



An
Bord
Pleanála

Board Direction
BD-003652-19
ABP-302556-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 26/07/2019.

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

In coming to its decision, the Board had regard to a range of matters including the following:

- (a) The relevant provisions of Council Directive 2014/52/EU amending Directive 2011/92/EU (EIA Directive) on the assessment of the effects of certain public and private projects on the environment, Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union.
- (b) Council Directive 2000/60/EC for establishing a framework for Community action in the field of water policy,
- (c) Council Directive 91/271/EEC concerning urban wastewater treatment,
- (d) Council Directive 2006/7/EC concerning bathing water,
- (e) the national, regional and local strategic policies and objectives, inclusive of those set out in National Planning Framework – Ireland 2040, The Water

Services Policy Statement 2018-2025, Irish Waters Water Services Strategic Plan, the Regional Planning Guidelines for the Greater Dublin Area 2010-2022, the Wicklow County Development Plan 2016-2022, the Arklow Local Area Plan 2018-2024,

- (f) The environmental improvements in water quality which would accrue in the Avoca River, estuarine waters and coastal waters as a result of ceasing the untreated discharge of effluent into the river.
- (g) The site context within Arklow town, and relevant planning history in the environs of the site of the wastewater treatment plant,
- (h) The design, layout and construction strategy for the interceptor sewers, stormwater overflows, stormwater storage tank, long sea outfall and revetment works,
- (i) the design, layout and architectural treatment of the proposed wastewater treatment plant development,
- (j) the range of proposed mitigation measures set out in the submitted in the documentation lodged including the Environmental Impact Assessment Report, and Natura Impact Statement,
- (k) the entirety of the documentation that accompanied the planning application and reports and submissions, which were submitted by all parties, planning authorities, prescribed bodies and observers,
- (l) the submissions made in relation to the application including those submitted at the Oral hearing and the report and recommendation of the Inspector,

The Board considered that, subject to compliance with the conditions set out below, that the proposed development would enable sustainable and properly planned residential, employment and other development within Arklow through the delivery of wastewater treatment capacity and improved wastewater piping network, would improve the quality of effluent discharged to the receiving water environment, would accord with European Directives, national, regional and local planning policy and objectives and would be acceptable in respect of its likely effects on the environment and its likely consequences for the proper planning and sustainable development of the area, including matters of odour, noise, vibration, traffic and visual impact. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1 Screening

The Board agreed with and adopted the screening assessment and conclusions carried out in the Inspector's report that the Buckroney -Brittas Dunes and Fen SAC (Site Code 000729), Kilpatrick Sandhills SAC (Site Code 001742), Magharabeg Dunes SAC (Site Code 001766) are the only European Sites in respect of which the proposed development and more specifically the proposed long sea outfall has the potential to have a significant effect.

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the potentially affected European Sites, namely the Buckroney -Brittas Dunes and Fen SAC (Site Code 000729), Kilpatrick Sandhills SAC (Site Code 001742), Magharabeg Dunes SAC (Site Code 001766) in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed wastewater treatment plant and associated development together with the long-sea outfall development both individually and in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the 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, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives.

Environmental Impact Assessment:

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale, location and extent of all components of the proposed development;
- (b) the drawings submitted with the application;
- (c) the Environmental Impact Assessment Report and associated documentation submitted in support of the application including the technical information included in the appendices;
- (d) the reports and submissions from the Planning Authority, the observers and prescribed bodies in the course of the application and the submissions of the applicant and observers during the oral hearing,
- (e) the Inspector's report.

The Board agreed with the summary and examination set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application. The Board is satisfied that the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation and are incorporated into the Board's decision.

Reasoned Conclusions on the Significant Effects

The Board considered that the environmental impact assessment report, supported by the additional documentation submitted by the applicant during the course of the oral hearing, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below. An Outline Construction Environmental Management Plan (CEMP), contained at Appendix 5.1 of the EIAR, together with mitigation measures to be employed on the environment, and summarised at Chapter 21 of the EIAR, provide a description of the overarching general mitigation measures embedded in the project design and delivery for construction and operational stages. The main likely impacts, both positive and negative are as follows:

- The most profound significant effect when the project becomes operational, will be a positive effect on the **water quality and amenity** associated with the removal of untreated wastewater discharge into the Avoca River. The project will also enable the Arklow urban area, to comply with the requirements of the Urban Wastewater Treatment Regulations and the Water Framework Directive, in that wastewater will be treated to secondary level prior to being discharged into receiving waters.
- Impacts on population and human health as a result of **Noise and Vibration** during the construction phase will be adverse but temporary. Noise and vibration effects would be particularly significant during the construction of the interceptor sewer. The effects will be both ground-borne and airborne and will be derived from excavation, tunnelling and sheet-piling. The potential impacts would be somewhat mitigated by noise and vibration mitigation measures, such as the use of plant with low inherent potential of noise and / or vibration, the use of noise barriers and locating plant and tunnelling machinery, as far as practically possible away from noise sensitive receptors. Noise and vibration audits will be carried out. Where vibration is considered to have an

unacceptable impact, temporary rehousing of residents will be considered. Notwithstanding the mitigation measures proposed, the residual impacts could still be significant and material; albeit localised and temporary in duration.

