

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Offaly County

Planning Register Reference Number: PL2/15/129

An Bord Pleanála Reference Number: PL 19.245295

APPEAL by An Taisce of The Tailors' Hall, Back Lane, Dublin and by Friends of the Irish Environment of Kilcatherine, Eyerias, County Cork against the decision made on the 13th day of July, 2015 by Offaly County Council to grant subject to conditions a permission to Edenderry Power Limited (EPL) of Ballykilleen, Edenderry, County Offaly in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Extension of the continued use and operation, until the end of 2030, of the previously permitted peat and biomass co-fired power plant currently existing and operating, thereby postponing removal of the electricity generating station required under the grant of planning permission, planning register reference number PL2/98/437, An Bord Pleanála appeal reference number PL 19.107858 and planning register reference number PL2/04/210, An Bord Pleanála appeal reference number PL 19.211173. No new structures are proposed as part of this application and Edenderry Power Limited is not proposing any change to existing operations, fuel inputs or emission limit values at the facility as part of this application. All at Ballykilleen, Edenderry, County Offaly.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

The Board had regard to:

- the site's planning history, including the presence of an operational peat and biomass co-fired power plant, previously permitted on the site,
- national policy in relation to energy generation as set out in the Energy White Paper - Ireland's Transition to a Low Carbon Energy Future 2015-2030 (DCENR) which envisages a gradual transition to sustainable energy sources and phasing out of non-renewable energy sources such as peat,
- national policy in support of energy generation from biomass as set out in the Strategy for Renewable Energy 2012-2020, the National Renewable Energy Action Plan (NREAP) 2010 and the Draft National Bioenergy Plan,

- the provisions of the Offaly County Development Plan 2014-2020 including policy EP-08 relating to the facilitation of the continuance of power generation stations within the county; the Plan also recognises the need to diversify energy generation and to develop employment opportunities in cut-away peatland areas through, for example, tourism, amenity and heritage initiatives,
- the regulation of the Edenderry Power Plant as an Industrial Emissions Directive (IED) activity under the Environmental Protection Agency Act 1992, as amended,
- the regulation of the associated peat harvesting activities – carried out on a network of bogs that supply the facility - under the Integrated Pollution Control licensing regime operated by the Environmental Protection Agency,
- the Environmental Impact Statement and Natura Impact Statement (as revised) submitted in support of the application,
- the submissions and documents on file, and
- the reports of the Inspector.

Environmental Impact Assessment

In carrying out an environmental impact assessment of the proposed development, the Board took the following into account:

- the nature, scale, extent and location of the proposed development,
- the Environmental Impact Statement submitted with the application, and further information submitted by the applicant in the course of the planning appeal, including environmental mitigation measures,
- the submissions from the planning authority and from the observers in the course of the application and appeal, and
- the Inspector's report and recommendation dated the 25th day of February, 2016 and Addendum Report and recommendation dated the 4th day of November, 2016.

The Board considered that the Environmental Impact Statement and the above listed documentation identify and describe adequately the direct and indirect effects of the proposed development on the environment. The Board completed an environmental impact assessment in relation to the subject development, by itself and in combination with other development in the vicinity. The Board's environmental impact assessment includes an assessment of the indirect effects associated with harvesting peat used to fuel the power plant.

The Board completed an environmental impact assessment in relation to the proposed development, by itself and in combination with other development in the vicinity. In doing so, the Board adopted the report of the Inspector, who was satisfied that, subject to implementation of the mitigation measures set out, the continued operation of the power plant and associated peat harvesting activities, would not have unacceptable impacts on the environment. The Board concluded that the impacts of the proposed development on the environment would be acceptable.

EU Water Framework Directive (WFD)

The Board noted the concerns expressed in submissions in relation to the objectives of the Water Framework Directive and their concerns that peat harvesting activities would run contrary to the Directive's goal of achieving 'good status' in the relevant river catchments. The Board noted that:

- The relevant Water Management Unit action plans have not identified ongoing peat harvesting as a risk in the catchments concerned, and have not included specific actions aimed at this ongoing activity in the actions plans that are required to achieve Water Framework Directive compliance.
- There was no specific pollution concern or incident highlighted in any of the submissions on file relating to the ongoing peat harvesting or from the power plant itself.
- Discharges from the power plant itself and the peat harvesting areas are regulated under the licensing regime, as set out in the Environmental Protection Agency Act 1992, as amended, which includes a monitoring regime.

