

Item E

**Land approx 90m South West of
143 Finvoy Road, Ballymoney**

**D/2014/0259/F
Full Application**

23rd September 2015

<u>No:</u>	D/2014/0259/F	<u>Ward:</u> Killoquin Lower
<u>App Type:</u>	Full Application	
<u>Address:</u>	Land approx 90m South west of 143 Finvoy Road, Ballymoney.	
<u>Proposal:</u>	Proposed 2 no Additional Poultry Houses with 4 no Feed Bins for 74,000 Birds, Storage Shed for Biomass Boiler and Wood Pellet Bin.	
<u>Con Area:</u>	N/A	<u>Valid Date:</u>
<u>Listed Building Grade:</u>	N/A	
<u>Agent:</u>	DM Kearney Design	
<u>Applicant:</u>	Mr Ian & Mr Thomas Forgrave	
<u>Objections:</u> 0	<u>Petitions of Objection:</u> 0	
<u>Support:</u> 1	<u>Petitions of Support:</u> 0	

Drawings and additional information are available to view on the Planning Portal- www.planningni.gov.uk

1 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 resolves to **GRANT** planning permission subject to the conditions and informatives set out in section 10.

2 SITE LOCATION & DESCRIPTION & CHARACTER OF AREA

- 2.1 The application site is located south west of No 143 Finvoy Road within the rural area. The site is located to the western side of Finvoy Road on land set at a much lower level than the public road and is currently in agricultural use.
- 2.2 The site forms part of a large agricultural holding comprising a farm dwelling, six existing poultry houses and a number of smaller agricultural buildings. The site is accessed via a wide concrete laneway serving the existing farm yard onto which the proposed site fronts. Mature trees and hedging exists to the southern and western boundaries of the site as well as a large

area of woodland adjacent to the west. Large mature trees and hedgerows exist to the north and south of the existing access point.

- 2.3 The site is located within a rural non-policy area as designated by the North Eastern Area Plan 2002 and the Draft Northern Area Plan 2016. The character of the area is generally rural comprising individual dwellings and farm groupings although a number of dwellings do exist on the eastern side of Finvoy Road opposite the existing access point.

3 RELEVANT HISTORY

D/2004/0263/F – Proposed wind turbine to serve agricultural business. Permission granted.

D/2014/0088 – Replacement of existing 24m to hub turbine with turbine 40m to hub. Permission granted.

4 THE APPLICATION

- 4.1 This is a full application for two additional broiler poultry houses with four feed bins, a storage shed for a biomass boiler as well as a wood pellet bin. The current application proposes an additional 74,000 broilers bringing the total birds on site to 187,500.
- 4.2 An Environmental Statement was submitted as part of the application.

5 PUBLICITY & CONSULTATIONS

External:

5.1 **Neighbours: (4) Four**

No objections received. One letter of support received from Mr Paul Frew MLA.

Internal:

- 5.2 **Transport NI:** No objection subject to informatives.

Environmental Health: Refer to the Industrial Pollution and Radiochemical Inspectorate (IPRI) of the NIEA as permit required.

NIEA Natural Heritage: No objection subject to conditions

NIEA Industrial Pollution and Radiochemical Inspectorate (IPRI) No objection

DARDNI: Have confirmed farm business ID and that applicant claims single farm payments.

NIEA Waste Management Unit: No objection subject to PPC permit.

NIEA Water Management Unit: No objection subject to condition regarding disposal of poultry litter.

NIEA Land and Resource Management: No objection subject to condition regarding, identification of and mitigation against, contamination.

NIEA Historic Monuments Unit: No objection

Rivers Agency: No objection subject to informatives.

NI Water: No objection subject to informatives.

6 MATERIAL CONSIDERATIONS

- 6.1 Article 45 of the Planning Act (Northern Ireland) 2011 states that, “where an application is made for planning permission, the council or, as the case may be, the Department, in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations.”
- 6.2 The development plan is:
 - North Eastern Area Plan 2002 (NEAP)
 - draft Northern Area Plan 2016 (dNAP)
- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 Due weight should be given to the relevant policies in the development plan.
- 6.5 All material considerations and any policy conflicts are identified in the “Considerations and Assessment” section of the report.

