

An
Bord
Pleanála

Board Direction
BD-010374-22
ABP-307433-20

The submissions on this file and the Inspector's report were considered at Board meetings held on 11/04/21 and 22/03/2022.

The Board decided to approve the proposed development, generally in accordance with the Inspector's recommendation, subject to the following reasons and considerations, and the conditions set out below.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

European legislation and policy, including of particular relevance:

Directive 2014/52/EU amending Directive 2011/92/EU (EIA Directive).

Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives).

Directive 2018/851 amending Directive 2008/98/EC (Waste Framework Directive).

Directive 2010/75/EU (Industrial Emissions Directive).

Closing the loop - EU Action Plan for the Circular Economy (COM/2015/0614).

EU Hydrogen Strategy – A hydrogen strategy for a Climate Neutral Europe (COM/2020/301).

National legislation and policy, including of particular relevance:

National Planning Framework 2018-2040, which supports the development of hazardous waste management facilities to avoid the need for treatment elsewhere.

National Development Plan 2021 – 2030, which supports the provision of additional capacity in waste to energy facilities including for hazardous waste.

Waste Action Plan for a Circular Economy – Ireland's National Waste Policy 2020 – 2025, which supports the development of adequate and appropriate treatment capacity at indigenous facilities.

National Hazardous Waste Management Plan 2014-2020 and associated documentation which highlight the need for increased self-sufficiency in the treatment of hazardous wastes.

Climate Action Plan, 2021, which notes Ireland's success in diverting waste from landfill.

Regional planning and related policy, including:

Eastern-Midlands Region Waste Management Plan 2015-2021 and in particular policies E15a and E16, which supports the development of additional thermal recovery capacity for non-hazardous and hazardous waste.

The local planning policy including:

Meath County Development Plan 2021-2027 including INF OBJ 59 to ensure that waste management facilities are appropriately managed and monitored.

The following matters:

- (a) The nature of the proposed development including the intake of additional hazardous waste.
- (b) The established nature of the existing licenced Waste to Energy facility, which is authorised to accept hazardous wastes.
- (c) The environmental benefits arising from the development of a bottom ash storage building and the aqueous waste tank farm and their role in facilitating appropriate treatment and recovery of wastes.
- (d) The production of hydrogen, which results in a beneficial use of electricity which would otherwise be lost through curtailment.

- (e) The need for operator flexibility, which it is considered is established.
- (f) The design, layout and landscaping of the proposed development.
- (g) The increased traffic predicted in the construction and operation of the proposed development.
- (h) Existing and emerging policy provisions relating to the Leinster Orbital Route having regard also to the current use and layout of the overall site.
- (i) The stated purpose of the offices which is related to the operation of the facility.
- (j) The range of proposed mitigation measures set out in the submitted in the documentation lodged including the further information submitted, the Environmental Impact Assessment Report, and Natura Impact Statement incorporating Appropriate Assessment screening.
- (k) The submissions made in relation to the application.
- (l) The report and recommendation of the Inspector and the Board's consultant.

Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the River Boyne and River Blackwater SAC (Site Code 002299), the River Boyne and River Blackwater SPA (004232), the Boyne Estuary SPA (004080), the River Nanny Estuary and Shore SPA (04158) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

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, the response to further information and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Site, namely the River Boyne and River Blackwater SAC (Site Code 002299), the River Boyne and River Blackwater SPA (004232), the Boyne Estuary SPA (004080), the River Nanny Estuary and Shore SPA (04158) 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 development both individually or 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 screening and the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's 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 account of:

- (a) the nature, scale, location and extent of the proposed development,
- (b) the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the application, including the further information submitted,
- (c) the submissions received from the prescribed bodies, and
- (d) the Inspector's report and the report of the Board's consultant.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development, and 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 assessment report and associated documentation submitted by the applicant and submissions made in the course of the application. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

Significant construction phase impacts on the public road network and the environment can be mitigated by measures to minimise air and noise emissions and to manage construction traffic as set out in the EIAR and subject to implementation of a Construction Environmental Management Plan incorporating a Construction Traffic Management Plan.

Positive environmental impacts on material assets during the operational phase by the increase in national capacity to treat hazardous waste and reduce dependency on export.

Positive impacts on climate from the use of electricity generated on site for the production of hydrogen, which will assist in the transition to a low carbon circular economy.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable.

Proper planning and sustainable development:

It is considered that subject to compliance with the conditions set out below the proposed development would accord with European, national, regional and local planning, transportation, waste and related policy, would not have an unacceptable impact on the environment including water and ecology, would not seriously injure the visual or residential amenities of the area or of property in the vicinity, 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.

Conditions

1. The 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 4th day of June 2021, 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. In default of agreement, the matters in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. 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.