- Impacts on **traffic** through increased congestion and route diversion will also be adverse during the construction phase. As with noise and vibration, the impact will be temporary and localised. However, some of these temporary localised impacts will be significant, particularly in relation to the diversion of traffic from the North Quay onto Seaview Avenue during the construction of the interceptor sewer.
- **Odour** impacts for the operational phase would be mitigated by the following; odour from the wastewater treatment plant would be mitigated by the design itself and will be contained by condition. Odour from the interceptor sewers shall be released via 7.6 m high vents along the route, to ensure adequate dissipation.
- **Landscape and Visual** impacts would arise in respect of the WWTP with the transition of the site from existing derelict and vacant lands to use as an industrial/infrastructure facility. While the proposed buildings are of a significant size and scale, they will replace derelict and unsightly buildings of a similar scale and size. The architectural design successfully marries the industrial heritage of the subject site with the civic/infrastructural nature of the proposed use. The proposal, having regard to the site's present unsightly derelict nature, will not have an adverse visual impact notwithstanding the size and scale of the buildings proposed. The implementation of the landscape management plan, and ongoing landscape maintenance would somewhat assist in assimilating the works into the landscape and reduce the visual of the buildings at operational phase.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures referred to above, and other measures set out in chapter 21 of the EIAR and those set out in the various witness statements submitted to the oral hearing held on the 22nd and 23rd January 2019, including proposed monitoring as

appropriate, subject to compliance with the conditions set out below, 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.

Conclusion on Proper Planning and Sustainable Development

The benefits of the proposed development are considered to be positive. Its delivery would assist Ireland in meeting obligations set down under EU Directives, national legislation and planning policy expressed through the hierarchy of plans which regulate development at a national, regional and local level. The proposed development would enable sustainable and properly planned residential, employment and other development within Arklow through the delivery of wastewater treatment capacity and improved wastewater piping network, which would improve the quality of effluent discharged to the receiving water environment. It has been demonstrated in the application that the improvement in quality of effluent discharged by the provision of new wastewater treatment and associated sewer network and related works, can be achieved. It can, therefore, be concluded that the proposed development is in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and the information contained in the Environmental Impact Assessment Report and Natura Impact Statement, as amended by the further plans and particulars submitted at the Oral Hearing, 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, or in default of agreement, shall be referred to An Bord Pleanála for determination, and the

proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All mitigation and environmental commitments, including monitoring measures, identified in the EIAR and as summarised at Chapter 21 of the EIAR, shall be implemented in full as part of the proposed development except as may otherwise be required to comply with the following conditions.

Reason: In the interest of clarity and to protect the environment.

3. The period during which the development hereby permitted may be carried out shall be ten years from the date of this Order.

Reason: Having regard to the nature and extent of the proposed development, the Board considered it appropriate to specify a period of validity of this permission in excess of five years.

4. The odour emanating from the site shall not exceed 10 O_U/m³ at the 98 percentile for hourly averages for more than 50 hours per year at the site boundary.

Reason: In the interest of the amenities of the surrounding area.

5. The external finishes of the proposed buildings of the waste water treatment plant shall comprise of fibre cement panels, aluminium flashings and aluminium supports. Details of the colours textures and finishes of all materials shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. Details of all external lighting associated with the wastewater treatment complex shall be submitted to and agreed in writing with the planning authority prior to the commencement of development

Reason: in the Interests of visual amenity.

6. A plan containing details for the management of waste (and in particular recyclable materials) within the development including the provision of facilities for storage, separation and collection of the waste and in particular recyclable materials for the on-going operation of these facilities shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. Thereafter the waste shall be managed in accordance with the agreed plan.

Reason: To provide the appropriate management of waste and in particular recyclable materials in the interest of protecting the environment.

7. The applicant shall prepare, with the appointed contractor, a Noise and Vibration Management Plan (NVMP), and which shall include all measures as set out in Chapter 10 of the EIAR, and as summarised at Section 21.2.4 of the EIAR and updated by evidence submitted by the applicant to the Oral Hearing. The final NVMP shall include for monitoring of underwater noise levels in accordance with a monitoring plan drawn up, following consultation with the National Parks and Wildlife Service during the construction period. The final NVMP shall be submitted to and agreed in writing with, the planning authority, prior to commencement of development.

In addition to the noise survey locations as identified at Table 10.1 of the EIAR, noise survey and monitoring shall take place during construction at the following locations.