7 RELEVANT POLICIES & GUIDANCE

PPS 1 General Principles

PPS 2 Natural Heritage

PPS 3 Access, Movement and Parking

PPS21 Sustainable Development in the Countryside

8 CONSIDERATIONS & ASSESSMENT

8.1 PPS 1 operates a general presumption in favour of development unless there is demonstrable harm to interests of acknowledged importance.

8.2 The main considerations in the determination of this application relate to: the principle of the development in this location; visual integration, impact on neighbouring residential properties and, impact on natural or built heritage.

Principle of development

8.3 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.

8.4 Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural and forestry holding where it is demonstrated that:

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

8.5 The Farm Business ID was established in 2004 in relation to the existing farm-holding. It has not been specifically demonstrated that the proposal is necessary for the efficient use of the agricultural holding. However, 6 poultry houses already exist on the holding adjacent the current proposal. The current application is part of a wider expansion of the poultry producing sector which ties in with the DETI and DFP announcement of an Agri-Food Loan scheme available to local broiler producers. As such the proposal relates to the expansion of the existing

business and would appear to be necessary to support the needs of the existing business.

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

- 8.6 The proposed sheds are located adjacent the existing farm yard and buildings. Each poultry unit is 6 m in height to the ridge, 20.5m wide and 86m in length. The feed bins (4 in total) and pellet storage bin are 3m in diameter and 6.7m high. The biomass boiler house comprises a small “L” shaped building 4m in height. There is a concrete apron to the front.
- 8.7 The site is located within a rural area, most of the development in the locality is roadside comprising small agricultural holdings and individual dwellings. The farm grouping at No 143 Finvoy Road is the largest within the immediate vicinity.
- 8.8 The area is characterised mostly by low lying land agricultural land to the West of Finvoy Road comprising a variety of field sizes and shapes. The proposed sheds are orientated north / south as are the existing buildings and are located within a small agricultural field immediately adjacent the existing buildings and yard. The proposal does not require any hedge removal.

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

- 8.9 The site is immediately adjacent the existing poultry houses and fronts onto the existing laneway / yard. The proposed units are set within a low lying area when considered against the public road and are also lower than the existing poultry units due to the fall in the farm yard from east to west.
- 8.10 The design and materials are sympathetic to the locality and are characteristic of the rural area, given that this proposal is for the expansion of a large poultry farm and the new poultry houses are grouped within those existing.
- 8.11 Ancillary development such as feed bins and the biomass building are appropriate in scale and in keeping with the existing use and structures on site.

8.12 Views from the public road are very limited due to the topography and existing units which screen the proposal as well as extensive mature trees and vegetation which exists along the Finvoy Road to the north and south of the access point. The application proposes retention of a large area of existing trees to the immediate west of the site which provides further backdrop.

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

8.13 The site is within close proximity of three areas of known archaeology and within 7.5km of a number of Areas of Special Scientific Interest and Special Areas of Conservation. The submitted Environmental Statement identifies those designations potentially affected by the proposal including the Bann Estuary which is hydrologically connected but located some 22km away. The ES also includes an Air Quality and Odour Assessment which outlines the likely impact on designated sites from ammonia emissions as well as further information on the potential impact on any relevant habitats.

8.14 NIEA has been consulted in relation to these issues and based on the information provided have indicated that the proposal is unlikely to negatively impact on natural heritage.

8.15 Shared Environmental Services have undertaken a Habitats Regulations Assessment. The assessment concluded that there will be no likely significant effects on the selection of features of SAC/SPA or additional ASSI's.

8.16 No objections have been raised in terms of the impact on archaeology.

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

8.17 The Agricultural Advisory and Development Service (AADS) which provides specialist advice on agricultural matters, states that at a distance of 400m from a unit the risk of odours at a nuisance level would be minimal. At 100m, odour is very likely to be detectable on occasion. The nearest third party residential property is approximately 366m from the site.

8.18 NIEA IPRI is the responsible body for the investigation of any noise or odour complaint for an application of this type and size. Following submission of "Air Quality Impact Assessment" IPRI have stated that the demonstrated impacts of emissions of odour, dust and ammonia on sensitive receptors are likely to be acceptable. The existing agricultural business is the subject of a PPC permit and the applicant will be required to be in receipt of a revised Pollution Prevention and Control (PPC) permit prior to first operating the increased capacity of over 187,500 bird places.

