</sup> at designated site is flawed as it fails to take account of peak ammonia emissions during emptying of tanks and fails to include emissions from MPLUS destinations.
- Non-regulated intensive agriculture sites are screened out from appropriate assessment by SES.
- Given number of intensive agricultural applications, HRA must include cumulative and in combination impacts on European Sites in NI and in other member states.
- Objects due to absence of HRA and cumulative impacts with other projects.

- Environmental information fails to consider impact of other damaging emissions such as phosphates and particulate matter including dust, fungi, bacteria and viruses. Failed to consider antibiotic resistant pathogens and antibiotic and Biocide pollution, Nitrous Oxides, Hydrogen Sulphide, Volatile Organic Compounds and Ground level Ozone.
- 98% of SAC exceed critical levels of Nitrogen Disposition at which ecological damage occurs -75% of these sites are double the threshold. Fresh water bird population is reduced by 42% over the last decade.
- It has not been demonstrated that the cumulative impact on protected habitat types and species will not result in unacceptable impacts, even if individually below the relevant threshold.
- Given the gaps in evidence relating to impacts from the proposal, it would be unlawful to approve.
- Tully Biogas AD Plant is identified as the destination for litter but is at capacity. NIEA cannot confirm if Tully AD has the capacity to accept the litter therefore SES determination is uncertain.
- The HRA completed in relation to the AD Plant was exempted unlawfully by NIEA from an appropriate assessment as waste was classed as fertiliser but this did not incorporate contaminated water.
- Certification of waste as a fertiliser does not eliminate the risk of the output of the AD process having an adverse impact on designated sites especially as it is disposed of by land spreading. An appropriate assessment should have been completed for the Planning and Pollution Prevention and Control permit.
- As neither approvals referenced, had appropriate assessments completed, the impact of emissions from the Tully AD Plant on designated sites must be considered in combination and cumulatively with other projects and has not been done.
- The air abatement measures are dependent on air-scrubbers which have not been independently validated in terms of their effectiveness. The lack of continuous monitoring means that there is uncertainty regarding effectiveness and resulting impact on designated sites.
- There is a need for cumulative assessments to be carried out on all inputs/ outputs to /from Tully AD.



- Sensitive Receptors should include those living close to spreading sites of digestate and contaminated water.

The letter of support raises the following:

- The application meets NIEA standards, and the applicant holds an IPPC permit for the additional houses.
- The Planning Authority can approve the application having considered the response from SES.
- The approach taken by SES is irrational and ammonia emissions can be compensated for by a proposed reduction in dairy herd numbers.
- The applicant could increase his dairy herd without further permissions.
- The application should be approved on this basis.

**Internal:**

5.2 **DFI Roads:** No objection subject to conditions.

**Environmental Health:** refer to NIEA as regulator (IPCC). No objections subject to conditions

**NI Water:** No objection.

**DARDNI:** Confirm that the farm business is both active and established for the requisite period.

**Rivers Agency:** No objection.

**Shared Environmental Service:** The measures, designed to 'offset' emissions from the proposal constitute compensation measures and cannot be considered unless the project must proceed for imperative reasons of overriding public interest. It is unlikely the proposal would meet the requisite tests. It is not certain, beyond reasonable scientific doubt, that the proposal will not have lasting adverse effects on the integrity of one or more European sites.

**NIEA - NED:** the ammonia modelling for the proposal meets DAERA's current operational policy. With regard to non-designated natural heritage site features, conditions are proposed.

**NIEA - Industrial Pollution and Radiochemical Inspectorate (IPRI):** The site is regulated by a Pollution Prevention and Control (PPC) Permit and will require a variation of its permit. The applicant will be required to apply for and be granted a PPC permit variation prior to stocking the proposed poultry housing.

**NIEA – Water Management Unit:** content subject to Conditions and applicant referring and adhering to standing advice and any relevant statutory permissions being obtained.

