

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Donegal County

Planning Register Reference Number: 14/51324

An Bord Pleanála Reference Number: PL 05E.245619

APPEAL by Harry and Martin McLaughlin of Cherrymore Kitchens and Bedrooms Limited of Ardlenagh, Lurganboy, Donegal Town, County Donegal against the decision made on the 17th day of September, 2015 by Donegal County Council to grant subject to conditions a permission to Shaun Molloy and Sons Limited care of Brannigan Associates of The Gate House, Station Road, Glenties, County Donegal in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: A waste recovery, recycling and transfer depot to include the following; (a) construction of a shed for sorting/loading of waste and recycled materials, (b) construction of an office building with staff welfare facilities and parking, (c) installation of a wastewater treatment system and percolation area to serve the office building, and (d) all associated site development works at Ardlenagh and Lurganboy, Donegal Town, County Donegal. Significant further information and revised plans were received by the planning authority on the 28th day of August, 2015

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

In coming to its decision the Board had regard to:

- the provisions of the Donegal County Development Plan 2012-2018, including the site's location within the settlement envelope of Donegal Town and the economic policy provisions set out under policy ED-P-3 of the plan,
- the planning history of the site including the planning permission granted by An Bord Pleanála for a livestock auction building and associated facilities on this site (appeal reference number PL05.209175),
- the nature and extent of the proposed development,
- the pattern of development in the area,
- the submissions on file including the applicant's response to the Board's Section 132 request and the subsequent submissions arising from cross circulation,
- the submission received from the applicant dated the 2nd day of September, 2016 and the subsequent third party response, and
- the report of the planning inspector.

Appropriate Assessment Screening

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

The Board had regard to:

- the Screening Statement for Appropriate Assessment submitted with the planning application,
- the documentation submitted at further information stage,
- the Appropriate Assessment Screening carried out by the planning authority,
- the submissions on file including the applicant's response to the Board's Section 132 request,
- the submissions received in response to the Section 132 request and the submissions arising from the subsequent cross circulation,
- the submission received from the applicant dated the 2nd day of September, 2016 and the subsequent third party response, and
- the Inspector's report.

The Board completed a screening for Appropriate Assessment based on the applicant's response to the Section 132 request which relocated the building to a position between the originally proposed location and that permitted by the planning authority.

The Board accepted and adopted the Inspector's screening assessment in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives. The Board was satisfied that the proposed development as amended, either individually or in combination with other plans or projects, would not be likely to have a significant effect on Donegal Bay (Murvagh) Special Area of Conservation (Site Code: 000133) and Donegal Bay Special Protection Area (Site Code: 004151) in view of the sites' Conservation Objectives.

Environmental Impact Assessment Screening

The Board had regard to the nature and extent of the development proposed, the documentation on file including the applicant's response to the Section 132 request which relocated the main structure, the submissions from the parties including in response to the Section 132 request and the ensuing cross circulation, the submission received from the applicant dated the 2nd day of September, 2016 and the subsequent third party response, and the planning authority's analysis in respect of Environmental Impact Assessment.

The Board examined the proposal in light of Schedule 5 of the Planning and Development Regulations, 2001, as amended, and, in particular, considered the development in the context of Class 11(b) of Part 2 of the Schedule under Other Projects which is for 'Installations for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule'. The Board noted that the planning authority had considered an annual tonnage of 5,000 tonnes when screening out Environmental Impact Assessment and further noted that the applicant, subsequently in response to the Board's Section 132 request, envisaged that the tonnage might entail a waste facility with a capacity of 12,755 tonnes per annum by 2040. The Board considered that 12,755 tonnes was considerably below the threshold under Schedule 5, class 11(b) of Part 2 and that the potential capacity would not be greater than 25,000 tonnes and, therefore, concluded that no mandatory Environmental Impact Assessment was required. For reasons including in the interests of clarity, the Board considered it appropriate to attach a condition limiting the volume of waste to the 12,755 tonnes as set out in the applicant's submission to the Board on the 27th day of June, 2016.

The Board further examined the proposed development in light of the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, as amended, relating to subthreshold development and considered:

- the characteristics of the proposed development entailing a modern purpose built waste facility with a capacity of 12,755 tonnes per annum by 2040 with all waste activities carried out inside the principal building,
- the location of the waste facility within the settlement envelope of Donegal Town in an area well serviced by roads and outside any designated European Site, and

- the characteristics of the potential impacts of the proposed development including the facility being the subject to environmental controls during operation by means of a waste facility permit,

and concluded that the proposed development would not be likely to have significant effects, direct or indirect, on the environment alone or in cumulation with other proposed plans or projects. The Board concluded that the preparation of an Environmental Impact Statement is not required.

Proper Planning and Sustainable Development Conclusion

It is considered that, subject to compliance with the conditions set out below, the proposed development, as amended at appeal stage, would not seriously injure the visual amenities of the area or of property in the vicinity, would not adversely affect the character of the landscape, would not endanger public health, would not give rise to a flood risk 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.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the modified development, as proposed in the applicant's response to the Board's Section 132 request, adequately addressed the visual impact concerns by means of reduced intervention into the hillside, adequate set back from the road edge and the provision of a planted berm. The Board also considered that the principle of development was acceptable given that permission had previously been granted by An Bord Pleanála for a livestock auction building and associated facilities on this site (appeal reference number PL 05.209175) and given the site's location within the settlement envelope of Donegal Town as defined in the Donegal County Development Plan 2012-2018. The Board did not share the Inspector's concern in respect of incompatibility with nearby commercial development, taking into consideration the modern purpose built nature of the facility and the operation of which will be subject to environmental regulation.

In respect of flooding the Board considered that the proposed amended development was an appropriate balance successfully resolving visual impact and flood risk issues and considered that the flood risk details submitted in response to the Board's Section 132 request were acceptable. The Board endorsed the submission received from the applicant on the 2nd day of September, 2016 in respect of Storm Water Drainage Design (CST Group) and flood risk assessment as set out in the Addendum to Detailed Flood Risk Assessment and Justification Test (Tynan Environmental).

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 to the planning authority on the 4th day of August, 2015 and by the further plans and particulars received by the planning authority on the 13th day of August, 2015, and as further amended by the plans and particulars submitted to An Bord Pleanála on the 27th day of June, 2016 and the 2nd day of September, 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. The facility shall not exceed a maximum capacity of 12,755 tonnes per annum save with a prior grant of planning permission.

Reason: In the interests of clarity, to limit the volume of waste processed to that specified in the application documents and in the interests of the amenities of the area.

3. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) Location of the site and materials compound(s) including area(s) 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 during the construction period.
 - (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
 - (k) 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.
 - (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.

- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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.

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

Reason: In the interest of visual amenity.

5. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following -
- (a) details of all proposed hard surface finishes and road surfaces within the development,
 - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings,
 - (c) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

6. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay rubble or other debris on adjoining roads during the course of the works.

Reason: In the interest of residential amenity.

7. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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

Dated this day of 2016.