- The planning application was supported by comprehensive information including mitigation measures in relation to surface water protection by means of the Environmental Impact Statement and Natura Impact Statement (as revised).

Having taken all of the submissions and information into account, the Board concluded that a grant of permission would not undermine the Water Framework Directive objectives.

Appropriate Assessment.

Consideration of EU Habitats Directive and EU Birds Directive matters was carried out by the Inspector initially in his report dated the 25th day of February, 2016, at which point deficiencies in the scope of the applicant's information and analysis were identified. The Board decided to seek further information which resulted in the submission of a revised Natura Impact Statement (NIS) Screening Report and a Stage II Natura Impact Statement by the applicant on the 8th day of July, 2016. The scope of these revised reports extends to all peat harvesting areas associated with the continued operation of the power plant. These latter documents, and subsequent submissions from parties to the file, formed the basis of the Inspector's Addendum Report dated the 4th day of November, 2016. Following consideration of this Addendum Report, the Board completed an Appropriate Assessment of the case.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's Addendum Report that:

- The Long Derries, Edenderry Special Area of Conservation (Site Code 000925),
- the River Barrow and River Nore Special Area of Conservation (Site Code 002162), and
- the River Boyne and River Blackwater Special Area of Conservation (Site Code 002299)

are the European sites for which there is a likelihood of significant effects.

The Board considered the (revised) Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the listed European Sites 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 assessment, the Board considered, in particular, the

- (i) likely direct and indirect impacts arising from the proposed development individually or in combination with other plans or projects,
- (ii) mitigation measures which are included as part of the current proposal,
- (iii) Conservation Objectives for these European Sites,
- (iv) view of the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs,
- (v) current pressures on these European Sites as stated in the relevant site synopsis, and
- (vi) regulation of the power plant facility and the associated peat harvesting activity by means of licensing regime under the Environmental Protection Agency Act 1992, as amended.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's Addendum 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 the European sites in view of the sites' Conservation Objectives.

Proper Planning and Sustainable Development

The Board considered that the continued operation of the facility for a limited period would be an appropriate decision in terms of the proper planning and sustainable development of the area. National and local policy is broadly supportive of continued electricity generation from peat and biomass at existing power plants in the short term, while signalling the need to transition to more sustainable energy sources in the medium to long term. Whereas the applicant has applied to continue operations using the current mix of peat and biomass fuel sources until 2030, the Board considered that continued operation for a further period of seven years (until the end of 2023) would be a more appropriate period. A transition away from peat harvesting and burning has wide implications including environmental, social (employment), and technical. The seven-year period provides an opportunity to develop and implement an appropriate response to this necessary transition.

The Board concluded that, subject to compliance with the conditions set out below, the proposed development would not have unacceptable impacts on the environment, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, 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 received by An Bord Pleanála on the 8th day of July, 2016, 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. This permission shall apply for a period of seven years from the date of this order. The electricity generating station shall then be decommissioned in accordance with condition number 2(2) of the parent permission governing the development at this location (An Bord Pleanála appeal reference number PL 19.107858) unless, prior to the end of that period, planning permission shall have been granted for continuation of the facility in an alternative role.

Reason: To support the transition of energy generation away from non-renewable resources and to provide for the orderly decommissioning of the electricity generation station.

3. This permission shall be for the co-fuelling of peat with biomass (as defined in the planning application) to a maximum of 300,000 tonnes per annum of biomass of which meat and bone meal (MBM) may constitute a maximum 60,000 tonnes per annum.

Reason: To clarify the nature and extent of the development.

4. All mitigation measures as outlined in the Environmental Impact Statement and in the Revised Natura Impact Statement (received by An Bord Pleanála on the 8th day of July, 2016) shall be implemented.

Reason: To ensure the satisfactory operation of the plant and harvesting of peat in a manner to safeguard the receiving environment.

5. 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 of the decommissioning of the plant when electricity generation operations cease, coupled with an agreement empowering the local authority to apply such security or part thereof to secure such decommissioning. 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 decommissioning of the plant.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.