

An
Bord
Pleanála

Board Direction
BD-017346-24
ABP-317292-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 29/08/2024.

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.

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

(a) European Union Directives & Policies, including:

- i. Environmental Impact Assessment Directive (Directive 2014/52/EU amending Directive 2011/92/EU)
 - ii. the Habitats Directive (92/43/EEC)
 - iii. the Birds Directive (2009/147/EC)
 - iv. the Landfill Directive (1999/31/EC)
 - v. the Landfill Amending Directive (EU 2018/850)
 - vi. the Waste Framework Directive (2008/98/EC), and
- the European Union 2020 Circular Economy Action Plan, Circular Economy Action Plan 'For a cleaner and more competitive Europe', 2020.

(b) National Planning Policy including:

- i. Project Ireland 2040 – the National Planning Framework (2018),
- ii. the National Development Plan 2021-2030, and

- iii. the Climate Action Plan 2023 and 2024.
- (c) National Waste Management Policy Framework and Guidance including:
 - i. National Waste Management Plan for a Circular Economy 2024-2030,
 - ii. A Waste Action Plan for a Circular Economy – Ireland's National Waste Policy 2020-2025,
 - iii. Construction and Demolition Waste -Soil and Stone Recovery/Disposal Capacity Report, Combined Regional Authorities (2016),
 - iv. A Resource Opportunity – Waste Management Policy in Ireland, Department of the Environment, Climate and Communications (2012),
 - v. Towards a New National Waste Policy, Department of the Environment, Climate and Communications (2011),
- (d) the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031,
- (e) Kildare County Development Plan 2023-2029,
- (f) the planning history of the site and immediate area, established use as a waste management facility and past use for industrial peat extraction,
- (g) the fact that the proposed development will require a review of the existing Industrial Emissions (IE) Licence from the Environmental Protection Agency (EPA),
- (h) the character of the area and of the general vicinity, and proximity to the national primary road network,
- (i) the distance to dwellings and other sensitive receptors from the proposed development,
- (j) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (k) the submissions and observations received in relation to the proposed development,

- (l) the Environmental Impact Assessment Report submitted,
- (m) the Natura Impact Statement submitted,
- (n) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter, and
- (o) additional reports by An Bord Pleanála's Inspectorate Ecologist and Scientist.

Appropriate Assessment: Stage 1:

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

In completing the screening for appropriate assessment, the Board accepted and adopted the screening assessment and conclusions reached in the Inspector's report that in the absence of mitigation measures, the following Sites are deemed to have potential to be impacted upon by the proposed development:

- River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299),
- River Boyne and River Blackwater Special Protection Area (Site Code: 004232), and
- River Barrow and River Nore Special Area of Conservation (Site Code: 002162).

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and all other relevant submissions and carried out appropriate assessment in relation to the potential effects of the proposed development on the following designated European Sites:

- River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299),
- River Boyne and River Blackwater Special Protection Area (Site Code: 004232), and

- River Barrow and River Nore Special Area of Conservation (Site Code: 002162).

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.

The Board considered the nature, scale, and location of the proposed development, as well as the report of the Inspector and the report from the Inspectorate Ecologist.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report, supported by the report of the Inspectorate Ecologist, in respect of the potential effects of the proposed development on the integrity of the aforementioned European Site, 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 and there is no reasonable doubt remaining as to the absence of such effects.

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 on the site,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,

- (c) the submissions received from the prescribed bodies and observers,
- (d) the Inspector's report, and
- (e) the report from the Board's Scientist.

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.

Reasoned Conclusion on the Significant Effects:

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:

- There are potentially minor positive impacts on **population** associated with the creation of employment, with a knock-on positive impact on the existing businesses and services in the surrounding area. The delivery of the **Community Fund** will also provide benefits for the local population.
- In terms of the **water environment** and **biodiversity** there is potential for the development to result in runoff of sediment into nearby drains and watercourses leading to increased silt loading which can impact **water quality** of the river and reduce the **ecological quality**, impacting on aquatic habitats and species. It has been identified in the Environmental Impact Assessment Report that elevated ammonia in the groundwaters is linked to leaching from the peat across the full extent of the Timahoe South Bog, and not directly to the waste facility. Mitigation measures are proposed to avoid, manage, and mitigate potential impacts and a robust drainage system is to be put in place to control runoff and manage sediment transport during the construction phase. No significant negative residual impacts are envisaged in terms of **soils, geology and hydrogeology, biodiversity and water** following the

development and operation of the project. An Ecological Clerk of Works is to be appointed to oversee the construction phase.