- (i) Arklow Bridge; south side of the river at the junction with Bridge Street, during the construction of the interceptor sewer beneath the southern arch of the bridge and the underpinning of the bridge.
- (ii) North Quay; at the vehicular junction between Bridgewater Shopping Centre and Aldi stores.
- (iii) Mill Road; at the proposed entrance to the Wastewater Treatment Plant.

Reason: In the interests of protecting amenity.

8. With the exception of the operation of the tunnel boring machine (TBM), which shall be permitted to operate on a 24-hour basis, site development and building works shall be carried out only between the hours of 8 a.m. to 7 p.m. Monday to Friday, 7 a.m. to 2 p.m. Saturday and not at all on Sundays or Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interests of preserving residential amenity.

9. Irish Water shall facilitate, where requested by the owner/occupier of every building within 30 metres of the centre of the of the proposed interceptor sewer, the carrying out of an independent structural survey of the building before and after the construction works are completed. The baseline condition survey and the post construction survey shall be made available to the owner/occupier of each of the buildings. Where it is found by an independent arbitrator that structural or cosmetic damage has been caused, which can be directly attributable to the construction works undertaken by Irish Water, Irish Water shall be liable to make good any such structural or cosmetic defects.

Reason: In the interest of orderly development, to minimise structural damage to properties, and to ensure a timely and effective response to any building damage problems during construction.

10. During the construction of the marine outfall, the applicant shall comply with the requirements of '*Guidance to Manage the Risk to Marine Mammals from man-made Sound Sources in Irish Waters*' published by the Department of

Arts, Heritage and the Gaeltacht (2014). A qualified and experienced marine mammal observer (MMO) shall be appointed to monitor for marine mammals and to log all relevant events using standardised data forms, which shall be available for inspection by the Planning Authority. Any drilling activity shall not commence if marine mammals are detected within a 500m radial distance from the drilling source. During construction of the diffuser shaft, a suitably marine ecologist shall be present on the marine construction rig, so as to ensure that no cetaceans are within the 100 metres exclusion zone of the rig during the commencement of drilling operations. Where such marine fauna are present within the exclusion zone, drilling operations shall be suspended until such time as the fauna leave the exclusion zone.

Reason: in the interest of the protection of cetaceans and other marine fauna.

11. Prior to the commencement of development, the applicant shall submit to, and agree in writing with, the planning authority a detailed Construction and Environmental Management Plan. The Plan shall clearly identify all measures / commitments as set out in the EIAR in relation to construction activities and shall clearly identify the construction programme for the carrying out of the phases of works. The construction programme shall be updated every 3 months following the commencement of works. The construction management plan shall, as a minimum, include the following:

- (a) Precise details of the location of the site and materials compounds including areas identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;

- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Provision of parking for existing properties along Riverside Walk, South Quay and North Quay during the construction period;
- (j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (m) All measures to be employed in relation to containing spill contingencies, spoil disposal, management of contaminated soil, the selection of slurry additives and drilling fluids.
- (n) Details of a pest control plan.
- (o) Where possible clean and uncontaminated excavated material arising from construction shall be reused as construction fill material.
- (p) An invasive species management plan.
- (q) A pro-active public information strategy to function during the construction phase of the proposed development.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety

12. All areas of temporary land acquisition required as temporary construction compounds shall be reinstated to the original condition.

Reason: In the interests of orderly development.

13. Construction of the long sea outfall shall not take place during periods where wave heights exceed 1.25 metres in height.

Reason: To minimise sediment suspension on the sea bed.

14. An Environmental Risk Management Plan, for both construction and operation stages (incorporating instrumentation, monitoring strategy, monitoring methods, monitoring framework and actions/responses to observations), shall be prepared by the applicant to ensure an effective response to disasters or risks of accidents. The plan should include emergency response measures where an unintended discharge spillage or longer-term seepage of untreated wastewater, fuel chemical solvents etc. into the waterbodies or the groundwater table. The Plan shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. The applicant shall retain responsibility for overseeing, updating and enforcing the Environmental Risk Management program throughout the construction and operation of the scheme.

Reason: In the interest of public safety and environmental protection.

15. The detailed design stage shall be carried out in compliance with EN 1997 (Eurocode 7: Geotechnical Design), and shall include, *inter alia*, the following:

- (i) a further detailed assessment of the geotechnical and geological conditions within tunnel sections and at locations of deep excavations associated with the pumping station to the waste water treatment plant,
- (ii) investigations to further determine occurrences of faults, zones of weakness and weathering in rock, in particular, for areas where deep excavations are proposed and for mixed face tunnelling conditions

Reason: To ensure a high standard of development utilising the optimum construction methods that take full account of the geotechnical and geological conditions where tunnelling and deep excavations are proposed.

