



An  
Bord  
Pleanála

**Board Direction**  
**PL04.249108**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 16<sup>th</sup> April 2018.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

### **Reasons and Considerations**

Having regard to:

- (i) The written submissions made in respect of the application
- (ii) The established nature of the existing Dairygold facility on the appeal site, the detailed nature, scale and form of the development and its location relative to nearby sensitive receptors,
- (iii) Mitigation measures which are proposed for the construction and operation phases of the development,
- (iv) The provisions of the Cork County Development Plan 2014 and the East Cork Local Area Plan 2017
- (v) The nature of the landscape and the absence of any specific conservation or amenity designation for the site,
- (vi) The pattern of development in the area including the proximity to the existing Dairygold facility and the separation distance of the site from existing dwellings,

- (vii) The submissions on file including those from prescribed bodies and the Planning Authority
- (viii) The documentation submitted with the application, including the Environmental Impact Statement and Natura Impact Statement

It is considered that, subject to compliance with the condition set out below, the proposed development would be in accordance with the provisions of Local Policy, would not seriously injure the residential amenities of the area, would not be prejudicial to public health and would be acceptable in terms of traffic safety. The proposed development would, therefore be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment**

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Ballymacoda Bay Special Protection Area (Site Code: 004023), Ballymacoda (Clonpriest & Pillmore) Special Area Conservation (Site Code: 000077), Cork Harbour Special Protection Area (Site Code: 004030) and Great Island Channel Special Area of Conservation (Site Code: 01058) are the European sites for which there is a likelihood of significant effects.

The Board considered the Natural Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites in view of the sites' Conservation Objectives (Ballymacoda Bay Special Protection Area (Site Code: 004023), Ballymacoda (Clonpriest & Pillmore) Special Area Conservation (Site Code: 000077), Cork Harbour Special Protection Area (Site Code: 004030) and the Great Island Channel Special Area of Conservation (Site Code: 01058). The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered, in particular, the

- (i) Likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) Mitigation measures which are included as part of the current proposal, and

(iii) Conservation Objectives for these European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European sites in view of the sites' Conservation Objectives.

### **Environmental Impact Assessment**

The Board completed an environmental impact assessment of the proposed development taking in account

- (i) the nature, scale, location and extent of the proposed development at Mogeely and Killamucky, Mogeely, Co. Cork
- (ii) the Environmental Impact Statement and supplementary information submitted in support of the application
- (iii) the submissions from the planning authority, prescribed bodies, and observers in the course of the application
- (iv) the Inspector's report

The Board considered that the Environmental Impact Statement, supported by the supplementary information submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Statement and supplementary information submitted by the applicant, and submissions made in the course of the application and appeal.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- **Traffic & Transportation** – The proposed development gives rise to an increase in vehicle movements during construction and operation. Significant impacts on the public road network can be mitigated by measures to manage traffic set out in the Traffic and Transportation chapter of the Environmental Impact Statement and through compliance with the conditions to implement address traffic and village improvement measures set out below.
- **Ecology** – The proposed development gives rise to the risk of adverse effects on downstream sites of nature conservation interest, via emissions to water, and those in the wider vicinity of the site, by virtue of emissions to water, during the construction and/or operational phase of the proposed development. However, significant effects can be (a) mitigated by measures set out in the EIS to prevent the pollution of water bodies (b) the requirement to obtain and operate the proposed development in accordance with an Industrial Emission licence (c) and through compliance with the conditions set out below including environmental monitoring on the outlet from the Waste Water Treatment Plant at Mogeely and automatic shutoff valves in the event trigger limits agreed with the Environmental Protection Agency are reached. Monitoring of compliance with emission limit values will fall to the Environmental Protection Agency.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that subject to implementation of the mitigation measures proposed as set out in the Environmental Impact Statement and subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself and in combination with other development in the vicinity would be acceptable. In doing so the Board adopted the report and conclusions of the Inspector.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars including the mitigation measures specified in the Environmental Impact Statement, lodged with the application as amended by the further plans and particulars submitted on 9<sup>th</sup> January 2017, 30<sup>th</sup> January 2017, 30<sup>th</sup> May 2017 and 12<sup>th</sup> June 2017 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. Monitoring of the construction phase shall be carried out by a suitably qualified competent person to ensure that all Environmental mitigation measures contained in the documentation which accompany the application are fully implemented. A designated member of the company's staff shall interface with the Planning Authority or members of the public in the event of complaints or queries in relation to environmental emissions. Details of the name and contact details and the relationship to the operator of this person shall be available at all times to the Planning Authority on request whether requested in writing or by a member of staff of the Planning Authority at the site.

**Reason:** To safeguard the amenities of the area.

3. All environmental mitigation measures set out in the Environmental Impact Statement and associated documentation submitted by the developer with the application and by way of further information shall be implemented in full except as may otherwise be required in order to comply with the conditions of this order.

**Reason:** In the interest of clarity and to protect the environment during the construction and operational phases of the development.

4. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

5. A noise management plan which should include a monitoring programme shall be put in place by the developer in respect of the construction phase of the development. The nature and extent of the plan and the monitoring sites shall be agreed in writing with the planning authority prior to commencement of the development. The results of the noise monitoring programme shall be submitted to the planning authority on a monthly basis.

