APPENDIX 13

PLANNING APPEALS COMMISSION

THE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)
REGULATIONS (NORTHERN IRELAND) 2017
REGULATION 15(4)

Hearing requested by Mr Roy McCrea concerning a determination by Derry City and Strabane District Council that an application for planning permission for the retention of a slurry lagoon and dirty water tank and provision of an acid storage tank, acid process tank and showering facility on land approximately 190m east of No. 334 Longland Road, Claudy must be accompanied by an Environmental Statement.

Report by
Commissioner Pauline Boomer

Planning authority reference: **LA11/2019/0382/F**

Date of hearings: **26 November 2020, 4 December 2020 and 7 January 2021**

Report date: **26 February 2021**

Planning Appeals Commission

1.0 BACKGROUND

1.1 On 29 March 2017, Mr McCrea submitted a planning application (LA11/2017/0393/F) for "retention of a slurry lagoon and dirty water tank" on his land, approximately 190m east of No. 334 Longland Road, Claudy. On 20 December 2018, the Council, in the belief that the proposed development fell within Category 1(c) in Schedule 2 to the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 (EIA Regs) and being of the opinion that it would be likely to have significant effects on the environment, determined that the planning application must be accompanied by an environmental statement. As Mr McCrea did not respond, that planning application lapsed.

1.2 On 7 May 2019, the appellant submitted a new planning application (LA11/2019/0382/F) which again sought to retain the slurry lagoon and dirty water tank as in the previous application, but in addition sought to install an acid storage tank, an acid process tank and a showering facility. The Council considered the revised proposal, writing to Mr McCrea on 29 July 2019 to indicate that the proposed development fell within Category 1 (c) in Schedule 2 to the 2017 Regulations and would be likely to have significant effects on the environment. It again determined that the application must be accompanied by an Environmental Statement. In their determination, the Council set out what they considered to be the likely significant environmental effects from the appeal project:

(1) Air pollution related to nitrogen deposition resulting in adverse impact on the conservation objectives of the River Faughan & Tributaries SAC/ASSI.
(2) Slurry discharge (seepage) run-off to the River Faughan in the event that the lagoon fails.
(3) Visual impact given location within an AONB.
(4) Acid spills/leaks into the River Faughan in the event that the acid tank fails.
(5) Construction – prevention of run off during construction phase.

1.3 As Mr McCrea did not accept the Council's determination that the appeal development is EIA development, he sought a hearing before the Commission.

1.4 On 29 March 2019, the Council served an Enforcement Notice on Mr McCrea alleging "unauthorised erection of a slurry lagoon and dirty water tank". A stop notice requiring that the lagoon cease operation was served in 9 May 2019. Mr McCrea appealed against the Enforcement Notice on Grounds (a), (d), (f) and (g). The Ground (a) appeal and deemed planning application for the development lapsed as the requisite fee was not paid. Ground (c) was also raised in the appellant's Statement of Case. A subsequent Hearing held on 14 November 2019, assessed under 2019/E0007, upheld that Notice on Grounds (c), (d) and (f). The appeal on Ground (g) succeeded in respect of the storage of waste water and the removal of operational development, with the period of compliance extended to 6 months. In relation to the slurry lagoon, the appeal against Ground (g) failed as the Commissioner concluded that a 1-day compliance period appeared reasonable, given it was no longer in use. At the hearing, it was indicated that as the lagoon has not been in operation since the serving of the Stop Notice, the Council has not proceeded with Enforcement action, awaiting the outcome of this appeal. I note that whilst I observed the lagoon to be empty on site visits during November and December 2020, my subsequent site visit on 2 February 2021 revealed that the lagoon was full.

1.5 Similar circumstances relate to another slightly smaller slurry lagoon erected at the same time by Mr McCrea on an outfarm approximately 5 km from the appeal site. The Council served an Enforcement Notice on 4 April 2019 seeking its removal. Mr McCrea appealed against that Enforcement Notice on Grounds (a), (f) and (g). A subsequent Hearing, also held on 14 November 2019, assessed under 2019/E0009, upheld that Notice on Grounds (f) and (g), the latter amended in a similar way to Appeal 2019/E007. A deemed planning application was considered unacceptable as it had not been demonstrated that the development and associated operations would not adversely affect the integrity of the SAC and ASSIs. As it was found that it would conflict with Policies NH1 and NH3 of Planning Policy Statement 2: Natural Heritage, the deemed planning application was refused. This lagoon is still in situ but currently appears to be used.

1.6 The appellant seeks to retain the slurry lagoon and dirty water tank erected within his farmyard over 6 years ago. The slurry lagoon has a floor area of 2072m^2 is enclosed by earthbanks extending 7m in height, which are lined in polyethylene. Immediately to the south west of the lagoon, sited between it and a large above ground slurry tank, sits a dirty water tank, also enclosed by earthbanks covered in polyethylene. It comprises a floor area of 323m^2. Whilst both the lagoon and dirty water tank are secured by a security fence on all sides, this does not form part of the scheme before me. It is also proposed to erect an acid process tank and acid storage tank to the west of the lagoon, sited alongside an existing cattle shed. The acid process tank is octagonal in form, with a diameter of 11.5m, excavated 4m below ground level. It would sit alongside a circular acid storage tank sitting above ground level, with dimensions of 2.2m x 7.5 x 2.2m. A small showering facility with a footprint of approximately 4m^2 is proposed for staff involved in the acidification process, rising to a maximum height of 2.8m and finished in grey corrugated iron.

2.0 CONSIDERATION

2.1 The main issues for consideration are:-

- whether the slurry lagoon, dirty water tank, acid storage tank and acid process tank represents Schedule 2 development as defined in the 2017 Regulations; and if so;
- whether they are, individually and /or collectively, likely to have significant effects on the environment by virtue of factors such as their nature, size or location.

Schedule 2 Development

2.2 Article 2 of the European Union Directive 2011/92/EU, as amended by Directive 2014/52/EU, requires Member States to adopt all measures necessary to ensure that before development consent is given, projects likely to have significant effects on the environment by virtue, *inter alia*, of their nature, size or location are made subject to an assessment with regard to their effects on the environment. Those projects are defined in Article 4. That Article requires projects listed in Annex I to the Directive to be made subject to EIA. Member States are required to determine, through case-by-case examination or thresholds and criteria set by them, whether projects listed in Annex II are to be made subject to EIA.

2.3 The NI 2017 Regulations implement the amendments brought about by Directive 2014/52/EU. Schedules 1 and 2 of those Regulations transpose Annexes I and II

respectively. The NI 2017 Regulations define "EIA development" as Schedule 1 development or Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location. They define "Schedule 2 development" by reference to descriptions in Column 1 of the table in that Schedule where (a) any part of that development is to be carried out in a sensitive area; or (b) any applicable threshold or criterion in the corresponding part of Column 2 of that table is exceeded or met in relation to that development.

2.4 Included in the definition of a "sensitive area" are an Area of Outstanding Natural Beauty (AONB), an Area of Special Scientific Interest (ASSI) declared under the Environment (Northern Ireland) Order 2002; and a European Site within the meaning of Regulation 9 of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995. A European Site, as so defined, includes a Special Area of Conservation (SAC) under the European Union Habitats Directive 92/43/EEC. As the appeal site lies within the Sperrins AONB, and abuts the River Faughan and Tributaries ASSI and SAC, it falls within a "sensitive area".

2.5 The Council has not sought to argue that any of these four structures are Schedule 1 development. In its EIA Determination sheet, it did not suggest that they fall into any category of development in Schedule 2 other than Category 1(c) which comprises "intensive livestock installation (unless included in Schedule 1)". The threshold applicable to Category 1(c) is that the floorspace exceeds 500m^2. Although the drawings indicate that the slurry lagoon alone comprises an area of 2072m^2**,** the appellant argued that it did not have a floorspace as it is not a building. As there is nothing in the Regulations that indicates that floorspace relates only to buildings rather than all structures such as the lagoons and tanks now under consideration, I find that the threshold is indeed exceeded in this case. Notwithstanding this conclusion, it is common case that because the appeal site lies within the Sperrins AONB, as well as abutting the River Faughan and Tributaries ASSI and SAC, the development has been carried out in a sensitive area. The threshold must therefore be disregarded. That leaves at large the question of whether one or all of these structures fall with any one or a number of the Categories in Schedule 2 referred to by the Council and /or the Objector.

2.6 The appellant considers that an EIA is not required as the appeal development does not fall within any of the categories set out in Schedule 2. Both the Council and the objector consider that the appeal development is "an intensive livestock installation" and falls within Category 1 (c) of Schedule 2. The appellant disagrees, arguing that this category applies solely to farm buildings used to house pigs and poultry. As the EIA Regulations offer no definition of any of these terms, I must firstly consider the dictionary meanings of each. The standard dictionary definition of "installation" includes "a process of installing a new system or equipment" and I am satisfied that it relates to all structures and not just buildings. The appellant contends that even if one or more of the structures are considered to be installations, they are not livestock installations as they involves the storage and disposal of bovine waste and related processes. However I agree with the Council and the objector that these structures and processes under consideration are clearly associated with the keeping of livestock and fall within the definition of a "livestock installation".

2.7 The appellant operates an extensive farm holding of 324 ha with approximately 1150 bovine livestock, including 750 milking cows. In his rebuttal, the objector referred to

EURACTIV reports which, when assessing intensive farming models for milk production, identifies a threshold of 1.43ha per dairy cow. He calculated that the appellant's farm density equates to 3.5 cattle per ha, significantly exceeding the EU threshold which was not disputed by the appellant's representatives. Whilst I acknowledge that the 2017 EIA Regulations do not refer to specific numbers or densities, the NIEA representative confirmed that as only 30% of all dairy farms in Northern Ireland have more than 100 cattle, the appellant's farm would indeed be classified as more intensive than the NI average. Based on the above assessment, I am satisfied that the appellant engages in intensive farming and conclude that elements of the appeal development can be categorised as intensive livestock installations. The fact that the appellant seeks only to improve his livestock management rather than increase his livestock numbers does not persuade me otherwise.

2.8 Whilst it is acknowledged that Category 17 of Schedule 1 of the 2017 EIA Regulations refers specifically to the intensive rearing of pigs and poultry, Category 1(c) of Schedule 2 is distinguishable as it does not include or exclude particular types of animals. Whilst Category (1c) refers to intensive livestock installations, it clearly states "unless included in Schedule 1" (my emphasis). The appellant argues that this similarly refers only to pig and poultry farms and simply implies a watering down of the larger thresholds identified in Category 17 for those particular type of installations. This appeal relates only to the interpretation of the EIA Regulations and consideration cannot be given to references to or thresholds relating to "intensive livestock installations" in other existing legislation such as the Pollution Prevention and Control (Industrial Emissions) Regulations NI 2013 or other existing or future DAERA guidance identified by the appellant. Whilst all parties recognise that there is no specific reference to bovine farming in the EIA Regulations, they are not specifically excluded. I agree with the Council that Category (1c) covers all other types and scale of livestock farming excluded in Schedule 1.

2.9 The Council argues that in determining whether or not a particular development is EIA development, regard has to be taken of the ruling of the European Court that the EIA Directive has a wide scope and broad purpose, a view supported by the objector. Taking account of the Kraaijveld (Dutch Dykes) case, they consider that the fact that a particular type of development is not specifically identified in one of the Schedules does not necessarily mean that it falls outside the scope of the NI EIA Regulations. This relevant case law cannot be discounted as suggested by the appellant as it has been upheld in the UK Courts in Goodman-v-the London Borough of Lewisham, similar to other UK case law regularly applied in NI. Both cases establish that the headings in Schedule 2 do not operate so as to limit the scope of the categories of development set out under them.

2.10 I acknowledge that different member states have transposed the EIA Directive into their own legislation in different ways, some specifying a diverse range of animals including calves and cattle. Whilst the appellant recommended caution in applying definitions relevant in other EU states, this was not being suggested by the other parties. However attention was drawn to the EU Guidance document "Interpretation of definitions of Project Categories in Annex I and II of the EIA Directive" which offers specific guidance on these matters to all member states. On Page 40, it states that "as the Annex II (1) (e) project category does not refer to any specific animal species, its scope is not limited purely to those animals listed in Annex I (17) i.e. pigs and

poultry". Whilst the appellant argued that attention should be given to the wording of primary legislation which did not specifically target cattle rather than reliance on a guidance document such as this, this public document seeks to offer clarity on the interpretation of these EIA Regulations across all member states. It simply reinforces the fact that the EIA Directive must take precedence and it requires that a broader interpretation of Schedule 2 be adopted. The lack of any change or legal challenges to the NI EIA Regulations does not persuade me of a need for further adjustments to the legislation to incorporate dairy farms.

2.11 The appellant has referred me to the conclusions reached by Commissioner Speirs in Appeal 2019/E009 where he found that the appellant's slurry lagoon off the Glenshane Road was not an intensive livestock installation. In that case, the Council had not made an EIA determination and no written evidence on this matter had been presented by either the Council or the appellant in their submissions, with the matter briefly discussed at the hearing on 14 November 2019. That is indeed distinguishable from this project where detailed submissions and case law was submitted by all parties, specifically addressing this matter. Lengthy and detailed representations by all parties were made during most of the first day of the hearing, extending into the second day and all aspects of the multi-faceted arguments presented have been taken into account in reaching my conclusions in this particular case. In this evidential context, given the considerable volume of evidence presented and the lengthy debate exploring this matter in depth, I have reached a different conclusion to that found in Appeal 2019/E009 for the reasons given above. I agree with the Council and the objector that the slurry lagoon is an intensive livestock installation and am satisfied that it falls within Category 1(c) of Schedule 2.

2.12 The objector has also presented arguments that different elements of the appeal project fall within other categories listed in Schedule 2, a position supported by the Council at the hearings. The appellant contends that it is unreasonable to assess the smaller elements of the appeal project against other categories in the EIA Regulations, as the key consideration should be "fact and degree", given the small scale nature of the dirty water tank and the acid process tank . However the appeal site lies within a sensitive area and the thresholds specified in these other categories do not apply in this particular case. This does not mean, as suggested by the appellant, that all small projects in a sensitive area will require an Environmental Statement as consideration must be given to all of the criteria set out in Schedule 3 before coming to such a conclusion. It is noteworthy that the EC guidance document on the Implementation of the EIA Directive: Guidance on Screening on Page 26 confirms that "there are types of activity that display the characteristics of more than one Project category listed in the EIA Directive". I agree with the objector that all aspects of this appeal project fall to be assessed against the different categories specified in Schedule 2 and shall consider each in turn:

<u>Category 1(a) :Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes</u>

I have already concluded above that the appeal project involves intensive farming. The key issue therefore relates to whether or not the appeal site lies on uncultivated land, defined by the NIEA representative as "species rich grassland which has never been ploughed or re-seeded". The appellant confirmed that the slurry lagoon and dirty water tank sat on land previously used as cultivated grazing land whilst the acid tanks

would be positioned within the existing farmyard. I am therefore satisfied that the appeal project does not fall within Category 1(a).

Category 1(b) : Water management projects for agriculture, including irrigation and land drainage projects

The EIA Regulations offer no definition of a water management project or provide further clarity on this matter. The objector argues that the adjoining silage clamp (the subject of a separate planning application) relies on and connects to the dirty water tank for the management of run-off from this development. Whilst I acknowledge that the overall project involves the processing and storage of effluent, the different elements are inter- connected. However, limited details have been provided about the discharge into and out of the dirty water tank, other than a dotted blue line shown on the block plan. Details of the retrospective planning application for the silage clamp which lies west of the slurry lagoon were provided during the appeal process but offer little clarity about its connectivity with the dirty water tank. However whilst the project does involve some movement of water in and out of that tank, I am not persuaded that it can be categorized as a land drainage project. I do not find that it falls within Category 1(b).

Category 10 (i) Infrastructure projects – Dams and other installations designed to hold water or store it on a long term basis

Whilst the EIA Regulations do not define an "infrastructure project", the normal dictionary definition identifies such schemes as "focusing on the development and maintenance of services, facilities and systems". Whilst the objector points in particular to the long term use of the dirty water lagoon which the appellant seeks to retain, I do not consider that it is comparable to such schemes as dams, canals and flood relief projects specifically referred to here. I am not persuaded that this element of the appeal project falls within Category 10 (i).

Category 6 (c) : Storage facilities for chemical products.

Whilst it is acknowledged by all parties that the appeal proposal seeks to install an acid storage tank, its limited size does not exclude it from this category, in the absence of the threshold being applied. I agree with the objector and the Council that the appeal project falls within Category 6(c).

Category 11 (b): Installations for the disposal of waste

The appellant argued that the appeal scheme involves only the storage of animal waste rather than its disposal and that this category relates only to schemes involving landfill and incinerators. Whilst I recognise that the slurry tank would indeed be used for the storage of animal waste, this would then be spread on the appellant's land and that of 5 other farmers. The NIEA representative advised that DAERA considers slurry to be a fertilizer if used on the farmer's own holding but if transported off the farm, it is considered to be waste. As the appellant has confirmed that the contents of the slurry lagoon would be transferred to 5 other farms. I therefore conclude that the appeal proposal does involve the disposal of waste and falls within Category (11b).

2.13 As I have concluded that individual elements of the appeal project fall within three of the specified categories, I am satisfied that it does fall within Schedule 2 of the EIA Regulations (NI) 2017.

3.0 Admissibility of Additional evidence submitted during appeal process

3.1 During the processing of the 2019 planning application, the appellant submitted a set of drawings including a site location plan, block plan and details of the slurry lagoon, dirty water tank, and acid storage and process tanks. Prior to the Council issuing the Pre-Determination letter, he also supplied a number of technical report/articles. Following the lodging of the appeal, the appellant submitted numerous technical reports, an Air Quality Impact Assessment (AQIA) and Nutrient Management Plans. Revised drawings were presented on 29 May 2020 showing a new bund to serve the acid tank when offloading and limited details of a proposed cover for the lagoon. The objector in his Rebuttal raised concerns about the admissibility of this additional information at such a late stage of the process which he considers circumvents proper process and assessment required under the provisions of the EIA regime. He argues that the appellant was fully aware of the concerns raised by the Council when assessing the 2017 planning application and had adequate time to address all these matters, including possible mitigation measures, prior to submitting the appeal application in 2019. To accept this new evidence would, he considers, be in contravention of Section 59 of the Planning Act (NI) 2011. The Council in their Rebuttal, contends that these are "new matters" which should be submitted as part of the Environmental Statement (ES).

3.2 Firstly, Section 59 of the Planning Act (NI) 2011 does not apply to any appeals other than those referred to in Section 58. The EIA Regulations explicitly provide for additional information to be provided by the appellant and others as appeals are being processed and the Commission is under a duty to take account of the totality of the environmental information presented to it. I agree with the appellant that the submission of this environmental evidence is not, in itself, an admission that the appeal development is likely to have significant effects on the environment, as suggested by the objector. He is indeed entitled to provide supporting information to offer further clarity on the potential impact of the development but it is imperative that all arguments are substantiated.

3.3 The appellant's representative argued that he was not made aware of the specific concerns of the Council and their consultees until the hearings commenced and could therefore not have supplied further technical details in anticipation. He stressed that the appeal hearing offered the first opportunity to verbally address and "tease out" these issues and offer further clarity. However, it is not sufficient to make passing reference to existing and future studies/research where the full details have not been presented to be properly assessed. In his written submissions, the appellant referred on several occasions, to addressing outstanding issues by means of conditions. The attachment of conditions is not relevant to this appeal which does not involve consideration of a standard planning application but rather relates only to the matter of whether or not an ES is required. The appellant has also made reference to the possibility of introducing mitigation measures without outlining any details or providing drawings. The objector referred me to Champion v North Norfolk DDC which found that where there were potential risks with more work needed to resolve them, and where mitigation measures were "not worked up", these environmental details need to be provided as part of the EIA process. I agree that consideration can only be given to those arguments that have been substantiated with clear empirical evidence, the absence of which may result in the need for further clarification within an ES .

3.4 It should also be noted that the overriding purpose of an EIA is to consider all direct and indirect, permanent and temporary and positive and negative effects of any development as clearly set out in Schedule 4 of the EIA Regulations. Even when environmental improvements occur, they may still have a significant environmental effect which needs to be explained in full.

4.0 Cumulative Impact

4.1 Both the Council and the objector has raised concerns that the appellant is engaging in "project-splitting" by failing to take account of the cumulative impact of the appeal development along with other development erected by the appellant on his farm without the benefit of planning permission. In his rebuttal, the appellant dismissed the potential impact of the second slurry lagoon at Glenshane Road which, although not currently in use since the Enforcement Notice was issued, has not been removed. This was the subject of Appeal 2019/E009 where Commissioner Speirs found that account had to be taken of the environmental impact of both the lagoon and the slurry spreading operations associated with it. He concluded that it had not been demonstrated that that slurry lagoon and associated spreading on land would not adversely affect the integrity of the adjacent ASSIs and SAC, contrary to Policies NH1 and NH3 of Planning Policy Statement 2: Natural Heritage (PPS2). Although no further evidence has been submitted in relation to that scheme, its cumulative impact alongside the appeal project falls to be considered here.

4.2 Since the appeal was lodged, a further retrospective planning application (LA11/2020/0577/F) for "retention of in part above ground silage clamp formed using clay banks" was submitted. Details of the scheme submitted at the hearing show this clamp positioned immediately south of the slurry lagoon and dirty water tank. The drawings show that this silage clamp would be channelled to the above ground slurry lagoon which is shown to be connected to the acid process tank and the slurry lagoon. Given that these structures are functionally inter-dependant, the objector has raised concerns about the potential additional discharge to the River Faughan. I agree with both the Council and objector that the appeal project cannot be assessed in isolation and consideration must be given to the cumulative impact of all development on the appellant's holding, alongside the potential impact of spreading that acidified slurry on his own and adjacent farms.

5.0 Likelihood of Significant Effects on the Environment

5.1 As I have concluded that the lagoon and tanks fall within Schedule 2 development, it is necessary to consider whether they individually and/or collectively are likely to have significant effects on the environment, by virtue of factors such as their nature, size and location. The EC Directive states that it is for all member states to take all the general or particular measures necessary to ensure that projects are examined in order to determine whether they are likely to have significant effects on the environment. The normal meaning of "likely" is more probable than not. One of the selection criteria which an authority making an EIA determination is required to take account of is the probability of the impact (see Paragraph 3(e) of Schedule 3 to the 2017 Regulations).

5.2 It is only significant effects that bring a development within the scope of the EIA regime, minor environmental effects do not do so, though all such effects may fall to be taken into account in the normal way as material considerations. The onus lies with the appellant to provide sufficient information to demonstrate that the cumulative impact of the appeal project and other developments within his holding would not be significant. Whether the appeal development is likely to have significant effects on the environment involves an exercise of judgement, taking account of the information available and having regard to any gaps in that information and to any uncertainties that may exist as to the potential impact. The role of the decision-maker is to ascertain the adequacy of the evidence submitted by the appellant and determine whether or not it allows for full and proper consideration of those likely environmental effects. Examination of the actual characteristics of the entire project is needed, identifying the extent of all risks posed within its specific and sensitive location, in order to determine whether it is subject to the requirement for an Environmental Statement (ES).

5.3 On its EIA determination sheet, the Council concluded that an Environmental Statement was required because the development is likely to result in a significant impact on the environment as a result of slurry discharge to the River Faughan and Tributaries ASSI/SAC, acid spillage, air pollution and visual intrusion. With regard to the latter issue, the Council recognised that only long distant views of the embankment enclosing the lagoon would be available along with the small acid tank and showering facility, all of which would be read against the existing farm grouping. As they concluded that its visual impact would not be significant if additional landscaping were introduced, the Council did not pursue this matter in their submissions. Taking account of the volume of new evidence presented by the appellant during the appeal process, the Council adapted their assessment of the potential impact of the overall development. In their Statement of Case, the Council now argues that this development merits preparation of an ES in order to assess the impact of construction, operations and acidification process on the degradation of aquatic environment, the impact of nitrogen emissions and acidification process within the catchment of Designated sites and priority habitat, the risk to human health and cumulative impacts. The appellant has had adequate opportunity to address all of these issues in full.

Impact of construction, operations and acidification process

Construction of the lagoon

5.4 The appeal site lies within the Sperrins AONB and within 100m of the River Faughan and Tributaries ASSI/SAC. It also lies within 7.5km of the River Roe and Tributaries SAC/ASSI, Bonds Glen ASSI, Ness Woods ASSI and Ervey Wood ASSI which are all of international and national importance and are protected by the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and the Environment (Northern Ireland) Order 2002. The slurry lagoon and dirty water tank were constructed over 6 years ago in a very environmentally sensitive location in close proximity to the River Faughan and Tributaries designated area and the Council considers that there is a significant risk of structural failure of the slurry lagoon and possible run-off of slurry into the River Faughan.

5.5 The slurry lagoon comprises a large excavated pit, partially below ground level and contained by earthbanks on all sides, extending up to 7m in height with a side slope of

1:1.5. Erected over 6 years ago, the appellant has provided no information regarding the construction methodology and mitigation against run-off during the construction phase. None of the appellant's representatives attending the hearings were involved during the construction phase and speculated that standard methodology and codes of practise would have been employed with a competent contractor/engineer supervising and managing any works undertaken. Reference was made to the likely use of silt curtains and /or traps to disturb earth wasting down into the adjacent river but no assurances were given. It is acknowledged that a Certificate had been signed by a certified engineer on 1 December 2014 to confirm that the lagoon complied with The Control of Pollution (Silage Slurry and Agricultural Fuel Oil) Regulations (NI) 2003 (SSAFO) - now contained in the Nutrient Action Programme Regulations (NI) 2019. It was argued that the original certification guaranteed the structural integrity of the embankments and that any subsequent spillages/ leakages or other environmental concerns in the interim would have been flagged up. Until recently, the lagoon has laid empty and the exposure to the elements may have affected the structure. Although the appellant's representative indicated that the lagoon would have been the subject of regular checks and maintenance since that certificate issued 6 years ago, no evidence was offered to support this.

5.6 The concerns of the Council and the objector about any potential run-off from the lagoon are heightened by the fact that the appellant now seeks to introduce acidified slurry to be stored within it. Given the controversial nature of this process being introduced for the first time in Northern Ireland, the objector considers that it is a reasonable and sensible approach to exercise precaution in this regard. In particular, he raised concerns about the appropriateness of using the existing polyethylene lining originally proposed for the non-acidified slurry when high concentrations of chemicals are to be introduced. The appellant had included within his written submissions technical details indicating that the particular brand of lining (HDPE) is resistant to many chemicals, including sulphuric acid. Whilst the appellant's representative indicated verbally at the hearing that the dilution of the acid treated slurry to a PH value of 5.5 would ensure that any lining would be resistant, the drawing submitted offers no clarification that the specified brand was in fact used in the construction of the appellant's slurry lagoon . This lack of certainty does not give assurances about the structural integrity of the lagoon.

5.7 Despite the fact that the need for a cover for the slurry lagoon was raised during the processing of the 2017 planning application, with the Council's Environmental Health Officer (EHO) specifying its requirement, the appellant did not submit any such details with his 2019 application. Indeed it was only during the appeal process in May 2020 that a standard product specifications stamp was added to the elevational drawing without any details specific to this project being provided. The NIEA representative confirmed that DAERA acknowledges that such covers are widely used as part of mitigation measures for standard slurry storage against emissions of ammonia and odours. Whilst the appellant's representative argued that the acidification process does not require a cover, he acknowledged that it is good practice to introduce additional mitigation. No specific details showing the dimensions of the proposed cover, its position, method of attachment or proposed materials to be used have been submitted for my consideration. The appellant's representative apologised for the failure to provide adequate details which he accepted lacked clarity, arguing that these matters needed to be "teased out" at the hearing which offered an opportunity for information gathering.

5.8 At the hearing, the appellant's representative indicated that it was now proposed to install a cover which would float approximately one foot above the level of the slurry, clamped on top of the earthbank within which it was indicated a concrete ring sits. This conflicts with the reference to a rigid cover in the AQIA. Reference was also made to backfilling into trenches which it was indicated were installed at the top of the embankments, to hold the cover in place. Although these trenches were indicated on a cross-sectional drawing supplied by the contractor dated September 2014 prior to construction, neither they nor the concrete rings are visible on the ground and neither are shown on any of the planning application drawings. It was also indicated verbally at the hearing that the proposed cover, which would be finished in a polyester PVC covered coating, would collect rainwater as part of a harvesting system with excess water pumped off to a storage tank to water livestock or straight to the river/drain. Given it was acknowledged by the appellant's representative that different emission factors are associated with particular covers, I agree with the Council that it is imperative that specific specifications be provided to offer the required level of certainty. It is unclear how the cover now proposed could be retro-fitted and if it would adversely affect the overall integrity of the banks. The piecemeal delivery of technical information, often conflicting, but largely unsubstantiated does not assure me that the slurry lagoon would have no significant environmental effects.

5.9 Concerns have also been raised about the potential slurry discharge from seepage and run-off. Whilst reference was made to other controls being required by other bodies under different legislation such as the Nutrient Action programme Regulations (NI) 2019 and the Water Abstraction and Impoundment (Licensing) Regulations (NI) 2016, these do not substitute for proper and thorough assessment of the likely environmental effects required to comply with the EIA Regulations. I do not accept that these matters can be addressed by attaching a condition requiring compliance with these other Regulations, as argued by the appellant. Given that this represents the first project in Northern Ireland proposing to acidify slurry, I agree with the Council that careful consideration needs to be given to the regulation and monitoring of all aspects of this process. Given the concerns about the structure itself and the limited technical information provided, the appellant has failed to demonstrate that a real risk of any discharge of acidified slurry, either by seepage or leakage does not exist. Notwithstanding the fact that the required 750mm freeboard would be covered by additional controls by other bodies such as the Nutrients Action Progamme (NAP) Regulations, the Council considers that another potential source of run-off would result from overtopping of the slurry lagoon in the event of it being overfilled or due to high intensity rain events as a a result of climate change. I note that at the hearing the appellant's representative indicated that, regardless of whether or not a cover was installed, the system had a freeboard of 750mm incorporated which controls the levels within it, providing automated safeguards, including alarms . Yet in his Statement of Case, the appellant acknowledged the need to implement a strict monitoring regime either by visual or electronic monitoring to ensure that the slurry in the lagoon does not compromise the required 750mm freeboard between the slurry level and the top of the earth embankment. Greater clarity on this matter is required to ensure that the necessary mitigation measures are fully worked up and provided within the ES .

5.10 In his Statement of Case, the appellant referred to addressing outstanding issues by means of conditions, including those requiring the submission of a construction and

environmental management plan and spill containment measures once planning permission would be granted. As outlined above, in the absence of full details to allay concerns about any significant negative impact, such matters cannot be addressed by condition. Notwithstanding that fact, the appellant's acceptance that there are "outstanding issues" acknowledges the inadequacy of the evidence submitted to date. I must base my assessment on the empirical evidence before me rather than future intentions or details which might be supplied at a later date. Given the drawings submitted offer insufficient technical detail about the construction of the slurry lagoon, I agree with the Council and objector that this lack of certainty makes it difficult to ascertain the structural integrity of this slurry lagoon at present and in the future. In the absence of evidence to the contrary, I am not persuaded that no significant environmental impacts on the River Faughan and Tributaries ASSI/SAC would result once the appeal project is fully operational. Further investigations are needed and I consider that an EIA is required to fully explore these likely impacts and include detailed mitigation measures over the lifespan of the development.

Installation of the Acid Storage Tank, Acid Process Tank and Potential for leakage/spillage

5.11 The potential for acid leaks and/or spillages into the River Faughan in the event of the acid tanks failing is a major concern for both the Council and the objector. Whilst the appellant's response in his Rebuttal was that "in-house acidification is considered the safest among Slurry Acidification Technologies", he offered little evidence to support this assertion. Elevational plans were submitted showing the dimensions of both tanks but no detailed specifications were provided. At the hearing, it was indicated that the acid storage tank would be a sealed bunded unit with double walls whilst the acid process tank would be constructed in reinforced concrete and used as a mixing chamber with an airtight lid. Whilst it was also indicated that a level sensor and safety sensor would be provided which would automatically shut off if the system were compromised, this was not backed up with full operational details. It was also confirmed by the appellant's representative that these structures would be designed in the future by an engineer to ensure that they are reinforced and are structurally waterproof and acid proof. The confirmation that the exact details would only be worked up at construction stage, given their dependence on site–specific ground conditions does not offer the necessary assurances about the structural integrity of either structure. The suggestion that a Nutrient Action Notification and structural engineer's certification can be provided in the future in respect of both tanks and that these can be addressed by condition is not a feasible option. Given the lack of clarity about the construction of both tanks and any connections with other structures, it offers no certainty that acid spillages and leakages would not be a real possibility which would have significant environmental consequences.

5.12 Limited information has been provided about the transport, storage, emergency spill containment and application of concentrated sulphuric acid . The appellant sought to address this issue in submitting revised drawings once appeal proceedings started, which showed a new bund as a spill containment measure around the acid tank, located outside the boundaries of the appeal site. Whilst it was indicated that acid would only be handled by a certified transport operator who would be required to adhere to all those requirements applicable to the transport of hazardous substances, the necessary mitigation measures to ensure adequate controls and monitoring have not been specified. Given the fact that the necessary technical information is not

currently available, the appellant has been unable to demonstrate that negative significant environmental impacts of introducing large volumes of sulphuric acid into a farm setting could be avoided. A ES would therefore be required to assess the full construction details of both tanks and identify those safeguards to be employed to ensure that the designated site is protected.

The impact of nitrogen emissions and acidification process within the catchment of Designated sites and priority habitat

5.13 The appeal proposal seeks to treat cattle slurry with sulphuric acid in order to reduce potential ammonia emissions. This cattle slurry would be transported by gravity from the cattle shed through pipework to an Acid Process Tank to store slurry for treatment. When a certain volume of slurry is stored, sulphuric acid would be introduced, relative to the volume of the tank which would then be mixed and released into the slurry lagoon. The appellant then proposes to spread this acidified slurry on his own holding in addition to further spreading on 5 other farm holdings as indicated in the Nutrient Management Plans submitted.

5.14 Nitrogen deposition has the potential to alter the vegetation community structure within these designated sites, due to the release of nitrogen emissions which could negatively impact on habitat and supporting species of these designated sites. The Natural Environment Division (NED) emphasize that as reducing emissions across Northern Ireland is a key departmental priority for DAERA, there are significant challenges in permitting agricultural development where critical loads and levels are currently exceeded. The appeal site lies within 7.5km of River Faughan and Tributaries ASSI/SAC and River Roe and Tributaries ASSI/SAC, both of which have reached the 10% additional loading capacity for nitrogen emissions. Because of this, the Council and its consultees consider that the Process Contribution (PC) of this development must equate to less than 1%, a view supported by the objector.

5.15 At the hearings, there was much debate about the relevant Protocol when assessing ammonia-emitting projects. Despite the fact that the operational protocol is under Review and has been the subject of Judicial Review, the NIEA representative confirmed that the Minister has instructed that the extant 1% Protocol applies to all settings. In line with the conclusions reached in Appeal 2018/E0003, I do not agree that there is a lacuna in Policy as argued by the objector but am satisfied that the current NIEA Policy considers any developments with emissions of less than 1% of the critical load or level to be insignificant. However the Council consider that the appellant has failed to demonstrate that the proposed mitigation can achieve the required PC.

5.16 There is no dispute that acidification is a proven method to reduce ammonia emissions. Although commonly used in Europe, particularly in Baltic Countries, the appeal project represents the first such proposal in Northern Ireland. I agree with the Council, their consultees and the objector that such a novel and new process has to be properly scrutinized, particularly as approximately 18,000 cubic metres of acidified slurry would be spread on adjacent lands with the potential for runoff into the Faughan River and Tributaries ASSI/SAC. Whilst the NIEA Representative confirmed that they welcome the installation of such new technologies, their concerns relate to the reductions in ammonia emissions attributed to the acidification process. They referenced The Guidance for Ammonia Abatement Measures (United Nations)

Document 2014 which indicates that a reduction of 70% in ammonia emissions can be attributed to the acidification process. When the appellant was asked to provide further site specific scientific evidence to prove that further reductions were achievable on the appeal site, he submitted a number of Baltic Slurry Acidification Reports. Whilst the original reports submitted during the processing of the planning application referred only to studies relating to pig slurry, some of the later submissions forwarded during the appeal process did relate to studies on the use of acidified cattle slurry. He also submitted a Vera Verification Statement, an Air Quality Impact Assessment (AQIA) and numerous extracts from other reports.

5.17 The appellant contends that the acidification process now proposed would achieve a 99.1% reduction in emissions, and therefore the 1% threshold can be met. However conflicting conclusions are reached in some of the many reports which he has submitted in support of this new process, The Interreg Policy Brief submitted confirms that Slurry Acidification Technologies (SAT) can reduce ammonia emissions from 40% to 70% from livestock houses, slurry storage tanks and from field application of slurry , depending on which SAT is used (my emphasis). This confirms that there are a lot of variables which determine the eventual outcome. At the hearing the acidification consultant confirmed that there are three different types of SAT, all of which have different effects, and indicated that the appellant sought to introduce an "in house system". He indicated at the hearing that a 99.1% reduction was achievable because the process works so quickly following the scrapping of the adjacent cattle shed regularly, allowing for the bovine waste to reach the acid tank in an airtight contained system within 20 minutes. No detailed evidence has been submitted to explain this particular "in house" speedy system on which the appellant now relies upon to further reduce ammonia emissions. It is noted that the AQIA makes no reference to the cattle sheds or this managed system of moving the slurry from the animal quickly to the acid tank. The block plan only shows a dotted blue line connecting three sheds to the acid process tank with no details of this managed scrapping system or proposed connections between the different structures properly identified or explained. No detailed evidence has been submitted to explain this particular "in house" speedy system on which the appellant now relies upon to further reduce ammonia emissions. If such a critical part of the process, it is incomprehensible why the appellant failed to include it as part of his overall scheme. I do not accept the argument that these buildings were already there so did not need to be included as part of my consideration.

5.18 Both the NIEA and SES representatives contend that there is no scientific evidence that this suggested ammonia reduction referred to in the Baltic Slurry Acidification Reports can be applied to the UK's temperate climate. Other reports submitted by the appellant also refer to the significance of temperature in the resultant reductions in ammonia emissions. The 2016 Misselbrook et al report identifies different levels of ammonia emissions, dependant upon the differing seasons whilst other Baltic studies emphasize the importance of meteorological conditions, with different temperatures, humidity of air , soil and precipitation impacting on the results. I agree with the Council that reliance cannot be placed on studies undertaken in other countries very different to Northern Ireland in terms of climate, soil conditions and environment and further local studies are needed to accurately assess the level of ammonia reduction achievable here. The appellant's representative acknowledged at the hearing that it is difficult to find a directly comparable situation to that in Northern Ireland. A passing reference was made to ongoing studies undertaken by Swansea

University and by DAERA's Agriculture, Food and Biosciences Institute considering the effects of acidification on soil conditions but no details were presented.

5.19 The NIEA representative confirmed that cattle represent the largest emitters of ammonia in Northern Ireland and as this represents the first case of acidification of cattle slurry in the UK , there is a need to provide certainty that no significant environmental effects are likely to result. I agree with the Council and their consultees that whilst a 60-70% reduction in ammonia emissions is achievable, insufficient scientific proof has been provided that a 99.1% reduction is likely in Northern Ireland. The appellant's argument that further reduction is achievable based upon a closed, managed and speedy scrapping system has not been substantiated as he has failed to provide any details. Whilst this may indeed be a "tried and tested" system elsewhere, as suggested by the appellant, the acidification of cattle slurry has been neither been tried nor tested in Northern Ireland Given its sensitive location in such close proximity to the River Faughan ASSI/SAC, I conclude that the release of higher nitrogen emissions would be likely to negatively impact on habitat and supporting species within this designated site. As reasonable scientific doubt remains and there is a lack of certainty about the likely impacts of this new and novel process, an ES is required to identify the risks and measures needed to address them.

5.20 The objector raised concerns that nitrogen deposition has the potential to alter the vegetation community structure within these designated sites, due to the release of nitrogen emissions which could negatively impact on habitat and supporting species. Although the hearing was concerned with the EIA Directive, there was much talk about the Habitats Directive. In regard to the test of likelihood, the EIA Directive does not require the same exacting standard as that required by the Habitats Directive. The precautionary principle overarches both Directives but does not necessarily have to be applied in the same way. The EIA Directive is purely procedural in character. It seeks to ensure that any likely significant effects on the environment are identified and properly taken into account in the decision making process but it does not mandate any particular outcome. This case is therefore distinguishable from Appeal 2018/E003 which related to a deemed planning application where Appropriate Assessments were carried out. Given that the appeal site lies so close to the River Faughan and Tributaries ASSI/SAC, this is likely to trigger the need for the appeal project to be considered in accordance with the requirements of Regulation 43(1) of the Conservation (Natural Habitat, etc.) Regulations (NI) 1995 (as amended) in the future but does not form part of my consideration here.

5.21 Notwithstanding this conclusion, it is noted that the objector's concerns that the ancient oak woodland which lies within the designated site would be damaged by the spreading of acidified slurry in such close proximity. Whilst the appellant claims that the degradation of the vegetation was not caused by the appellant but by other landowners, a claim which is unsubstantiated, he argues that any reduction in ammonia levels would have a positive impact on vegetation but provided no scientific evidence to support that. Even when environmental improvements occur, as suggested here by the appellant , they may still have a significant environmental effect which needs to be explained in full. I agree with the objector that the project must be considered in the round and potential adverse effects cannot be outweighed by possible benefits.

5.22 The Council considers that the appellant has failed to provide robust scientific evidence that the spreading of acidified slurry on receiving lands lying adjacent to and within the catchment area of the River Faughan would not have a negative effect on the chemical and biological water quality of the SAC. Whilst there were some benefits seen in the Baltic Sea Studies such as a reduction in atmospheric nitrogen disposition and leaching of nitrates, there is no insufficient evidence that such a process would have a similar effect on water quality within this specific environmentally sensitive area in Northern Ireland where very different environmental conditions exist. Even if positive effects on water quality could be demonstrated, as outlined above these, full robust scientific evidence on this matter should be included within an ES. Whilst the appellant referred to the need for proper sampling and monitoring, such mitigation measures need to be "worked up" within the ES and cannot be attached as a condition as suggested by the appellant.

5.23 Representing the River Faughan Anglers, the objector raises concerns that the appellant has failed to consider the likely significant environmental effects of the acidification process on fish stocks within this river which is highly susceptible to harm from pollution and already exceeds its critical loading threshold. Whilst the appellant argues that all concerns about water borne elements are addressed in the Nitrates Plans with strict adherence to DAERA guidance on not spreading close to the river to prevent leaching/run-off, he acknowledges that proper and strict management is required. However no such mitigation measures have been presented. The objector's concerns are heightened given the fact that the most serious pollution incident ever encountered along the River Faughan emanated from the appellant's farm several years ago**.** Scant details were forthcoming but it was indicated that the pollution resulted from discharge from a field drain which has since been removed. Whilst no further pollution incidents have occurred in the intervening period, it highlights the serious risk posed by farming in such close proximity to the River Faughan. As reasonable scientific doubt currently exists, detailed assessment of the likely significant environmental effects on fish stocks within the river, both positive and negative, needs to be included in the ES.

5.24 The objector has also raised concerns that the appellant has failed to take account of the soluble nature of phosphates in slurry which may cause nutrient leaching from landspreading into river in such close proximity to the River Faughan. The NIEA representative confirmed that cattle slurry is very low in phosphates no spreading should occur within 10m of the waterway which would prevent any leaching. It was also indicated that if the NAP Regulations were applied, this would negate any negative impact of phosphates on the river. As these arguments were accepted by both the objector and the Council, I do not consider that this matter amounts to a significant effect on the environment.

5.25 In his written submissions, the appellant has referred to a number of mitigation measures which he proposed "to ensure that there is no significant effect". These include a scheme collaborating with the Loughs Agency and Woodland Trust to provide a planted woodland, reed beds, a pond and ditches within an 8 acre plot abutting the River Faughan. The appellant emphasised that this formed part of "a backup plan" to provide further safety mechanism to reduce the potential impact on the River Faughan, attempting to control nitrates and remodel the drainage to direct it to a managed location. However, at the hearing, he changed his position, arguing

that he was not reliant on this scheme, instead stressing that it would provide an additional measure of reassurance that the appeal project would not have any adverse effect. Whilst the NIEA representative confirmed that this scheme had been signed off by the Loughs Agency, no details were presented as part of the appeal proposal. I share the concerns of both the Council and the objector that an attempt has been made to ameliorate the adverse effects of the appeal project at this late stage without adequate evidence being presented. Although this scheme lies outside the appeal site boundaries, I agree with the Council who consider that this was being offered as mitigation in the appellant's written submissions, and in the absence of any details, needs to be compiled and submitted as part of the EIA process.

5.26 I agree with the Council that given the significant gaps in information provided , both in written form and verbally , without robust scientific evidence to support it, the extent of all risks posed by such a new and novel project in such a sensitive location require further exploration. Given the inadequacy of the piecemeal evidence presented, I am not persuaded that no significant environmental impact would result. I therefore conclude that an ES is required to explore the full impacts of the appeal project and set out appropriate mitigation measures in detail.

Risks to Public Health

5.27 As the River Faughan is the main source of drinking water for the residents of Derry City, the objector has raised serious concerns about the potential negative impacts of land spreading of acidified slurry not only on the appellant's farm but on the other farm holdings utilising it. NED consider that there is indeed scientific doubt that this landspreading would have no negative impact on the water quality in the River Faughan and its tributaries. The appellant's response that the acidification process will have a positive effect on water quality is unsubstantiated. His failure to demonstrate any positive and/or negative effects need to be addressed in the ES.

5.28 The appellant states that the acidification of the slurry improves the air quality to the benefit of human health by lowering ammonia emissions. The NIEA representative confirmed that ammonia levels would have to be very high to adversely affect human health and if reduced would be likely to reduce greenhouse gases and improve air quality. As the EIA process requires proper consideration of both positive and negative environmental effects , the appellant has failed to provide robust scientific evidence to support his assertion that the acidification process offers no risk to air quality with further details required to offer greater clarity.

5.29 The Council's EHO considers that the storage of 17,000m3 of slurry within close proximity of 5 nearby sensitive receptors may have a detrimental impact on their residential amenities. They consider that there is the potential for odour impacts to occur when the slurry lagoon is being filled and emptied and when the land spreading is taking place. They recommend the installation of a rigid cover which was disputed by the appellant's representative who contended that the odour levels are so far below the required threshold, whether or not a cover is added. Whilst contending that odour levels reduce as ammonia levels fall, the appellant failed to provide sufficient scientific evidence to demonstrate that . Further clarification on this matter needs to be submitted within the ES.

5.30 I agree with the Council and the objector that the appellant has failed to demonstrate that the appeal project would have no significant impact on public health and I consider than an ES is needed to fully explore these matters.

Cumulative Impact

5.31 The appellant in his written submissions only considered the appeal project in isolation without taking account of other operations, approved and unauthorised, within the appellant's holding. There was much debate at the hearings about how the various elements of the appeal proposal were/ would be inter-connected, not only with each other but also with other structures within the holding. Whilst verbal accounts appeared to contradict the submitted drawings, I have to attach weight to the submitted plans which show that the slurry lagoon and acid tanks are functionally inter-dependant with other structures such as the above ground slurry lagoon, the unauthorised silage clamp and a number of cattle sheds. No details of any physical connections between these structures have been provided, the only indication being a dotted blue line on the block plan. I agree with the Council and the objector that a holistic approach needs to be adopted which requires a detailed assessment of all of these different elements of the appellant's operations and their connectivity in order to calculate the full extent of the environmental effect which I consider to be collectively significant. Account also has to be taken of other development outside this farm grouping, including the other slurry lagoon at Glenshane Road and slurry spreading on adjoining farmland and an ES is required to properly assess their collective environmental impact .

6.0 Conclusion

6.1 I have concluded that the appeal project falls within Schedule 2 of the EIA Regulations (NI) 2017. In terms of the Selection criteria set out in Schedule 3, taking all of the above into account, I conclude that the appeal development and other associated developments are likely to have a significant environmental impact on the environment within the catchment of the Designated site and priority habitat as well as likely to be of risk to human health. As such, I have concluded that the existing and proposed elements of the appeal project is EIA Development.

7.0 Recommendation

7.1 I recommend that the Council requires the submission of an Environmental Statement to consider the impacts of the appeal project and associated development with the appellant's holding on the following matters:

- Assessment of impact of construction, operations and the acidification process on the environment
- Assessment of the impact of Nitrogen Emissions and acidification process within the Catchment of the Designated sites and priority habitat
- Assessment of risks to human health
- Cumulative impacts.

This recommendation relates to the following plans submitted by the appellant:

Original Drawings received by the Council on 7 May 2019:

Drg PL-10	1:5000	Site Location Plan,
Drg PL- 01	1:2500	Location Plan,
Drg PL- 21	1:1000	Existing scheme site plan, and
Drg PL- 20	1:100	Acidification Process tank, acid tank details & shower cubicle

And Revised drawings received by the Commission on 29 May 2020:

Drg PL-02 REV A	1:100	Site Plan (Revised), and
Drg PL-11 REV A	1:500	Elevations on Lagoons (Revised)

Along with the following drawings relating to LA11/2020/0577/F received by the Commission on 26 November 2020:

Drg PL-01	1:2500	Location Plan,
Drg PL-02	1:5000	Schematic Plan,
Drg PL-03 REV B	1:250	Site plan and elevation, and
Drg PL-04	1:250	Elevations of silage clamp.

2019/C0005

APPEARANCES (at all 3 Hearings)

For Derry City and Strabane District Council

Ms R. McMenamin	Planning Officer with DCSDC
Ms S. Barrett	Planning Officer with DCSDC (first day only)
Mr K Finnegan	Northern Ireland Environment Agency (NIEA)
Ms L McNally	Northern Ireland Environment Agency (NIEA)
Mr M Kearney	Shared Environmental Services (SES)

For the Appellant

Mr T Gourley	(Planning Consultant)
Mr D. McKinley	(Agent)
Mr T Linton	Linton & Robinson Environmental
Mr Q. Kelly-Edwards	JH Argo
Mr G Connell	Agrihand
Mr C Carr	Irwin Carr Consulting

Objector

Mr D Blackwood	River Faughan Anglers

List of Documents

LPA 1	Statement of Case and Appendices from Derry City and Strabane District Council
LPA 2	Rebuttal from Derry City and Strabane District Council
APP 1	Statement of Case from Appellant
APP 2	Rebuttal & Appendix from Appellant
APP 3	Revised Plans
OBJ 1	Statement of Case & Case law Appendices from River Faughan Anglers
OBJ 2	Rebuttal