16. The extent of contaminated ground shall be further determined by detailed investigations of all areas where excavations are proposed, these investigations shall be conducted prior to the commencement of excavation works.

Reason: To limit the potential impact from contaminated soil and in the interests of clarity.

17. 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. The plan

shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated. All contaminated soil shall be removed from site by a licenced contractor and shall be disposed of at an appropriate licenced facility. All asbestos removal from the existing Wallboard Factory at the Wastewater treatment plant site shall be removed by a competent contractor with appropriate trained staff, equipment and resources and will be disposed of at an appropriate licenced facility.

Reason: In the interest of sustainable waste management and public health and safety.

18. Prior to the commencement of development, a detailed Traffic Management Plan shall be submitted and agreed in writing with, the planning authority. The Plan shall set out all details of temporary road closures, traffic diversions, temporary signalised junctions, signage, haul routes to and from the M11 etc. to be incorporated in the various construction phases. Where necessary, following the commencement of development, this traffic management plan shall be updated to reflect any alterations to the plan. Furthermore, the traffic management plan shall ensure that the following measures are incorporated:

- a) All trucks entering and exiting the WWTP site and construction compounds will be covered with tarpaulin.
- b) All trucks exiting the site will be required to pass through a wheel wash.
- c) The construction traffic management plan should include a detailed consultation plan to deal with third party queries from both residents and third-party commercial operators.
- d) Works on North Quay shall be carried out in during the period June to September. Any deviation from this period, shall be agreed in writing with the planning authority.

- e) For works on Arklow Bridge no scheduled lane closures shall commence before 21:00 and all lane closures shall be lifted by 07:00. Any deviation from these times, shall be agreed in writing with the planning authority

Reason: In the interests of traffic safety and convenience.

19. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the construction sites, and the area of land affected by the laying of electric cables, the proposed new access slip road on land and the protection of any marine archaeological deposits that may exist in the vicinity of the proposed diffuser shaft. In this regard the developer shall:

- (a) Notify the Department of the Environment Community and Local Government in writing at least four weeks prior to the commencement of any site operations (including hydrological and geotechnical investigations) relating to the proposed development.
- (b) Employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works.
- (c) Provide arrangements for the recording and for the removal of any archaeological material which the Department of the Environment Community and Local Government considers appropriate to remove.

In default of an agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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.

20. An archaeological underwater inspection shall take place prior to commencement of works in order to identify any anomalies which may exist on the sea bed in the vicinity of the diffuser shaft. If required, the diffuser shaft shall be relocated to a point as close as possible to the proposed location without impinging or impacting upon any feature of archaeological interest. All such works shall be carried out in consultation and under the supervision of a suitably qualified underwater archaeologist.

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

21. The applicant shall inform the relevant Port Authorities of the precise location, including the geographical co-ordinates, of the outfall diffuser shaft. The location of the diffuser shaft, as constructed, shall be clearly and accurately marked on a revised Admiralty Chart.

Reason: To ensure that the diffuser shaft and outfall tunnel can be accurately located and identified, to notify marine traffic.

22. All works to Arklow Bridge shall be the subject of a detailed Method Statement and shall be carried out under the supervision of a qualified conservation consultant. Details of the Method Statement shall be submitted to and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

23. The following landscaping requirements shall be complied with by the applicant.

- i. All amenity grassland and trees along the route of the interceptor sewer, temporary roadways, and other areas within the planning boundary of the site, which are required to be removed during the course of the construction works shall be re-instated/replaced in full within one planting season of the construction works being completed. Any trees which die, are removed or are seriously damaged within a period of 5 years from the completion of the development shall be replaced within the next planting season with others of similar size and species unless otherwise agreed in writing with the planning authority.
- ii. The wastewater treatment plant site shall be landscaped, using only indigenous deciduous trees and hedging species in accordance with final details which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
- iii. Details of all boundary treatment associated with the wastewater treatment plant and the Alps storm retention tank shall be agreed in writing prior to the commencement of development.
- iv. If deemed necessary during the construction process for the purposes of protection, the Seafarers Memorial Garden shall be carefully dismantled, stored and re-instated. The contractor will be required to prepare a detailed method statement for such works and this method statement shall be submitted to and agreed with the planning authority prior to the undertaking of any such works.

Reason: In the Interest of biodiversity, visual amenity and orderly development.

24. All service cables associated with the proposed development (such as electrical, telecommunications, broadband and communal television shall be located underground).

Reason: In the interests of visual and residential amenity.

25. Water supply and drainage arrangements, including the [attenuation and] 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.

Schedule of Costs

In accordance with the provisions of section 37H(2)(c) of the Planning and Development Act 2000, as amended, the amount due to be reimbursed to the applicant is **€16,409**.

A breakdown of the Board's costs is set out in the attached Appendix 1.

Board Member

Date: 30/07/2019

Chris McGarry