**Reason:** To protect the residential amenities of the area.

6. During construction, the wheels of all trucks shall be washed prior to their exit from the site in a wheel wash facility. Details of the construction, installation and operation of this facility shall be agreed in writing with the Planning Authority prior to commencement of any development.

**Reason:** To safeguard the amenities of the area.

7. All solid wastes arising on the site shall be recycled as far as possible. Materials exported from the site for recovery, recycling or disposal shall be managed at an approved facility and in such a manner as is agreed with the Planning Authority. In any case no such wastes shall be stored on the site except within the confines of the buildings on site. Adequate on-site arrangements for the storage of recyclable materials prior to collection shall be made to the satisfaction of the Planning Authority.

**Reason:** To safeguard the amenities of the area

8. All wastewater pump sumps or other chambers from which spillages might occur shall be fitted with high-level alarms. The alarm systems contain an

audible and visible alarm, and shall relay via GSM dial out to a responsible person. There shall be no emergency overflow arrangements from any such sump. Adequate storage shall be provided to ensure there is no emergency overflow from this sump. Levels shall be set and controlled so that risk of odour nuisance is minimised, and contents are conveyed for treatment as expeditiously as practical.

**Reason:** To safeguard the amenities of the area, and prevent water pollution.

9. All lighting within the site curtilage shall be directed and cowled so as not to interfere with, or cause any glare or additional light spill to adjoining residential property.

**Reason:** To minimise light interference.

10. Prior to any construction work commencing (including site clearance, grading, well boring, levelling, water course crossing etc.) at the proposed development site in Mogeely, or any associated site works from Mogeely to Rathcoursey, appropriate surface water management controls shall be in place to prevent the discharge of sediment contaminated water to adjacent water courses. Unregulated slopes shall be temporarily scarified during construction to minimise runoff velocities. Controls shall be inspected daily and maintained regularly, and achieve a discharge standard of less than 25mg/l suspended solids.

**Reason:** To prevent water pollution.

11. (a) Continuous TON and Ammonia monitoring shall be provided to the satisfaction of the Planning Authority on the outlet from the WWTP prior to forward feed to the holding tank at Rathcoursey, with automatic shutoff valves in the event trigger limits are reached. Trigger limits shall be agreed with the Environmental Protection Agency. Appropriate storage shall be provided on site to ensure out of specification wastewater is not accidentally discharged.

(b) A remotely actuated valve shall be incorporated at the end of the proposed treated effluent pipeline before the connection to the Irish Water

discharge chamber. This valve shall be closed immediately on detection of any non compliance in the quality of the treated effluent.

**Reason:** To safeguard the amenities of the area, and prevent water pollution

12. The site shall be landscaped and planted in accordance with a scheme to comprise predominantly native and naturalised hedgerow, shrub and tree species reflecting those species naturally occurring in the locality. This plan shall be prepared with input from an ecologist. Full details (including drawings) shall be submitted in a landscape plan to be agreed in writing with the Planning Authority prior to commencement of development. It is desirable that the plan will reflect the principle of no net loss of native trees or hedgerows.

**Reason:** In the interests of protecting the biodiversity value of the site.

13. Prior to the commencement of development, the developer shall enter into a connection agreement with Irish Water. The agreement shall provide for an inspection of the diffuser at the end of the Rathcoursey discharge pipe and for measures to address any deficiencies found.

**Reason:** To safeguard the amenities of the area, and prevent water pollution.

14. The following traffic and village improvement mitigation measures shall be implemented before the proposed development comes into operation. Revised drawings shall be submitted to the planning authority for agreement in writing providing for the following:

- a) A 2.0m wide footpath shall be constructed to the satisfaction of the Planning Authority along the full length of the eastern and northern boundaries of the site. Footpath to be provided with public lighting and drainage, lighting to be capable of lighting the entire road width;
- b) Road and cycle path on the road fronting the applicant's site to the north shall be reduced in width to comply with the requirements of the Design Manual for Urban Roads and Streets (DMURS);
- c) Kerb radii on the junction of the road to the north of applicant's site



with the road to the east of applicant's site shall comply with the requirements of DMURS;

- d) Proposed layby on the road fronting the applicant's site to the north shown on applicant's drawings as "Existing Lay-by to be retained and upgraded" shall be removed as it is likely to impede sight distance at the applicant's vehicular exit on this frontage;

**Reason:** In the interests of public realm improvement and traffic safety.

- 15. Prior to commencement of development, revised drawings shall be submitted to the planning authority for agreement in writing indicating the following:

- a) The public road fronting the site to the north shall be strengthened and resurfaced along its full width and full length to the satisfaction of the Planning Authority before the development comes into operation.
- b) The public road fronting the site to the east shall be strengthened and resurfaced across its full width for a distance of 100 m on either approach to applicant's vehicular entrance. Works to be completed to the satisfaction of the Planning Authority before the development comes into operation.

**Reason:** To address structural damage to roads.

- 16. 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

17. The developer shall pay the sum of €70,000.00 (seventy thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of works proposed to be carried out, for the provision of upgrade of junction in Mogeely village and towards pedestrian facilities at N25 junction in Castlemartyr. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition 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.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála

for determination.

**Reason:** To ensure the satisfactory completion of the development.

**Board Member**

**Date:** 16<sup>th</sup> April 2018

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Maria FitzGerald