3. Waste to be accepted at the facility shall not exceed a total of 280,000 tonnes per annum as follows:

- an additional 15,000 tonnes per annum of waste for treatment, which may be hazardous waste and
- up to 30,000 tonnes per annum of third-party boiler ash and flue gas clearing residues and other residues for pre-treatment.

Reason: In the interest of clarity and to ensure compliance with policy provisions.

4. The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report shall be implemented in full.

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

5. The mitigation measures contained in the Natura Impact Statement submitted with the application shall be implemented in full.

Reason: In the interests of clarity and the proper planning and sustainable development of the area and to ensure the protection of European Sites.

6. (a) The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan which shall be submitted to and agreed in writing with the planning authority prior to the commencement of the development.

(b) The CEMP shall:

cover all aspects of the construction phase and incorporate measures to avoid, minimise and mitigate potential effects on the environment.

incorporate a Construction Traffic Management Plan

incorporate a Waste Management Plan

incorporate measures to prevent the introduction and spread of non-native invasive species

incorporate measures to deal respond to incidents

be otherwise in accordance with the requirements of the planning authority.

(c) The implementation of the CEMP shall be in accordance with a programme of monitoring commitments which shall be incorporated in the plan and which shall include surface water monitoring.

(d) The plan shall be updated at regular intervals.

(e) A Complaints Register shall be maintained during the construction stage.

Reason: In the interests of public safety and residential amenity.

7. Save where strictly necessary and subject to obtaining prior written agreement of the planning authority no HGV traffic associated with the

construction or operation of the proposed development shall pass through Duleek.

Reason: In the interest of clarity.

8. Save where otherwise agreed with the planning authority the following shall be reviewed for incorporation in the detailed design:

(a) The applicant shall design the tank farm catering for the fire case scenario as part of the design criteria, including the provision of adequately sized emergency relief venting and any other safety measures deemed appropriate to mitigate risk.

(b) The recommendations of the HAZID&RA Team which are presented in Appendix 4 of Appendix 17.1 of the EIAR particularly with respect to the fire water retention study.

Reason: In the interest of the protection of the environment.

9. Surface water management shall be in accordance with the detailed requirements of the planning authority.

Reason : To ensure a proper standard of development and in the interest of water quality and the management of surface water.

10. A comprehensive landscaping plan, prepared by a suitably qualified person, shall be submitted to and agreed in writing with the planning authority, prior to the commencement of the development.

Reason: In the interests of visual amenity.

11. Details of the materials, colours and textures of all external finishes to the proposed buildings shall be submitted to, and agreed in writing with the planning authority, prior to commencement of the development.

Reason: In the interests of visual amenity.

12. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist on the site. In this regard, the developer shall-

- a. notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) in relation to the development,
- b. employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works.
- c. provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of 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.

13. Trees and hedgerows not to be removed during nesting season in accordance with Wildlife Act (as amended).

Reason : In the interest of biodiversity.

14. The developer shall pay a contribution to the planning authority, either annually or in such manner as may be agreed, towards the cost of the provision of environmental improvement and recreational or community amenities in the locality. The identification of such projects shall be decided by the planning authority having consulted with the community liaison committee as provided for under condition number 6 of the original permission PL17.126307, governing the development of the site. The amount of the contribution, which shall be based on a payment per tonne of waste accepted for treatment at the site on foot of this permission, and the arrangements for payment shall be agreed between the developer and the planning authority or, in default of such agreement shall be referred to the Board for determination. The amount shall be index linked in the case of phased payment. The developer shall consult with the planning authority in this regard prior to the commencement of the development.

Reason: It is considered reasonable that the developer should contribute towards the cost of environmental, recreational or community amenities which would constitute a substantial gain to the local community.

15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to planning authority, to secure the satisfactory reinstatement of the site and delivery route upon cessation of the project, coupled with an agreement empowering the planning authorities to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authorities and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure satisfactory reinstatement of the site.

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. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authorities 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 authorities and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

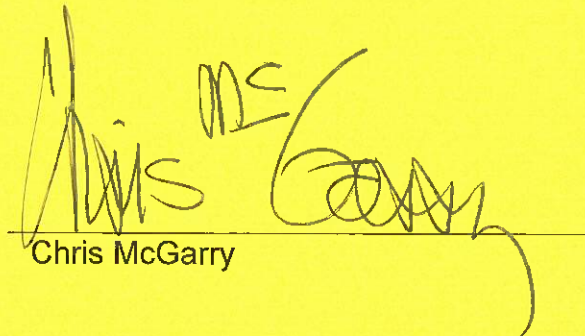
Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Schedule of Costs

In accordance with the provisions of Section 37H(2)(c) of the Planning and Development Act 2000, as amended, the net amount due to be recouped from the applicant is:

EURO 8,650.

Board Member


Chris McGarry

Date: 28/03/2022