## **6 MATERIAL CONSIDERATIONS**

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.2 The development plan is:
  - Northern Area Plan 2016 (NAP)
- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.5 Due weight should be given to the relevant policies in the development plan.
- 6.6 All material considerations and any policy conflicts are identified in the "Considerations and Assessment" section of the report.

## 7 RELEVANT POLICIES & GUIDANCE

Northern Area Plan 2016

Strategic Planning Policy Statement

PPS2 Natural Heritage

PPS 3 Access, Movement and Parking

PPS15 (Revised) – Planning and Flood Risk.

PPS21 Sustainable Development in the Countryside

## 8 CONSIDERATIONS & ASSESSMENT

- 8.1 The main considerations in the determination of this application relate to the submission of an Environmental Statement; the principle of the development; visual integration and impact on character; impact on natural or built heritage; drainage; access arrangements; impact on neighbouring residential properties and representations.

### **Environmental Statement**

- 8.2 The Planning Authority is obliged under Regulation 10 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015 to determine whether the planning application should be accompanied with an Environmental Statement. The proposed development falls within category 17A of Schedule 1 of the 2015 Regulations and constitutes EIA development therefore the application is required to be accompanied by an Environmental Statement.
- 8.3 A voluntary Environmental Statement was submitted with the application on 08-SEP-2017 and included chapters/sections relating to the preapplication notification process and community consultation, noise, air quality and odours, ecology, the water environment, transport, socio-economic impact, litter disposal and nitrates management and the assessment of significance of effects. The Environmental Statement was advertised, neighbours were notified and consultees were consulted on the content of the Environmental Statement.

Environmental Statement addenda were received, and readvertised, the most recent being Addendum III which was received on 13-May-2022 and subsequently readvertised with details of where it could be viewed / obtained. This addendum relates to the comments received from SES and incorporates additional / revised mitigation and compensation measures including clarification of the fan system to ridge fans, removal of the air scrubber system and the removal of 70 dairy cows from the applicant's farm holding. Addendum III includes a revised Air Quality Impact assessment.

- 8.4 The Environmental Statement and addenda informed the assessment of the application.

#### **Principle of development**

- 8.5 The application site is located in the rural area as defined by the Northern Area Plan 2016 and falls partially within Long Mountain Bogs Site of Local Nature Conservation Importance (BNC 26). The site is also partially within an Area of Constraint on Mineral Developments.
- 8.6 The application site is located within 4.5km of Main Valley Bogs SAC (International Importance) and ASSI (National Importance). Given the nature of development, the proposal has the potential to impact on areas of international and national importance. NAP states that "development proposals within or adjoining these areas will be assessed in accordance with prevailing regional policy as set out in PPS2: Natural Heritage.
- 8.7 The SPPS states that sustainable development shall be permitted having regard to the development plan and all other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.
- 8.8 Paragraph 6.73 provides a context for agriculture and forestry development: provision should be made for development on an active and established (for a minimum 6 years) agricultural holding or forestry enterprise where the proposal is necessary for the efficient operation of the holding or enterprise. New buildings must be sited beside existing farm or forestry buildings on the holding or enterprise.

8.9 Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of the types of development is agricultural and forestry development in accordance with Policy CTY 12.

8.10 Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural and forestry holding providing a list of criteria are met. The site is located on land outlined in the submitted farm maps as part of the applicants holding and DAERA has confirmed that the farm business ID number has been active and established for the requisite period. CTY12 requires demonstration that:

**a) It is necessary for the efficient use of the agricultural holding.**

8.11 The applicants farm holding is extensive, incorporating just under 150 hectares. Farming activities include cattle and poultry. DARD has confirmed that the farm business ID number has been active and established for the requisite period and that the business claims single farm payment. The proposed buildings are to accommodate an expansion of the business. Paragraphs 4.17 to 4.23 of the Environmental Statement advises that the application relates to an established poultry farm as part of Moy Park and the proposal is considered necessary to facilitate additional bird capacity on site as part of a proposed farm expansion and the wider Moy Park expansion programme.