Proposed buildings

8.19 In the case where new buildings are proposed, CTY 12 requires: that existing buildings be used; the design and material are sympathetic, and; they are sited beside existing farm or forestry buildings. There are no suitable existing buildings at this location and the buildings are required to be a particular size and shape. The design and materials of the building are sympathetic to the locality and is located to cluster with the existing farm buildings. The poultry houses are of a simple design and buildings of this style are characteristic of the rural area.

The proposal meets all of the above criteria and therefore complies with Policy CTY 12.

8.20 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 mentioned above under point c) the proposal will visually integrate into the surrounding landscape and is an appropriate design.

8.21 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. Given the new poultry shed will sit to the rear of the existing farm and due to the limited visual impact from the public view points, it will not cause a detrimental change to the rural character of this area.

8.22 Policy AMP3 of PPS3 deals with access to public roads. Transport NI have been consulted and offered no objection subject to conditions.

- 8.23 Policy NH1 of PPS 2 deals with European and Ramsar sites and Policy NH 3 deals with Site of Nature Conservation Importance - National.
NIEA Natural Heritage were consulted on the proposal which is within 7.5km of Caldanagh Bog ASSI, Main Valley Bogs SAC, Craigs ASSI, Ballymacaldrick ASSI and Tully Hill ASSI.
An Air Quality Impact Assessment was submitted as part of the ES and a Habitats Regulations Assessment (HRA) Stage 1: Test of Likely Significance (Screening) completed on this proposal.
- 8.24 This has concluded that there will be no likely significant effects. Therefore given the outcome of this assessment the proposal is in compliance with policies NH1 and NH 3 of PPS 2. Additionally given the nature and scale of the proposal the proposal should not cause any harm to any protected species as per Policy NH 2 of PPS 2.

Other Matters

- 8.25 Information about litter utilisation was submitted stating the litter will be utilised according to Moy Park's Litter Utilisation Strategy in which they have identified renewable energy generation with EPR Fife as the nominated outlet for this material. Litter will be cleared from the site when the birds are removed and immediately transported to the relevant end user.

9 CONCLUSION

- 9.1 The proposed development is considered acceptable in this location having regard to the area plan and other material considerations. The development is an appropriate use of the land and is acceptable in terms of its layout and appearance. All other matters can be secured by planning condition. Approval is recommended.

10 CONDITIONS/ INFORMATIVES

10.1 Regulatory Conditions:

1. As required by Section 61 the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

2. The existing boundary vegetation as indicated on Drawing No. 01A date stamped received 26th February 2015 shall be permanently retained, unless it is necessary to be removed to prevent danger to the public in which case a full explanation shall be given to the Planning Authority in writing. The proposed planting as indicated on the same drawing shall be undertaken during the first available planting season after construction of the building for its permitted use.

Reason: In the interest of visual amenity and to ensure the development integrates into the countryside.

3. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Planning Authority, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape.

4. The onsite capacity shall be limited to 187,500 (broilers).

Reason: To ensure there are no adverse impacts on the selection feature of Caldanagh Bog ASSI, Main Valley Bogs SAC, Craigs ASSI, Ballymacaldrick ASSI and Tully Hill ASSI.

10.2 Informatives:

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

3. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.
4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Planning authority or other statutory authority.
5. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.
6. Poultry Litter shall be disposed of according to the methods as detailed in the Litter Utilisation Information which identifies EPR Fife as the nominated outlet for this material.
7. No effluent produced on site during the emptying or cleaning of the house should be permitted to escape o the environment.
8. All construction plant and materials shall be stored within the curtilage of the site.
9. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.
10. Notwithstanding the terms and conditions of the Councils approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Regional Development's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the TransportNI Section Engineer whose address is County Hall, Castlerock Road, Coleraine, BT51 3HS. A monetary deposit will be required to cover works on the public road.