- There will be limited **visual impacts** associated with the proposed development, which were appropriately assessed at a number of visual receptor locations throughout the study area, including both human beings and **cultural heritage** resources. Specific mitigation measures are proposed which include the retention of the existing perimeter planting and the vegetating of the landfill mounds as each section is completed. Berms are also proposed to the northern area of the site and as such, the development is acceptable.
- **Noise and vibration** may occur during the construction phase of the development and will be temporary and short term. Noise may also arise during the operation phase but given the separation distances between the site and the nearest sensitive location, no mitigation measures will be required.
- In terms of **air quality and roads**, dust levels arising from the traffic associated with the construction and operational phases of the development is likely to have a temporary short-term impact on local residents on the haul routes. The Construction Environmental Management Plan includes a suite of dust minimisation measures and will be adhered to during the construction phase. The procedures will be monitored.
- The Construction Environmental Management Plan also includes measures to mitigate the **traffic and transportation** effects of the proposed development, which have been borne out of surveys in terms of volume and road pavement conditions. The Environmental Impact Assessment Report concludes that the project will not result in likely significant effects in terms of traffic and transportation.

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. In doing so, the Board adopted the report and conclusions of the Inspector.

The Board is satisfied that this reasoned conclusion is up to date at the time of taking the decision.

Proper Planning and Sustainable Development:

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the National Planning Framework, the National Waste Management Plan for a circular Economy 2024-2030, the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, the provisions of the Kildare County Development Plan 2023-2029, and other related policies and guidelines, would not have an unacceptable impact on the water environment, the biodiversity of the area, the residential amenities of the area, would not adversely affect the archaeological or natural heritage of the area and would be acceptable in terms of traffic safety and would be consistent with the Climate Action Plan 2024. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted in particular that the National Waste Management Plan for a Circular Economy 2024-2030 identifies the need to support and protect existing and future nationally and regionally important waste infrastructure and move towards self-sufficiency through Core Policy 12 and through Table 4-1, identifies Drehid facility as nationally important infrastructure. The Board also noted that the plan sets out that while the trend of decreased disposal to landfill has continued in recent years, there remains a need to retain disposal capacity within the State to manage Residual Municipal Solid Waste coupled with wider disposal policies. As also set out in the plan, these disposal policies have been devised to respond to Climate Action Plan targets including reducing the amount of municipal waste landfilled to 10% by 2035. The Board also noted the submission made by the Regional Waste Management Planning Office that, in referring to Core Policy 12 of the national waste management plan, concluded that the Drehid facility with the increased quantities applied for, will need to continue to operate beyond 2028. The Board noted that the Regional Waste Management Planning Office was in agreement with the tonnages set out as part of the application, including limiting the residual Municipal Solid Waste to 120,000 tonnes per annum and recommended the attachment of a condition to secure this limit to acknowledge and work towards the European Union target of disposal to landfill of not more than 10% of Municipal Solid Waste by 2035 as well as other conditions which the Board took account of in arriving at its decision.

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application and received by the Board on the 7th day of June 2023, 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 matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2.
 - (a) Waste to be accepted at the facility for disposal, recovery and treatment shall not exceed 440,000 tonnes per annum, including 30,000 reserved as contingency capacity.
 - (b) The acceptance of residual municipal solid waste for disposal shall be limited to 120,000 tonnes per annum. This restriction shall not apply in instances requiring the acceptance for disposal of residual municipal solid waste as a result of the activation of contingency capacity provisions.

Reason: In the interest of clarity and to ensure that the volume of waste for disposal addresses identified capacity issues and does not discourage the expansion of other waste treatment options further up the waste hierarchy and the continued diversion of waste from landfill.

3. The developer shall ensure that all construction methods and environmental mitigation measures set out in the Environmental Impact Assessment Report, Natura Impact Statement and associated documentation are implemented in full, save as may be required by conditions set out below.

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

4. (a) With the exception of incinerator Bottom Ash disposal, this permission shall be for a period of 25 years from the date of the operation of the proposed development. The ancillary structures shall then be removed unless prior to the end of the period, planning permission shall have been granted for their retention for a further period.
- (b) Incinerator Bottom Ash disposal shall be for an initial period of 5 years from the date of the operation of the proposed development, at which time a review shall be carried out by the developer, and a timeframe to continue acceptance of Incinerator Bottom Ash for a further period shall be agreed in writing with the planning authority following completion and submission of the review outcome to the planning authority.
- (c) Prior to commencement of the development, details for the disposal arrangement of Incinerator Bottom Ash in the landfill shall be agreed in writing with the planning authority following consultation with the Regional Waste Management Planning Office.

Reason: In the interest of clarity and to enable the planning authority to review the operation of the facility over the stated time period, having regard to the circumstances then prevailing, and to allow for the Incinerator Bottom Ash to be put to a more sustainable use following an initial 5-year period of disposal to landfill.

5. (a) Prior to the commencement of development, a detailed restoration plan, including a timescale for its implementation, providing for the removal of all development on site including the maintenance building, substation, closed circuit television (CCTV) cameras, fencing and site access to a specific timescale, shall be submitted to, and agreed in writing with, the planning authority.
- (b) On full or partial decommissioning of the development, the site shall be restored in accordance with this plan and all decommissioned structures shall be removed within three months of decommissioning.