8.12 Two operational poultry sheds exist on site. Moy Park are unable to utilise existing agricultural buildings to house broiler chickens as general purpose agricultural buildings or livestock sheds are not built to the specifications insisted upon for efficient, climate controlled and cost effective poultry production. There are no suitable existing buildings on the applicant's holding and the proposed buildings are considered necessary for the efficient use of the agricultural holding.

**b) It is appropriate to the location in terms of character and scale.**

8.13 The proposed sheds are located immediately adjacent two existing operational poultry sheds, the closest of which is

located approximately 130m northwest of the farm dwelling at No 81 and within less than 6m of the main farm grouping. The proposed poultry units are positioned to either side of the rearmost existing shed and extend to approximately 85.9m x 20.6m with a ridge height of 5.3m. The proposal includes four additional feed bins (four exist), extension to the existing concrete apron and retention of site works which currently includes regrading of part the site and provision of hardstanding to facilitate the development.

- 8.14 Although comprising large structures, the proposed buildings are of similar proportions and design to the existing sheds and comparable to the standardised design of such buildings found in the countryside. Sustained views of the site exist from the south-west. However, the proposal is read within the context of the existing buildings, including the two existing poultry sheds and adjacent farm grouping which comprises a number of large agricultural buildings. The proposal is appropriate in terms of scale for the nature of the farm business and is not considered to significantly impact on rural character which is defined by a small number of rural dwellings and farm groupings.

**c) It visually integrates into the local landscape and additional landscaping is provided as necessary.**

- 8.15 The site is located within an upland area but remains comparable in levels to the public road. The site is located approximately 120m back from the public road and is accessed from an existing shared laneway located between numbers 81 and 83 Glenbuck Road which serves the existing poultry sheds as well as the nearby Glenbuck wind farm. No 81 comprises a fairly large farm grouping and includes a separate access.
- 8.16 The subject site is located to the immediate south of a large, elevated rock outcrop and comprises significant variations in levels from west to east. The existing facilities comprise an open flat site which has been created by means of regrading the land, some of which relates to the current proposal. Additional regrading of the land is required to facilitate the most easterly proposed shed which is sited above the existing yard and buildings. Existing boundaries are poor in terms of vegetation and generally defined by post and wire fencing.

- 8.17 The site is located within an upland area but is not considered prominent within the localised context which is undulating and incorporates a pronounced localised fall in levels along the public road from south-west to north-east. Within the wider context, the site is it is located within an elevated landscape which is dominated by the nearby windfarm.
- 8.18 The proposed broiler units are located to the immediate west and east of the existing rearmost shed. The site for the western poultry shed has already been levelled to that of the existing shed and laid out in hardcore while the land for the siting of the second shed remains generally unaltered. The land rises steeply from the eastern elevation of the existing shed with proposed finished floor levels for the eastern shed approximately 3.5m above that of the existing shed. The land continues to rise steeply over a short distance to the east as part of the adjacent existing rock outcrop which sits elevated above the subject site and dominates the local natural landscape. This rock outcrop includes a large radio mast and ancillary building with a number of large commercial turbines within the site context / background.
- 8.19 Views of the site exist from approximately 190m south-west of the access lane exist from what is an elevated position with the local context with the road level dropping gradually to form a fairly level area within the context of the access point and beyond before falling away again approximately 400m north-east of the access. From here, views of the site are fairly open and sustained within little vegetation providing screening. However, the site is set back from the public road, is read in the context of the existing buildings, and has the adjacent rock outcrop providing some degree of backdrop from the critical views with the existing mast elevated above the subject site. The existing commercial windfarm is also evident in the background. Although one of the proposed units is elevated above the rest, the proposal generally integrates satisfactorily as a result of the existing landform rather than landscaping. Travelling in the opposite direction, the site remains well screened as a result of existing built form (including the adjacent farm holding) as well as the landform which entirely screens the proposal until the access point.

- 8.20 Although the buildings are large in scale, they incorporate a low ridge height and where critical views do exist, they are fairly localised from which the proposal will not appear prominent. The views incorporate a significant backdrop. The proposed design is absorbed into the landscape, with the dark green cladding blending in with the fields and agricultural buildings which characterise the area.
- 8.21 Existing vegetation is of poor quality and the proposal incorporates extensive additional landscaping which will aid in integration of the proposal.

