



## Pre Determination Hearing Report

Summary	
<b>Committee Meeting Date:</b> 5 <sup>th</sup> June 2018	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/0936/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed 2No. additional broiler poultry sheds (to contain in total 74000 broilers taking the total farm capacity to 148000 broilers) with 4No. feed bins ,2No gas tanks, biomass boiler shed and pellet bin, ancillary building and proposed cattle shed with underground slurry tank (to contain 80 beef cattle) new covered silage pit, covered yard area and general farm storage building	<b>Location:</b> Lands approx. 300m North West and 100msouth west of 27 Terryscollop Road Annagh Dungannon
<b>Summary:</b> This is a Major application which has been recommended to Committee for approval, it is likely to have an affect on Areas of Special Scientific Interest and is subject to objection from Natural Environment Division, Department of Agriculture, Environment and Rural Affairs (DAERA). This application was brought before the Committee on 8 <sup>th</sup> January 2018 and it was resolved to approve the development subject to notification to the Department for Infrastructure (DfI), as the legislation requires. Following notification the DfI, by way of a letter dated 14 <sup>th</sup> February 2018, directed that the Council do not grant planning permission for this application (Appendix 1 of this report). Subsequently DfI, by way of a letter dated 1 <sup>st</sup> March 2018 informed the Council that it does not intend to determine the application and that the Council should continue to process the application. DfI has advised the Council that it should hold a Pre-Determination Hearing before taking a decision. Further iDfI acknowledged that NIEA did not respond to the Councils requests for information in relation to concerns it had about the development. DfI have provided NIEA concerns and have asked that these are considered as well as the cumulative impact of the proposed and existing development in any report. This is detailed in the report.	
<b>Applicant Name and Address:</b> CAP Farms Ltd 27 Terryscollop Road Annagh Dungannon	<b>Agent Name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN

<b>Notification and Directions:</b>	
<p>The Planning (Notification of Applications) Direction 2017, as amended, requires Council to notify DfI about this application. Notification was issued on 23 January 2018 and DfI responded on 14<sup>th</sup> February 2018 directing the Council not to issue the decision and on 1<sup>st</sup> March 2018 advising it did not intend to determine the application and that Section 30 of the Planning Act (NI) 2011 and regulation 7 of the Planning (Development Management) Regulations (NI) 2015 apply, this regulation requires the Council to hold a Pre-Determination Hearing before issuing any decision.</p>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - Enniskillen Office	Advice
Statutory	NIEA	Nitrogen levels exceed critical loads
Statutory	Historic Environment Division (HED)	Content
Statutory	DAERA - Omagh	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Shared Environmental Services	Substantive Response Received
Statutory	Rivers Agency	Advice
Statutory	Transport NI - Enniskillen Office	Advice

<b>Representations:</b>	
Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<b>Summary of Issues</b>  NIEA have advised they require information about the impacts of the existing buildings.	
<b>Characteristics of the Site and Area</b>  This is a working farm located in the rural area south of the village of Eglish. There are a number of existing cattle houses and agricultural buildings located beside the farm house on a hilltop position. The existing buildings are a mixture of older corrugated iron buildings and newer buildings with cladding. There is an existing concrete yard with 2m high walls located beside the existing cattle shed and silage pit. 2 poultry units are located on lower land to the NW of the main farm group, these are accessed off an existing private lane in a larger agricultural field which slopes towards the south west. The surrounding area is undulating drumlin landscape with small farm groups, poultry buildings and single houses.	
<b>Description of Proposal</b>  The proposal involves the extension of the existing buildings to accommodate a total of 80 cows and 2 poultry units to allow housing of 74000 broilers. The extensions are to provide: <ol style="list-style-type: none"> <li>1) 27m x 17m building with an 8m high pitched roof over the existing concrete yard,</li> <li>2) removal of the existing lean-to over the cattle pens and extension over an existing tank and extension of the tank, to create a 30m x 29m building with a 6.6m pitched roof to create an additional 12 cattle pens the building and</li> <li>3) 27m x 29m building with a 11m high pitched roof over a general farm storage building and silage pit.</li> </ol> All the buildings will have grey cladding to the upper walls and roofs and concrete to the lower walls. The proposed poultry houses are 98m x 21m with a ridge height of 6.6m, the buildings are linked on the frontage with a 6m x 6.5m building which has a 4m ridge height, behind this is 8.9m high silo for wood pellets to feed a biomass boiler contained in a 10m x 4m building that is 4m high. It is also proposed to provide 4 additional feed silos of 8.9m high and a 7m x 6m x 4m high ancillary building beside a retaining structure for the ramped vehicular access between the existing and the proposed buildings The plans also show underground storage tanks for dirty water out of the poultry units, swales to provide rain water attenuation and native species landscaping around the buildings.	
<b>Planning Assessment of Policy and Other Material Considerations</b>  <b>Dungannon &amp; South Tyrone Area Plan Planning</b> acknowledges that agriculture is an important use in the area. It does not have any policies in relation to this application but it	

identifies the site within the rural area where Planning Policy Statement 21 – Sustainable Development in the Countryside provides the policy considerations.

**The Strategic Planning Policy Statement** re-states the policies contained in **PPS21**, and I consider the most appropriate policy for consideration is CTY 12 which sets out criteria that allows planning permission to be granted for agricultural development subject to consideration of the status of the farm business; its impacts on the locality, neighbouring residents, natural and built heritage. Members should note the Ministers Review into the Operation of Planning Policy Statement 21 recognised there would be a significant number of planning applications for poultry houses to supply the agri-food sector. It does not provide any policy guidance but it does clearly recognise this industry is a key economic driver for the rural economy which I consider is supportive of this type of development.

The proposed development is an expansion of an existing active and established farm and the buildings are sited beside the existing buildings, are similar in size, scale and appearance to some of the existing buildings on the site and I consider the development to be appropriate to the location. The existing vegetation around the site, existing buildings on the site, topography of the landscape along with the additional landscaping proposed around the buildings will, in my view, assist the integration of the buildings into the landscape especially the cattle houses which have critical but limited views from the minor road network to the south and east. The poultry units will be seen in fleeting views from the Eglish Road, these are seen with a backdrop of rising ground and the existing units, again I consider the proposed landscaping will assist screening of these new buildings.

Members should note the expansion of the cattle houses is close to an historic monument, a rath. Historic Environment Division have been consulted and do not have any concerns with impacts from the proposed development on any historic features.

An Environmental Statement was submitted with the application which addressed noise, air quality and odour, the ecology, the water environment, transport, socio-economic impacts and waste disposal and nitrates management. The statutory agencies, except NIEA-NED have not objected to this development, provided some conditions to mitigate against possible environmental effects are attached to any planning permission. NIEA – Industrial pollution and Radiochemical Inspectorate have advised this site is the subject of a Pollution Prevention and Control Permit and it will need to be amended to take account of the new building. This is a separate regulatory regime to the Planning system. Environmental Health officers have advised the reports have indicated there will be no significant adverse impacts on sensitive dwellings from odour or noise.

**PPS2 – Natural Heritage**, Northern Ireland Environment Agency – NED have considered the proposed development in relation to nitrogen emission impacts on Benburb ASSI, Benburb & Mulltown ASSI, Knocknacloy ASSI and Rehaghy Wood ASSI. NIEA have advised, in a response that was only forthcoming following the notification to DfI, the nitrogen critical loads in the area exceed the upper critical level, an example for Knocknacloy ASSI, a mountain hay meadows habitat has been provided. NIEA also advised the proposal must take account of the loads from the existing development as well as the proposed development and that the existing cattle sheds have not been taken into account. The Environmental Statement submitted with the application sets out the background levels for ammonia levels measured in 2010 – 2012 and have been used to consider the proposal and the impacts from it on Rehaghy Wood, Knocknacloy and Benburb. The background levels have been calculated on the basis of the average of actual measured data over a 3 year period. Council has been advised by the consultants acting for the applicant in this matter, the background levels include the existing cattle sheds and as such they have been considered within the overall assessment of the impacts. Following notification to DfI, and the receipt of the NIEA response setting out the levels, the consultant provided revised ammonia concentration levels on 5 March 2018, these are for 2014-2016. It is notable that the most recent background levels are lower than in the original assessment, despite the 2 poultry units on the farm being constructed and contributing to these levels. NIEA were consulted with these revised figures on 4<sup>th</sup> April 2018 and have not provided any analysis or consideration of

the figures, they state ‘ there are significant challenges for the Department in considering agricultural expansion and development in areas where the critical loads of nitrogen deposition are already exceeded.’. They have not provided any response or analysis of the significance of these figures or advice on the validity of the figures or possible reasons for this reduction in the levels. Members are advised the environmental statement and the updated figures for ammonia levels acknowledge the critical loads still exceed the Predicted Environmental Concentration Guidelines, however the levels have fallen in the most recent figures and the impacts from this development and the existing buildings on the farm is assessed as having a less than 1% contribution to the overall levels of ammonia. Members should be aware that a consultee must provide evidence or substantiate any concerns they may have about a development, in this case NIEA are relying on figures that show the levels of ammonia are in exceedance of the guidelines. This is accepted by the applicants, however the applicants have provided information that shows they have assessed the cumulative impact of the proposed development and the existing development and the overall operations account for less than 1% of the ammonia figures. In view of this limited increase, on levels that are shown to be falling, I consider it is reasonable to deduce the application has been shown not to have a significant impact on the levels and as such will have a limited impact on the sites identified.

Shared Environmental Service have advised the potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43(1) of the Conservation (Natural Habitat, etc) Regulations (NI) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site. In light of this I am content the proposal meets with policies contained in PPS2.

**PPS3 – Access, Movement and Parking**, TNI consider the access point, where it meets the minor road is sub-standard as the existing visibility splays are not adequate. A proposed improvements to the access is acceptable provided it is carried out prior to the commencement of development and I consider it is reasonable to condition the provision of these improvements.

**PPS15 – Planning and Flood Risk**, due to the size of the proposed development, policy FLD3 places a requirement for a drainage assessment to be carried out to demonstrate adequate measures are put in place to mitigate against flooding. The proposal includes a storm water attenuation system which DARD (NI) Rivers Agency accepts and have they not offered any objections to the proposal. I am content a condition requiring the provision of the flood attenuation scheme is required to ensure this is provided.

Having carefully considered all of the above, I recommend the committee approve this development.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approval with conditions as set out in the report.

**Conditions/Reasons for Refusal:**

1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.

2. The vehicular access, including visibility splays of 2.4m x 33.0m and 33.0m forward sight line shall be provided in accordance with Drawing No 02 Rev 01 bearing the stamp dated 27 SEP 2017, prior to the commencement of any works or other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

3. All hard and soft landscape works shall be carried out in accordance with the details as shown on drawing No 02 Rev 1 bearing the stamp dated 27 SEP 2017 and the appropriate British Standard or other recognised Codes of Practice. The landscaping shown around the new cattle houses shall be carried out prior to any of the cattle houses becoming operational and the landscaping around the new poultry houses shall be carried out prior to any of the poultry houses becoming operational. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

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

4. Prior to the construction of any of the poultry buildings or laying of any concrete surfaces associated with the poultry units, the storm water drainage run and swale located beside the poultry buildings as detailed on drawing no 02 REV 1 bearing the stamp dated 27 SEP 2017 shall be provided as detailed.

Reason: To attenuate the storm water from the site and reduce the risk of flooding.

5. Prior to the construction of any of the cattle houses or laying of any concrete surfaces associated with the cattle houses, the storm water drainage run and swale located beside the cattle houses as detailed on drawing no 02 REV 1 bearing the stamp dated 27 SEP 2017 shall be provided as detailed.

Reason: To attenuate the storm water from the site and reduce the risk of flooding.

6. Prior to the poultry houses hereby approved becoming operational the washings tank shown on drawing no 02 REV 1 bearing the stamp dated 27 SEP 2017 shall be provided with no overflow or outfall permitted to the adjoining waterways. All dirty water generated on this site by these buildings must be collected in the tank.

Reason: To ensure there are no adverse impacts on the selection features of Lough Neagh ASSI and Lough Neagh and Lough Beg SPA.

#### Informatives

1. When making this decision the Council has taken into consideration environmental information within the terms of the Planning (Assessment of Environmental Effects) Regulations (Northern Ireland) 2015.

2. The applicant will be required to obtain a Pollution Prevention and Control (PPC) permit variation prior to first operating the expanded facility.

3. Your attention is drawn to Standing Advice Notes 12, 23, 4, 11, 5 and 18 published by NIEA and available to view of NI Planning Portal under NIEA Guidance.

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	7th July 2017
<b>Date First Advertised</b>	27th July 2017
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 25 Terryscollop Road,Annagh,Dungannon,Tyrone,BT71 7QQ	
<b>Date of Last Neighbour Notification</b>	26th July 2017
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Submitted
<b>Planning History</b>  Ref ID: LA09/2017/0936/F Proposal: Proposed 2No. additional broiler poultry sheds (to contain in total 74000 broilers taking the total farm capacity to 148000 broilers) with 4No. feed bins ,2No gas tanks, biomass boiler shed and pellet bin, ancillary building and proposed cattle shed with underground slurry tank (to contain 80 beef cattle) new covered silage pit, covered yard area and general farm storage building Address: Lands approx. 300m North West and 100msouth west of 27 Terryscollop Road, Annagh, Dungannon, Decision: Decision Date:  Ref ID: LA09/2017/0285/PAN Proposal: Proposed 2No. broiler poultry sheds with 4 feed bins 2No. gas tanks, office and changing building (to contain in total 74000 broilers, taking the total farm capacity to 148000 broiler birds) and proposed cattle shed with underground slurry tank (t0 contain 80 beef cattle). New covered silage pit, covered yard area and a general farm storage building. Address: Land approx. 300m NW and 100n SW of 27 Terryscollop Road Annagh, Dungannon, Decision: PANACC Decision Date:  Ref ID: M/2006/0692/O Proposal: Dwelling & Garage	

Address: Land approx 50m NW of 27 Terryscollop Road, Dungannon

Decision:

Decision Date: 22.05.2007

Ref ID: M/2011/0073/F

Proposal: Proposed single storey extension to side of dwelling and 2 storey extension to rear with covered area on ground and bedroom above plus internal alterations

Address: 27 Terryscollop Road, Dungannon,

Decision:

Decision Date: 15.03.2011

Ref ID: M/1991/4027

Proposal: Alteration to Dwelling

Address: 27 TERRYSCALLOP ROAD, DUNGANNON.

Decision:

Decision Date:

Ref ID: M/2012/0340/F

Proposal: Proposed 2no. Select Farm Poultry Sheds, 4 no. feed bins and an ancillary building with biomass boiler, standby generator, office and changing facilities,( each poultry shed will contain 25850 chickens

Address: Land approx 300m North West of 27 Terryscallop Road, Dungannon,

Decision: MAA

Decision Date: 13.08.2012

### **Summary of Consultee Responses**

NIEA – content with conditions,  
unable to consider the impacts of the development on designated sites, nitrogen loads exceeded, requires consideration of the cumulative impacts if the existing and proposed development  
will be subject to PPC

TNI – access improvements to be provided

EHO – no significant odour or noise impacts

SES – can be screened out for impacts on European sites

HED – content

DARD – active and established farm

Rivers –no reason to object on flooding or drainage perspective

### **Drawing Numbers and Title**

Drawing No. 04  
Type: Proposed Plans  
Status: Submitted

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

Drawing No. 02 Rev 1  
Type: Site Layout or Block Plan  
Status: Submitted

Drawing No. 01  
Type: Site Location Plan  
Status: Submitted

Drawing No. 05  
Type: Proposed Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department: 23<sup>rd</sup> January 2018  
Response of Department: 14<sup>th</sup> February 2018, 1<sup>st</sup> March 2018

## APPENDIX 1 – Dfl correspondence



**Strategic Planning Division**



Department for

**Infrastructure**

An Roinn

**Bonneagair**

[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

Phelim Marrion  
Planning Department  
Mid Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

DfI Planning  
First Floor, Clarence Court  
10-18 Adelaide Street  
Belfast  
BT2 8GB

Tel: 0300 200 7830

[phelim.marrion@midulstercouncil.org](mailto:phelim.marrion@midulstercouncil.org)

Your ref: N/A

Our ref: LA09/2017/0936/F

Date: 14 February 2018

Dear Mr Marrion,

**Re: Article 17 of the Planning (General Development Procedure) Order (NI) 2015 in relation to: Planning Application LA09/2017/0936/F Proposed 2No. additional broiler poultry sheds (to contain in total 74000 broilers taking the total farm capacity to 148000 broilers) with 4No. feed bins, 2No gas tanks, biomass boiler shed and pellet bin, ancillary building and proposed cattle shed with underground slurry tank (to contain 80 beef cattle) new covered silage pit, covered yard area and general farm storage building. Lands approx. 300m North West and 100m south west of 27 Terryscollop Road, Annagh, Dungannon for CAP Farms Ltd.**

Thank you for your notification of 23 January 2018. The proposal was presented to the Mid Ulster District Council Planning Committee on 8<sup>th</sup> January 2018 and recommended for approval.

The Department, in exercise of the powers conferred on it by Article 17 of the Planning (General Development Procedure) Order (NI) 2015, hereby direct that Mid Ulster District Council do not grant planning permission for this application. The Department will be in contact in due course.

Yours sincerely

**Eamon Lynch**  
Strategic Planning Division



E-mail: [planning@infrastructure-ni.gov.uk](mailto:planning@infrastructure-ni.gov.uk)  
Website: [www.planningni.gov.uk](http://www.planningni.gov.uk)

## Strategic Planning Division



Department for

**Infrastructure**

An Roinn

**Bonneagair**

[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

Phelim Marrion  
Planning Department  
Mid Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

DfI Planning  
First Floor, Clarence Court  
10-18 Adelaide Street  
Belfast  
BT2 8GB

Tel: 0300 200 7830

Your ref: N/A

Our ref: LA09/2017/0936/F

Date: 01 March 2018

Dear Mr Marrion

### **ARTICLE 17 OF THE PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER (NI) 2015**

**ReF: LA09/2017/0936/F- Proposed 2No. additional broiler poultry sheds (to contain in total 74000 broilers taking the total farm capacity to 148000 broilers) with 4No. feed bins ,2No gas tanks, biomass boiler shed and pellet bin, ancillary building and proposed cattle shed with underground slurry tank (to contain 80 beef cattle) new covered silage pit, covered yard area and general farm storage building, Lands approx. 300m North West and 100m south west of 27 Terryscollop Road, Annagh, Dungannon for CAP Farms Ltd.**

Further to the Department's direction under Article 17 of The Planning (General Development Procedure) Order (NI) 2015, issued on 14 February 2018, the Department hereby notifies the Council that it does not intend to determine the above application under section 29 (1) of the 2011 Planning Act. The Council should therefore continue to process the subject application.

You will note that section 30 of the 2011 Planning Act (Pre-determination hearings) and Regulation 7 of The Planning (Development Management) Regulations (NI) 2015, as amended, are now applicable to the application.

In reviewing the correspondence the Department has a number of observations to make about the application that Council should consider in preparing for the pre-determination hearings:

1. It is noted that the Development Management Officer Report (DMOR) summarises NIEA's position as not having raised any concerns about the development. The report includes reference to clarification having been sought from NIEA on the additional information needed for them to fully consider the impacts and adds that no comment was received. The Natural Heritage section of the report concludes that NIEA (NED) do not have any concerns with the proposed development.

As a result of the notification from Mid Ulster District Council, the Department contacted NIEA for clarification on their position. NIEA provided clarification in an email which you will have received on 12 February 2018 (copy attached). Contrary to the DMOR conclusion, in their email NIEA have set out a substantive objection to the proposal. The email notes that NIEA have not yet been re-consulted with the requested further information and goes on to detail the NIEA position.

2. The DMOR also indicates that NIEA have advised that the existing cattle sheds have not been considered in terms of the cumulative impact of the scheme. Council should satisfy themselves that the report has properly considered the cumulative impacts of the proposed development.

In due course, I would be grateful if you would advise the Department of the date of the pre-determination hearing.

Yours sincerely



**Eamon Lynch**  
**Principal Planner**  
Strategic Planning Division

Enc/ NIEA email