Reason: In the interest of landscape restoration and orderly development.

6. A suitably qualified Project Ecological Clerk-of-Works and Licenced Ecologist shall be retained by the developer to undertake pre-construction surveys at the various project elements, including any river crossings, immediately prior to commencing work in order to check for the presence of protected species in the vicinity (including badgers, otters, nesting birds, bats, and common lizard). The mitigation measures contained in Annex 1.10 of Volume II of the submitted Environmental Impact Assessment Report shall be implemented in their entirety. The ecologist shall be present during site construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record. Where necessary, the project ecologist shall have 'Cease Works' powers.

Reason: In the interests of nature conservation and the protection of ecology and wildlife in the area.

7. Prior to the commencement of development, details of the security fencing providing for the movement of mammals at regular intervals along the perimeter of the site shall be submitted for the written approval of the planning authority. The provision of mammal access gates shall be designed in accordance with standard guidelines for provision of mammal access (Specification for Road Works – Fencing and Environmental Noise Barriers, Transport Infrastructure Ireland, 2018).

Reason: In the interest of protecting the biodiversity of the area and to allow for continued access for wildlife in the area.

8. The developer shall prepare an Invasive Species Management Plan for the written agreement of the planning authority and all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

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

9. The developer shall facilitate the archaeological appraisal of the site, including the replacement lands, and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the relevant planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues:
 - i. the nature and location of archaeological material on the site, and
 - ii. the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. 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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

10. The developer shall retain the services of a suitably qualified and experienced bat specialist to survey trees to be removed for the presence of bat roosts prior to commencement of development. The removal of any roosts identified shall be carried out only under licence from the National Parks and Wildlife Service.

Reason: In the interest of protecting ecology and wildlife in the area.

11. Artificial light sources relating to the proposed development shall be designed to avoid spillage outside the site.

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

12. A revised 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. The plan shall include the following:
- (a) sections through the site showing the elevation and extent of planting and mounds,
 - (b) revised proposals for mounds to include organic and undulating features,
 - (c) details of species and quantities of plants, scrub mix and topsoil depth for the infill areas, and
 - (d) proposals for the protection of habitat enhancement areas during the construction and operational phases.

Reason: In the interest of visual amenity.

13. 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 interest of visual amenity.

14. Working hours during the construction phase of the development shall be confined to between 0700 and 1900 hours Monday to Friday and between 0800 and 1400 Saturday and not at all on Sundays and public holidays. Deviation from these times will only be permitted in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of properties in the vicinity.

15. 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. This plan shall cover all aspects of the construction phase and incorporate measures to avoid, minimise and mitigate potential effects on the environment. The plan shall provide details of the phasing of the development, intended construction practice, including hours of working, noise management measures, construction traffic management plan, surface water management plan, waste management plan and a programme for the monitoring commitments made in the application and supporting documentation during the construction period. The plan shall be updated at regular intervals.

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

16. All materials being transported to the site, either in the construction or operational phases, shall be transported via the haul routes as identified in Figure 14.4 of the Environmental Impact Assessment Report. After a period of three years of the operational phase of the facility and at regular three-year intervals, a review of the impact of the heavy goods vehicle movements generated on the local road network shall be carried out by the developer in conjunction with the planning authority. Any revisions to the routes allowed to and from the site shall be agreed and implemented within six months of the review.

Reason: In the interests of traffic safety, orderly development, and the protection of amenity.

17. The existing front roadside verge shall be kept free from obstruction and shall be maintained by the developer so as not to impede sight lines at the site entrance, as provided for in Transport Infrastructure Documents (DN-GEO-03060 and DN-GEO-03031) 2017.

Reason: In the interest of traffic safety.

18. Prior to the commencement of development, the developer shall submit a detailed programme/schedule of works for this application for the written agreement of the planning authority and in liaison with the Municipal District Offices where there are concerns about the impact of construction traffic from

the proposed development on the surrounding road network and on the haul routes.

Reason: In the interest of traffic safety.

19. Appropriate warning signage shall be erected in the vicinity of the site entrance during the construction phase for the benefit of all road users and those using the facility on site.

Reason: In the interest of road safety.

20. The developer shall pay a sum of money 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 the original permission PL09.212059, and subsequent permissions governing the development of the site. The amount of the contribution 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.

21. The developer shall pay to the planning authority a financial contribution, based on the footprint area of the proposed works, 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 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, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended be applied to the permission.


22. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of road and junction improvement and traffic calming works on the haul routes that are specific and exceptional to the proposed development and which benefits the proposed development. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

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

Determination of Costs

In accordance with the provisions of section 37H(2)(c) of the Planning and Development Act 2000, as amended, the Board determined that the amount due to be reimbursed to the applicant is **€66,214**.

Board Member


Patricia Calleary

Date: 29/08/2024