

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Limerick City and County

Planning Register Reference Number: 15/468

An Bord Pleanála Reference Number: PL 91.246279

APPEAL by CPL Fuels Ireland Limited care of Hughes Planning and Development Consultants of The Mash House, Distillery Road, Dublin against the decision made on the 16th day of February, 2016 by Limerick City and County Council to grant subject to conditions a permission to Bord na Mona Fuels Limited care of McCarthy Keville O'Sullivan of Block 1, G.F.S.C., Moneenageisha Road, Galway in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Provision of smokeless and bio-mass based solid fuel manufacturing and packaging facility. The development consists of -

- (1) the demolition of existing buildings and storage structures,
- (2) the upgrading, extension and change of use of an existing warehouse building for use as a solid fuel manufacturing process plant,
- (3) construction of a new packaging plant building,
- (4) construction of a new administration block and associated car park,
- (5) installation of weighbridges and an associated kiosk,
- (6) re-surfacing of the site and installation of a new drainage system,
- (7) construction of storage areas for raw materials and finished product,

- (8) construction of a new electricity substation,
- (9) new site entrance works including the relocation of an existing entrance and construction of a new entrance, and
- (10) all associated site works including waste water treatment plant

at Durnish, Internal Port Road, Shannon, Foynes Port, Foynes, County Limerick.

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

Appropriate Assessment

The Board carried out a screening exercise in relation to potential impacts on nearby European sites, specifically:

- Lower River Shannon Special Area of Conservation (Site Code 002165),
- Barrigone Special Area of Conservation (Site Code 000432),
- Askeaton Fen Complex Special Area of Conservation (Site Code 002279),
- Curraghchase Woods Special Area of Conservation (Site Code 000174),
- Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code 004161), and
- River Shannon and River Fergus Estuaries Special Protection Area (Site Code 004077)

and having regard to the nature and scale of the proposed development, the nature of the receiving environment, the screening report submitted, the submissions on file and the report of the Inspector, the Board concluded that, on the basis of the information available, the proposed development would not be likely to have a significant effect on the following European sites, either individually or in combinations with other plans and projects:

- Barrigone Special Area of Conservation (Site Code 000432),
- Askeaton Fen Complex Special Area of Conservation (Site Code 002279),
- Curraghchase Woods Special Area of Conservation (Site Code 000174),
- Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code 004161).

Having regard to the nature, scale and extent of the proposed development, the Natura impact statement submitted with the application and the mitigation measures contained therein, the submissions on file and the Inspector's assessment, the Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment and completed an Appropriate Assessment of the impacts of the proposed development on nearby Natura 2000 sites, specifically the Lower Shannon Special Area of Conservation (Site Code 002165) and the River Shannon and River Fergus Estuaries Special Protection Area (Site Code 004077). 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 Natura sites, having regard to the sites' conservation objectives.

The Board was satisfied that subject to the implementation of the identified mitigation measures and on the basis of the information available, the proposed development, either individually or in combination with other plans or projects, would not adversely affect the integrity of any Natura site, having regard to the conservation objectives of those sites.

Environmental Impact Assessment

The Board considered that the Environmental Impact Statement submitted with the application, supported by the further information submitted to the planning authority, the report, assessment and conclusions of the Inspector with regard to this file and other submissions on file, was adequate in identifying and describing the direct, indirect, secondary and cumulative effects of the proposed development. The Board completed an Environmental Impact Assessment, and agreed with the Inspector in his assessment of the likely significant effects of the proposed development, and generally agreed with his conclusions on the acceptability of the mitigation measures proposed and residual effects. The Board generally adopted the report of the Inspector. The Board concluded that, subject to the implementation of the mitigation measures proposed, the effects of the proposed development on the environment would be acceptable.

Proper Planning and Sustainable Development

Having regard to the nature of the proposed development, to regional policy, to the zoning of the site in question for 'industry' in accordance with the provisions of the Limerick County Development Plan, 2010–2016, to the pattern of development in the area, to the planning history of the site and the existing industrial use of the lands it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not have an adverse impact on the environment, would be acceptable in terms of traffic safety and convenience and would, otherwise, 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 3rd day of November 2015 and the 21st day of January 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. All of the environmental, construction and ecological mitigation measures, including those relating to flood protection, set out in the Environmental Impact Statement, Natura Impact Statement and other particulars submitted with the application and as amended in the Further Information and Clarification of Further Information submitted by the developer shall be implemented in full in conjunction with the timelines set out in the foregoing, except as may otherwise be required in order to comply with this order.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the proposed development.

3. Water supply and drainage arrangements, including the disposal of clean and contaminated surface water, shall comply with the requirements of the planning authority for such works and services. Full details of foul and surface water treatment, prior to discharge off-site, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and to ensure a proper standard of development.

4. There shall be no discharge of process water or treated process water to groundwater or surface water. Any waste material generated from the proposed treatment of process water on site shall be disposed of to a licenced facility.

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

5. 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.

- 6. (a) Underground pipework for the delivery or recycling of process water shall have watertight ducting and include a leak detection facility with alarm and monitoring from the site office.
- (b) The size of the proposed bund enclosure shall be greater than 110% of the largest tank or 25% of the total volume of liquid that could be stored at any one time, whichever is greater.

Reason: In the interest of environmental protection.

7. Lighting shall be provided in accordance with a scheme, details of which, including the specification of downward and sensitive lighting proposed, shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

8. Arrangements to ensure compliance with the Workplace Travel Plan shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of sustainable travel.

9. The site shall be landscaped in accordance with a scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

10. Details of site boundary treatment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

11. Prior to commencement of development, 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.

Reason: In the interest of orderly development and the visual amenities of the area.

12. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:-
- (i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
 - (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

- (b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

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

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

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

14. 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.