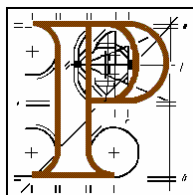


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2011

Cork County

Planning Register Reference Number: 12/06427

An Bord Pleanála Reference Number: PL 04.242301

APPEAL by James and Ann Ryan of Mill House, Ballyderown, Kilworth, County Cork against the decision made on the 8th day of July, 2013 by Cork County Council to grant subject to conditions a permission to Michael Walsh care of Mescal and Associates of Enterprise House, Centre Park Road, Cork in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Construction on existing farmland of a fish farm comprising 20 number shallow tanks of seven metres diameter each in an area of 0.5 hectares; river water lift station at River Araglin; raised feed channel and a return channel; inlet and outlet screens; fencing around tanks and protective netting over the tanks; gateway recess at existing entry from L1422 with internal access way to the fish farm and to the river water lift station, at Macrone Lower, Kilworth, County Cork, as amended by the revised public notice received by the planning authority on the 13th day of May, 2013.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the provisions of-

- (a) the EU Habitats Directive 92/43/EEC,
- (b) the European Communities (Birds and Natural Habitats) Regulations 2011,
- (c) the provisions of the Cork County Development Plan 2009, and
- (d) the nature, scale and location of the works and the pattern of development in the area,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the environment and would not seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board agreed with the Inspector in her assessment that mandatory EIS (Environmental Impact Statement) was not required and, having regard to the scale of the proposed development and the potential impacts, considered there is no likelihood of significant effects and, therefore, no requirement for sub-threshold EIS. The Board considered the Natura Impact statement submitted with the application and the mitigation measures contained therein, and carried out an Appropriate Assessment of the potential impact on the affected Natura 2000 site Blackwater River candidate Special Area of Conservation (Site Code 002170). The Board considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on the amenities of the area or on these European sites. The Board considered that the proposed scheme would not have an adverse effect on the integrity of the European sites, having regard to their relevant conservation objectives.

CONDITIONS

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 26th day of April, 2013, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to the commencement of development, the developer shall obtain a licence under the Water Pollution Act 1977, as amended, which shall govern the operation of the fish farm.

Reason: In the interest of clarity.

3. The developer shall arrange for a suitably qualified and experienced ecologist, to oversee and be responsible for the full application of mitigation measures contained in the Natura Impact Statement submitted with the application.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of a European Site.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, parking and on-site storage and off-site disposal of construction/demolition waste. The plan shall incorporate relevant mitigation measures set out in the Natura Impact Statement including those related to silt control and refuelling.

Reason: In the interest of the protection of the environment, public safety and residential amenity.

5. The operator shall designate a named person (and replacement when and wherever applicable) who shall be responsible for the operation and maintenance of the development and this person shall be formally made known to Inland Fisheries Ireland and the planning authority.

Reason: In the interest of the proper planning and sustainable development of the area.

6. The developer shall comply with the archaeological requirements of the Department of Arts, Heritage and the Gaeltacht in relation to monitoring of works and shall:

- (a) employ a suitably qualified archaeologist who shall establish a buffer zone around the mill building, which is part of recorded monument CO-028-019, and shall monitor all site excavation works particularly those which may impact on the former mill race and on underwater archaeology,
- (b) facilitate the preservation, recording and protection of archaeological materials and features that may exist within the site, and
- (c) provide arrangements for the recording and removal of any archaeological material which it is considered appropriate to remove.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

7. Noise emissions from site operations shall not exceed the background noise level by more than 5dB, when measured at any external position at an occupied dwelling. All sound measurements shall be carried out in accordance with ISO Recommendations R 1996, "Assessment of Noise with Respect to Community Response" as amended by ISO Recommendations R 1996/1 and 2 "Description and Measurement of Environmental Noise", as appropriate.

Reason: To protect the amenities of properties in the vicinity of the site.

8. Receptacles for waste shall be provided and available for use at all times on the premises in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for a satisfactory standard of development.

9. All above ground storage tanks shall be double-skinned or shall be contained within a bunded area of sufficient capacity.

Reason: To provide for a satisfactory standard of development.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2013.