**d) It will not have an adverse impact on the natural or built heritage.**

- 8.22 When considered in the context of the existing poultry houses, the current proposal raises the number of birds that the installation can facilitate (125,500) to above the threshold defined in Section 17 of Schedule 1 of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015. As such, the application was accompanied by an Environmental Statement.
- 8.23 NIEA are consulted on planning applications which are a source of ammonia and are within 7.5km of protected sites and 2km of priority habitats (zone of influence). The role of SES is to assess proposals and ensure that they comply with the legal requirements of the Habitats Regulations.
- 8.24 Shared Environmental Services has undertaken a Habitats Regulations Assessment. The assessment concludes that it is not possible to ascertain, beyond reasonable scientific doubt, that this proposal will not have lasting adverse effects on the integrity of Main Valley Bogs SAC contrary to its conservation objectives. Planning permission cannot be granted until such times as the applicant can demonstrate no adverse effect on the integrity of Main Valley Bogs SAC.
- 8.25 Having considered the Environmental Statement, NIEA (NED) is content that the proposal as described in the planning application, is in line with NIEA's operational protocol on nitrogen emissions. NIEA (WMU) note that the site is regulated by a Pollution Prevention and Control (PPC) permit and will



require a variation of its permit. NIEA (IPRI) also advise that the applicant will be required to obtain a Pollution Prevention and Control (PPC) permit variation prior to first operating the expanded installation.

8.26 The proposal is contrary to PPS2 Natural Heritage, Policy NH1 in that development would, if permitted, have the potential to have an unacceptable adverse impact on the conservation objectives of the designated site. Details on which site is affected and the specific harm is set out in paragraphs 8.44 and 8.45

8.27 There is no built heritage in the vicinity of the site which this development will impact on.

8.28 The proposal is contrary to criteria (d) of CTY12, see impact on natural heritage for further information.

**e) It will not result in a detrimental impact on the amenity of residential dwellings outside the holding.**

8.29 NIEA - Industrial Pollution and Radiochemical Inspectorate (IPRI) is the competent authority for the investigation of any noise or odour complaint for an application of this type and size.

8.30 The Environmental Statement (Addendum III) includes an Air Quality and odour assessment which identifies four (third party) properties as the nearest residential receptors. The proposal indicates the use of ridge fans without air scrubbers. Air modelling has been carried out and the report indicates that the maximum ground level odour concentration is predicted to be primarily confined to the immediate environs of the site. The assessment concludes that at the worst affected third-party property (82 Glenbuck Road – approx. 200m away), the predicted odour levels will remain within acceptable levels.

8.31 The submitted AQIA also assesses the potential impacts from pollutants (including ammonia and bioaerosols) and concludes that these will not cause significant ground level concentrations at any residential property in the vicinity of the site.

- 8.32 Following consultation, IPRI has concluded that the existing installation at the site is subject to regulation by the Inspectorate under the Pollution Prevention and Control (Industrial Emissions) Regulations (NI) 2013 (The PPC(IE) Regulations) – PPC Permit Number. The applicant will be required to apply for and be granted a PPC permit variation prior to stocking the proposed poultry housing. This will need to include a demonstration that the proposal will have an acceptable environmental impact, including (a) impacts of odour, ammonia and dust emissions on sensitive local receptors, (b) utilisation of manures produced from the proposed installation. Paragraph 1.7 of the ES (dated August 2017) states that an application for an IPPC permit to operate the site is being prepared by Moy Park for submission. NIEA has not confirmed the revised permit has been granted but reference is made in the supporting letter from a local MLA (17-NOV-2022) that the applicant is currently in possession of the necessary permit for the additional units.
- 8.33 The Environmental Health Department has also been consulted and raise no objections on the basis of potential impact on third party residential properties.

### **New buildings**

- 8.34 In the case where new buildings are proposed, CTY 12 requires sufficient information to confirm: that there are no suitable existing buildings that can be used; the design and materials are sympathetic to the locality; and the proposal is sited beside existing farm or forestry buildings. Having regard to the specific nature of the development, the Environmental Statement comments that there are no suitable existing buildings on the holding. The design and materials of the building are sympathetic to the locality and the building is located to cluster with an existing farm building.
- 8.35 Having considered the proposal under the criteria of CTY12 above, the proposal fails to meet criteria (d) of Policy CTY 12 regarding natural heritage.

## **Visual Integration and Impact on Character**

- 8.36 Policy CTY 13 allows for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design.  
As described above under paragraph 8.15-8.21, the proposal will visually integrate into the surrounding landscape, has a suitable backdrop, is not prominent and is of an appropriate design.
- 8.37 Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As described above under paragraphs 8.13 – 8.14, given the existing built form, topography and backdrop the proposed sheds will not appear prominent and will not cause a detrimental change to the rural character of this area.

## **Impact on Natural Heritage**

- 8.38 The application site is within 7.5km of Ballymacaldrick ASSI, Craigs ASSI, Main Valley Bogs SAC, Caldanagh Bog ASSI, Dunloy Bog ASSI, Frosses Bog ASSI and Glarryford ASSI and is hydrologically connected to Lough Neagh ASSI and Lough Neagh and Lough Beg SPA/Ramsar site which are of international and national importance and are protected by Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002.
- 8.39 All litter generated by the proposed units will be disposed of / utilised at Tully Biogas Plant in Ballymena, to which Moy Park are contracted for 20 years to provide 40kt of litter per annum. Litter utilisation/disposal will be controlled under PPC permit.
- 8.40 Policy NH1 and NH3 of PPS 2 deal with European, National and Ramsar sites. NED has reviewed the Environmental Statement Addendum III (dated 13/05/2022) and acknowledge the use of the updated Emission Factor for Broilers within the AQIA (dated 13/04/2022) and the 'whole' farm approach that has been taken. NED advises that the current DAERA policy on ammonia emissions related to planning considerations, remains the existing policy applied by NED when providing statutory

advice. Standing Advice Note 19 Livestock Installations and Ammonia (published June 2017) and the Supplementary Note published May 2018 outline the current operational policy in relation to ammonia emissions. NED notes that the recent outcome of the ammonia modelling for the broiler housing still meets DAERA's current operational policy and raise no objections subject to recommendations and informatives with regard to non-designated natural heritage site features.

- 8.41 NIEA (DAERA) operational protocol on nitrogen emissions is currently part of an investigation carried out by The Office of Environmental Protection (OEP).
- 8.42 Policy NH1 of PPS 2 deals with European and Ramsar sites. Where a development proposal is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, the Planning Authority shall make an appropriate assessment of the implications for the site in view of the site's conservation objectives. Appropriate mitigation measures, in the form of planning conditions, may be imposed. In light of the conclusions of the assessment, the Planning Authority shall agree to the development only after having ascertained that it will not adversely affect the integrity of the site.
- 8.43 The planning application is considered in light of the assessment requirements of Regulation 43(1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) by Shared Environmental Service on behalf of Causeway Coast and Glens Borough Council. This is the competent authority responsible for authorising the project and any assessment of it required by the Regulations.
- 8.44 SES advises that the proposed poultry units, which are a point source of ammonia emissions, are situated within 4.2kms of Main Valley Bogs Special Area of Conservation (SAC). The SAC is designated for EU habitat type 7110 'Active raised bog' which are acidic, ombrotrophic, poor in mineral nutrients and are sustained mainly by rainwater, with a water level generally higher than the surrounding water table. SES advises that Ombrotrophic bog ecosystems are particularly vulnerable to

ammonia in its gaseous form for which Critical Levels (CLE) apply.

8.45 The overall conservation objective for Main Valley Bogs SAC is to maintain (or restore where appropriate), the active raised bog to favourable condition. The bog habitat is sensitive to direct effects of ammonia. The conservation objectives identify nitrogen deposition as a key threat. Ammonia is one of the key pollutants that contribute to nitrogen deposition. Excess nitrogen deposition can favour the growth of competitive plants and lead to changes in the ecosystem structure or function and lead to a reduction in biodiversity. The recommended CLE for active raised bog is  $1\mu\text{g}/\text{m}^3$ . The background level of ammonia at Main Valley Bogs SAC already exceeds the recommended level, averaging  $3.15\mu\text{g}/\text{m}^3$  across the site. Having considered the Air Quality Impact Assessment submitted in support of the application, SES conclude that the predicted ammonia process contribution from the proposal is likely to contribute to an adverse effect on the site integrity of the SAC, contrary to its conservation objectives and planning permission cannot be granted until such times as the applicant can demonstrate no adverse effect on the integrity of Main Valley Bogs SAC.

8.46 Due to the likely adverse effect on the identified designated site, the applicant has proposed a number of measures to off-set the additional cumulative impact. These include:

- The ventilation system on the proposed sheds will revert to standard ridge fans. A scrubber is no longer proposed as part of the application.
- Reduction in existing cattle herd of 70 animals.
- The updated AQIA calculations are reliant on an indirect heating system although this has not been reflected in any supporting documents or drawings.

8.47 The ES (Addendum III) also states that:

- The emission factors for broilers have been updated in a recently published document by Agri-Food and Biosciences Institute.
- The ammonia assessment only takes account of the proposed sheds in line with the appropriate NIEA Guidance.

- 8.48 In terms of the measures proposed, when assessing a project under the Habitats Regulations, there is an important distinction between mitigation and compensation.
- 8.49 Where a possible adverse effect on a European site has been identified, mitigation measures are those which eliminate such an effect, or reduce its significance, and the integrity test then takes into account that mitigation.
- 8.50 Measures designed to compensate for adverse effects of a project which cannot be sufficiently mitigated, become appropriate only where a competent authority determines that there are no alternative solutions, and the project must proceed for imperative reasons of overriding public interest. Examples of this would be a road scheme or airport extension.
- 8.51 SES references the official European Commission guidance on managing Natura 2000 sites which states;  
*“5.4.1. What is meant by ‘compensatory measures’ and when should they be considered? The term ‘compensatory measures’ is not defined in the Habitats Directive. Experience would suggest the following distinction between compensatory and mitigation measures:*
- *mitigation measures in the broader sense, are those measures that aim to minimise, or even eliminate, the negative impacts likely to arise from the implementation of a plan or project so that the site’s integrity is not adversely affected. These measures are considered in the context of Article 6(3) and are an integral part of the specifications of a plan or project or conditional to its authorisation (see section 4.6.5);*
  - *compensatory measures are independent of the project (including any associated mitigation measures). They are intended to offset the residual negative effects of the plan or project so that the overall ecological coherence of the Natura 2000 network is maintained. They can only be considered in the context of Article 6(4)”.*
- 8.52 In the context of the current proposal, measures such as fan specifications, heating systems, method of litter removal etc would form an integral part of the of the specifications of the proposed project and represents mitigation. Measures which

are independent of the project such as reduction of other farming activities / animal numbers on the holding is considered compensation.

- 8.53 Policy NH1 of PPS2 states that in exceptional circumstances a development proposal which could adversely affect the integrity of a European or Ramsar Site may only be permitted where:
- there are no alternative solutions; and
  - the proposed development is required for imperative reasons of overriding public interest (IROPI); and
  - compensatory measures are agreed and fully secured.
- 8.54 SES is of the opinion that the proposed measures which are designed to 'offset' emissions from the proposal, constitute compensation measures and cannot be considered unless it is determined that the project must proceed for imperative reasons of overriding public interest.
- 8.55 Without prejudice to the development not being IROPI, the AQIA appears to have modelled the cattle to be housed in the building for 12 months which would not be typical. There is no expansion or explanation on the proposed reduction of the 70 cattle. There is uncertainty if they will continue to graze and be housed in another building not considered 'the existing farm buildings' but yet within the vicinity of Main Valley Bogs SAC in which case they will continue to generate ammonia emissions.
- 8.56 The current proposal relates to the extension of poultry farming activities as part of the identified farm business and is not considered a project which must proceed for imperative reasons of overriding interest and therefore compensation measures are not appropriate, and the proposal is contrary to policy. The proposal alone would add to existing elevated background levels and consequently impede the primary conservation objectives for the site. The applicant has not demonstrated that no adverse effect on the integrity of Main Valley Bogs SAC will result from the project. The proposal is contrary to Policy NH1 of PPS2.

