



Board Direction

Ref: PL05E.245619

The submissions on this file, the Inspector's report, the applicant's response to the Board's S.132 request and subsequent submissions arising from cross circulation were considered at a further Board meeting held on October 21st, 2016.

The Board was satisfied that there was no further need for cross circulation or to refer file back to the Inspector for a further report.

The Board decided to grant permission generally in accordance with draft reasons, considerations and conditions set out below.

REASONS AND CONSIDERATIONS

In coming to its decisions the Board had regard to:

- the provisions of the Donegal County Development Plan 2012-2018, including the site's location within the settlement envelope of Donegal Town and the economic policy provisions set out under policy ED-P-3;
- the planning history of the site including the planning permission granted by An Bord Pleanála for a livestock auction building and associated facilities on this site (ABP Ref. PL.209175);
- the nature and extent of the proposed development;
- the pattern of development in the area,
- the submissions on file including the applicant's response to the Board's S.132 request and the subsequent submissions arising from cross circulation;
- the submission received from the applicant dated September 2nd, 2016 and the subsequent third party response, and
- the report of the planning inspector.

Appropriate Assessment Screening

The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site.

The Board had regard to:

- the Screening Statement for Appropriate Assessment submitted with the planning application;
- the documentation submitted at further information stage;
- the AA Screening Assessment carried out by the planning authority;
- the submissions on file including the applicant's response to the Board's S.132 request;
- the submissions received in response to the S.132 request and the submissions arising from the subsequent cross circulation;
- the submission received from the applicant dated September 2nd, 2016 and the subsequent third party response,
- the Inspector's report; and

completed a screening for Appropriate Assessment based on the applicant's response to the S.132 request which relocated the building to a position between the originally proposed location and that permitted by the planning authority.

The Board accepted and adopted the Inspector's screening assessment in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives. The Board was satisfied that the proposed development as amended, either individually or in combination with other plans or projects, would not be likely to have a significant effect on Donegal Bay (Murvagh) SAC (Site Code:000133) and Donegal Bay SPA (Site Code: 004151) in view of the sites' Conservation Objectives.

Environmental Impact Assessment Screening

The Board had regard to the nature and extent of the development proposed, the documentation on file including the applicant's response to the S.132 request which relocated the main structure, the submissions from the parties including in response to the S132 and the ensuing cross circulation, the submission received from the applicant dated September 2nd, 2016 and the subsequent third party response, and the planning authority's analysis in respect of EIA.

The Board examined the proposal in light of Schedule 5 of the PDA Regulations and, in particular, considered the development in the context of 11(b) under Other Projects which is for 'Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part

1 of this Schedule'. The Board noted that the planning authority had considered an annual tonnage of 5,000 tonnes when screening out EIA and further noted that the applicant, subsequently in response to the Board's S.132 request, envisaged that the tonnage might entail a waste facility with a capacity of 12,755 tonnes per annum by 2040. The Board considered that 12,755 was considerably below the threshold under Schedule 5, 11(b) and that the potential capacity would not be greater than 25,000 tonnes and therefore concluded that no mandatory EIA was required. For reasons including in the interests of clarity, the Board considered it appropriate to attach a condition limiting the volume of waste to the 12,755 tonnes as set out in the applicant's submission to the Board on June 27th, 2016.

The Board further examined the proposed development in light of the criteria set out in Schedule 7 of the PDA Regulations relating to subthreshold development and considered:

- The characteristics of the proposed development entailing a modern purpose built waste facility with a capacity of 12,755 tonnes per annum by 2040 with all waste activities carried out inside the principal building;
- The location of the waste facility within the settlement envelope of Donegal Town in an area well serviced by roads and outside any designated European Site, and
- The characteristics of the potential impacts of the proposed development including the facility being the subject to environmental controls during operation by means of a waste facility permit,

and concluded that the proposed development would not be likely to have significant effects, direct or indirect, on the environment alone or in cumulation with other proposed plans or projects. The Board concluded that the preparation of an environmental impact statement is not required.

Proper Planning and Sustainable Development Conclusion

It is considered that, subject to compliance with the conditions set out below, the proposed development as amended at appeal stage would not seriously injure the visual amenities of the area or of property in the vicinity, would not adversely affect the character of the landscape, would not endanger public health, would not give rise to a flood risk and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission the Board considered that the modified development as proposed in the applicant's response to the Board's S.132 request

adequately addressed the visual impact concerns by means of reduced intervention into the hillside, adequate set back from the road edge and the provision of a planted berm. The Board also considered that the principle of development was acceptable given that permission had previously been granted by An Bord Pleanála for a livestock auction building and associated facilities on this site (ABP Ref. PL.209175) and given the site's location within the settlement envelope of Donegal Town as defined in the Donegal County Development Plan 2012-2018. The Board did not share the Inspector's concern in respect of incompatibility with nearby commercial development, taking into consideration the modern purpose built nature of the facility and the operation of which will be subject to environmental regulation.

In respect of flooding the Board considered that the proposed amended development was an appropriate balance successfully resolving visual impact and flood risk issues and considered that the flood risk details submitted in response to the Board's S.132 request were acceptable. The Board endorsed the submission received from the applicant on September 2nd, 2016 in respect of Storm Water Drainage Design (CST Group) and flood risk assessment as set out in the Addendum to Detailed Flood Risk Assessment and Justification Test (Tynan Environmental).

CONDITIONS

1. Plan particulars with reference to application as lodged, as amended by FI submitted to the PA and as amended in the response to the Board's S.132 request and as amended in the submission to the PA on September 2nd, 2016.

Reason: In the interest of clarity.

2. The facility shall not exceed a maximum capacity of 12,755 tonnes per annum save with a prior grant of planning permission.

Reason: In the interests of clarity to limit the volume of waste processed to that specified in the application documents and in the interests of the amenities of the area.

3. Construction and environmental management plan standard condition and reason.
4. Standard external finishes general condition and reason.
5. Standard landscaping condition and reason.

6. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay rubble or other debris on adjoining roads during the course of the works.

Reason: In the interest of residential amenity.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Board Member: _____ Date: November 10th, 2016
Nicholas Mulcahy