11. The applicant should also be reminded of their responsibilities under the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (SSAFO) (Northern Ireland) 2003 and The Nitrates Action Programme (NAP) Regulations (Northern Ireland) 2010.
12. The applicant is informed that they have a legal obligation under Part II of 'The Water (Northern Ireland) Order (1999)' to obtain the consent of the DOE NIEA prior to discharging effluent into a waterway or underground stratum for commercial, industrial or domestic premises. This includes any discharge intended to be made from the proposed drainage system as detailed in the application for planning permission.
13. The applicant is informed that it is an offence under Part II, Article 7 of 'The Water (Northern Ireland) Order (1999)' to knowingly or otherwise discharge or deposit any poisonous, noxious or polluting matter so that it enters a waterway or water contained in any underground strata. The penalty if found guilty of an offence under this Article is imprisonment for a term not exceeding 2 years or to a fine or to both.
14. The applicant is informed that it is an offence under section 47 of the Fisheries (NI) Act 1966 to cause pollution which is subsequently shown to have a deleterious effect on fish stocks and that they may be liable to criminal and civil court action for the cost of restocking/rehabilitating a watercourse should a fish kill occur.
15. The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 under which it is an offence to intentionally or recklessly kill, injure or take any wild bird. It is also an offence to intentionally or recklessly: take, damage or destroy the nest of any wild bird while that nest is in use or being built; or take or destroy an egg of any wild bird. If any person intentionally or recklessly disturbs any wild bird or destroy an egg of any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or disturbs dependent young of such a bird they shall be guilty of an offence.
16. Tree and hedge loss should be kept to a minimum and removal should not be carried out during the bird building season between 1st March and 31st August.

17. The applicant will be required to be in receipt of a Pollution prevention and Control (PPC) permit prior to first operating the installation at a capacity over 40,000 bird places.

18. Prior to any land spreading NIEA WMU require a detailed Nutrient Management Plan.

17. NIEA WMU would like to highlight the following to the applicant under the SAFFO and NAP Regulations:

- It is noted that a tank will be installed to collect washings from the poultry house. For washings to be considered as dirty water and therefore, subject to the measures relating to dirty water under the NAP Regulations, the applicant must ensure the following:

- The washings must have a Biochemical Oxygen Demand (BOD) no greater than 2000 mg/litre, total nitrogen concentration less than 0.3 kg/m³ and less than 1% dry matter (as specified in the NAP Regulations).

- If the farm unit is subject to an IPPC permit, it will need to be demonstrated that wash water collection and storage facilities qualify as “best available techniques” (BAT). Construction of storage tanks to the British Standard BS5502 would qualify as BAT – other techniques are not excluded, but it will need to be demonstrated that they qualify as BAT i.e. that they provide a similar or better specification.

- If these conditions cannot be met, the washings would be considered as slurry under the above Regulations. The tank installed for collection of washings would then have to comply with the SSAFO Regulations and any disposal of the collected washings comply with the measures relating to slurry in the NAP Regulations.
- Any construction (or substantial alteration) of silage, slurry or agricultural fuel oil storage, completed after 1 December 2003, must comply with the SSAFO Regulations. As well as design, construction and storage capacity standards, the SSAFO Regulations require that any new (or substantially altered) silage, slurry and agricultural fuel oil stores are located at least 10m from any waterway.

- It should also be noted that under the SSAFO Regulations (Regulation 11) NIEA WMU (Agricultural Regulations Team) must be notified of new (or substantially altered) silage, slurry and agricultural fuel oil stores, at least 28 days before they are brought into use. When NIEA WMU has been notified, an inspection may be carried out.
- The applicant should be fully aware that if, subsequently, it is found that silage, slurry or agricultural fuel oil is being stored in facilities (built after 1 December 2003) that do not comply with the SSAFO Regulations, enforcement action may be taken.
- The applicant should be aware of the requirements of the NAP Regulations, which are now operational and cover all of Northern Ireland.
- In particular the applicant must demonstrate provision of sufficient storage capacity for the poultry manure produced on the holding to meet the requirements of the NAP Regulations.
- Should a diverter for the yard be installed it should be fitted prior to the tank to ensure effluent from the tank is not washed through the diverter and to the waterway.
- Prior to the use of a tank diverter being directed to the waterway the tank should be fully power-washed clean and the effluent spread to land. It is not sufficient to empty a tank of dirty water/slurry and divert the effluent to a waterway. Failure to manage a diverter system may lead to NIEA WMU requesting removal of the diverter.
- Under the NAP Regulations any run-off meeting the definition of slurry must be collected in a slurry tank. Run-off meeting the definition of dirty water as described above must be collected with the slurry or in a separate dirty water tank. Only clean water should be disposed of to a soakaway or waterway.
- We would also advise that adequate roof guttering to direct clean roof water to storm drainage, would help minimise the volume of dirty water produced at the site.