## **Access arrangements**

- 8.57 Policy AMP3 of PPS3 relates to access to public roads. Access is taken from the existing laneway serving the applicant's dwelling and farm holding including the existing poultry sheds. Vehicular movements are detailed as approximately 24 vehicle movements per cycle, with approximately 7 cycles each year. This equates to approximately 1.1 vehicle movements per day. Upgrading of the access point is proposed, including widening of the existing access to 6m and provision of extended visibility splays (2.4 x 100m). The alterations require repositioning of existing fencing and reduction in verge level below 250mm. DFI Roads has been consulted and offer no objection subject to conditions.

## **Drainage**

- 8.58 The application proposes the washing and storage of all effluent to an underground tank with any disposal complying with the relevant regulations. Clean water will be directed to the storm water discharge and the use of swales are proposed for lightly contaminated surface water runoff.
- 8.59 The ES (08-SEP-2017) incorporates a Drainage Assessment (Appendix 5) which identifies a watercourse to the south-western corner of the site, although the site is not affected by fluvial flooding.
- 8.60 In order to ensure the proposal is compliant with the requirements of FLD3, measures are proposed to effectively manage the flood risk from pluvial ponding. It is proposed the site be re-profiled to provide suitable surface water drainage infrastructure and remove any standing water. Surface water is proposed to be discharged to a swale and field drain specifically sized to attenuate flow and return to the soil through infiltration.

## **Representations**

- 8.61 As documented at paragraph 5.1, 5 objections have been received from 4 addresses and 4 objections received from 3 e-mail addresses. 1 letter of support has been received from a local MLA.



- 8.62 The representations state that the project impacts a number of designated sites which are above the critical level thresholds for ammonia and which have no additional loading capacity. Relevant consultations have been carried out with NIEA (DAERA) as the Statutory Nature Conservation Body (SNCB) and SES regarding the potential impact from the proposal on natural heritage interests as outlined above.
- 8.63 In relation to the impact on the SAC, this is acknowledged, and refusal is recommended.
- 8.64 The representations indicate that the environmental information submitted by the applicant is flawed as does not provide definitive findings as to the effects of the project on both protected habitats and species and habitats outside designations. - NIEA as the Statutory Nature Conservation Body (SNCB) advise that they are content that the proposal is in line with NIEA's operational protocol on nitrogen emissions. NIEA raise no objection subject to standing advice. Shared Environmental Services has confirmed that insufficient information exists to ascertain that it will not adversely affect the integrity of the designated site. The issue of antibiotic resistance is not a matter to be regulated under the planning regime.
- 8.65 Litter utilisation and AD Plant Capacity - Litter will be disposed of under Moy Park's updated Litter Utilisation Strategy as agreed with the NIEA. All litter is to be transferred to Tully AD Plant as provided for by the Litter Utilisation Strategy. This can be regulated by condition. An assessment under the Habitats Regulations would have been carried out for Tully AD plant by the competent authority. Tully AD plant will have been subject to the relevant permits and processes to obtain permission. Consideration of the MPLUS and whether it has had a SEA is not therefore a relevant consideration to this proposal. No land spreading is proposed as part of the current application and all litter is disposed of to a licenced operational anaerobic digester plant which benefits from permission, the operation of and HRA for this is a matter of regulation though the appropriate authorities. The AD plant will have been subject to the relevant permits and processes to obtain permission including HRA. Regulation 47 of The Conservation (Natural Habitats, etc.)

Regulations (Northern Ireland) 1995 applies and that facility does not have to be revisited as part of this application.

- 8.66 NIEA as the SNCB has been consulted in relation to the representations received and the relevant assessment. Having considered objection letters, NIEA confirm they are content with the proposal. Assessment is within 7.5km of designated sites. Transboundary issues are unlikely given the location of the proposal and destination of litter disposal. No other sites have been particularised.
- 8.67 Representations queried whether NIEA have failed to take account of poultry litter processed via an AD unit. Any poultry litter processed via an AD unit is considered under a separate consenting regime.
- 8.68 Representation state that non- regulated intensive agriculture sites are screened out from Appropriate Assessment. Cumulative and in-combination impacts as part of the appropriate assessment. Consultation with SES has taken place and a Stage 2 appropriate assessment (AA) completed. All known sources are included in the AA.
- 8.69 The revised AQIA takes account of odour, ammonia, dust and bioaerosols. In terms of water quality / habitat or deposition of nitrogen from free range birds, NIEA and EHD are the competent authorities on contamination and pollution and no objections have been raised. NIEA and SES have been consulted on the potential environmental impacts in terms of designations, species and habitats. NIEA as the SCNB do not raise any objections. However, SES advises that the proposal fails to demonstrate that the proposal will not impact on the integrity of the designated site.
- 8.70 Representations state that approval of the proposal would be unlawful due to gaps in the submitted information. The relevant information has been considered and the Planning Authority has consulted all relevant statutory consultees throughout the processing of this application, taking into account the responses from the competent authorities. Based on this, insufficient information has been submitted by the applicant to demonstrate to an acceptable degree, that the integrity of the identified site

will not be impacted. The proposal is therefore considered unacceptable.

- 8.71 Effectiveness of air scrubbers – the revised AQIA (Addendum III) indicates that air scrubbers no longer form part of the proposal.
- 8.72 In relation to the letter of support, while the application meets the current operation protocol applied by NIEA (DAERA), this is currently subject to investigation by The Office of Environmental Protection (OEP).
- 8.73 The applicant may hold a revised holds an IPPC permit for the additional houses, however the Planning Authority is the competent authority under The Conservation (Natural Habitats, etc.) Regulations 1995 (as amended), which includes the carrying out of Habitat Regulations Assessments (HRAs) before a planning decision is made. Having considered the HRA completed by SES on behalf of the Council, a significant impact on a European designated site cannot be ruled out and the proposal is unacceptable.
- 8.74 Off-setting ammonia emissions by a proposed reduction in dairy herd numbers as compensation measures beyond the proposed project, cannot form part of the consideration for the reasons outlined above.
- 8.75 The supporting letter states that the applicant could increase his dairy herd without further permissions. The current application relates to additional poultry units significantly increasing the number of birds on site. The impact from the proposal on designated sites is considered unacceptable. An increase in dairy herd may require further accommodation which would necessitate planning permission and consideration of nitrogen impacts through a Habitats Regulation Assessment.

## **9 CONCLUSION**

- 9.1 The proposed development is unacceptable in this location having regard to the area plan and other material considerations. The Planning Authority must apply the precautionary principle when considering impacts of a proposed development on national or international significant natural heritage resources. The proposed development is contrary to Paragraphs 6.174 – 6.178 of the SPPS, CTY12 of PPS21 and Policy NH1 of PPS2 Natural Heritage, in that the development would, if permitted, by reason of nitrogen emissions, have the potential to have a significant effect on the Main Valley Bogs SAC, a European site, and is contrary to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995. Refusal is recommended.

## **10 Refusal Reason**

- 10.1 The proposal is contrary to Paragraphs 6.174 to 6.178 of the Strategic Planning Policy Statement, Policy CTY12 of PPS21 and Policy NH1 of Planning Policy Statement 2 Natural Heritage in that the development would, if permitted, have the potential to have a significant effect on Main Valley Bogs SAC, a European site.

## Location Map