The applicant should view the following link containing SSAFO information and a Notification form: http://www.ni-environment.gov.uk/waterhome/agri_regs/agri_regs_ssafo.htm

18. Under the terms of the Water (NI) Order 1999 (as amended) will be required for the discharge of sewage effluent from the proposed development. However the applicant should be aware that there is no guarantee that discharge consent will be granted, as a number of site specific factors need to be taken into account in assessing the suitability of the proposed means of sewage effluent disposal.

An application form for consent to discharge sewage effluent under the Water (NI) Order 1999 (as amended) can be obtained by contacting NIEA WMU at the above address, or by visiting our web site at:-

http://www.ni-environment.gov.uk/water-home/regulation_of_discharges_industrial/industrial_and_private_sewage_2.htm

19. All wastewater treatment systems and soakaways must be located in such a position that they cannot affect surface or ground waters and cannot cause a nuisance to any nearby residential properties.

20. NIEA WMU recommends that no development should take place on-site until the method of sewage disposal has been either agreed in writing with Northern Ireland Water or a consent to discharge has been granted.

21. Care will need to be taken to ensure that polluting discharges do not occur during the works phase. The applicant and contractors involved in the development of this proposal should ensure only clean surface water is discharged to the water environment.

22. NIEA WMU would encourage the use of SUDS (Sustainable Drainage System) techniques during the construction phase to deal with site drainage. If it is not possible to adequately manage construction phase site drainage using SUDS features, consent to discharge under the terms of the Water (NI) Order 1999 (as amended) will then be required.

An application form for consent to discharge site drainage under the Water (NI) Order 1999 (as amended) can be obtained by contacting NIEA WMU at the above address, or by visiting our web site at:

http://www.ni-environment.gov.uk/water-home/regulation_of_discharges_industrial/industrial_and_private_sewage_2.htm

23. The applicant should comply with all the relevant Pollution Prevention Guidelines (PPGs) in order to minimise the impact of the project on the environment, paying particular attention to:

PPG 01 - General guide to pollution prevention

PPG 02 - Above ground oil storage

PPG 04 - Disposal of sewage where no foul sewer is available

PPG 05 - Works in, near or liable to affect watercourses

PPG 06 - Working at demolition and construction sites

These PPGs can be accessed by visiting the NetRegs website at:

<http://search.netregs.org.uk/search?w=pollution%20prevention%20guidelines>

Any 'waterway' as defined by the 'Water (NI) Order 1999 (as amended)' will pose a constraint to the construction project. Consideration must be given at preliminary planning and design stages to ensure that impact on the receiving water environment during any testing, construction and operational phases are minimised.

Mitigation measures to address water quality concerns have not been covered at this stage. NIEA WMU has made comments below relating to considerations which should be made. The perceived risks to any waterway during the construction and operational phase are from oil, hydrocarbons, fuel, suspended solids, concrete, cement and grout.

24. NIEA WMU Pollution Prevention Team must be consulted about any work to be conducted in; near or liable to affect any waterway in order to agree a method statement with the contractors prior to the commencement of any works. This should reflect all mitigation measures identified to prevent pollution of the water environment during the construction operational / maintenance phase of the project. Such measures must be in place prior to the commencement of any works and should be incorporated in method statements.

25. The appointed contractors will be required to comply with the Control Of Pollution (Oil Storage) Regulations (NI) 2010 (as amended). A key requirement of the Regulations is that oil storage containers

(including temporary storage) must have a secondary containment system (a bund, which is an outer wall or enclosure designed to contain the contents of an inner tank, or a drip tray) to ensure that any leaking oil is contained and does not enter the aquatic environment. Guidance on how the Regulations will apply to your development can be found at: www.netregs.org.uk

The applicant should be informed that it is an offence under the Water (NI) Order 1999 (as amended) to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment.