



Planning and Development Acts 2000 to 2016

Planning Authority: Meath County Council

Planning Register Reference Number: NA/160408

Appeal by Wolfe Tones CLG of Oristown, Kells, County Meath and by others against the decision made on the 14th day of November, 2016 by Meath County Council to grant permission to Boliden Tara Mines Limited of Knocknumber, Navan, County Meath for development comprising lateral extension to the existing tailings storage facility (TSF) in the townland of Randalstown and the construction of an Integrated Constructed Wetlands (ICW) system in the townland of Simonstown. The proposed tailings storage facility extension, to be referred to as Stage 6, will extend over an area of circa .58 hectares (internal basin area of circa .43 hectares), extend to a height of 22 metres above ground level and will provide a storage volume of approximately 9.6 million cubic metres of mine tailings (13.6 million tonnes). The development will be undertaken in two phases Phase 1 and Phase 2. Phase 1 will extend to a height of 14 metres; 59.29 mAOD while Phase 2 will extend the overall height to 22 metres, 67.29 mAOD. The tailings storage facility will be constructed using fill materials sourced in-situ from development of the basin of the facility and the remainder imported from third party, licensed suppliers. The constructed tailings storage facility will incorporate a composite lining system. Access to the site will be from existing site entrance along the L-74141. To facilitate the construction of the tailings storage facility extension an unoccupied single storey dwelling and ancillary farm buildings will be demolished. A temporary car park will be constructed to exist for the duration of the construction works. The Integrated Constructed Wetlands will

be constructed over an area of circa 12 hectares and will be located on the applicant's property south of the existing tailings storage facility in the townland of Randalstown and Simonstown. The Integrated Constructed Wetlands will discharge to the Blackwater River via an underground pipeline. Access to the Integrated Constructed Wetlands site will be from the tailings storage facility site, all located in the townlands of Randalstown, Simonstown, Windtown and Nevinstown, Navan, County Meath in accordance with the plans and particulars lodged with the said Council.

Decision

GRANT permission for the tailings pond extension in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for the integrated constructed wetlands based on the reasons and considerations marked (2) under

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 (1)

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development, taking into account:

- (a) the nature, scale and location of the proposed development,
- (b) the environmental impact statement and associated documentation submitted in support of the application,
- (c) the submissions from the applicant, the planning authority, the observers and the prescribed bodies submitted in the course of the application, appeal and oral hearing, and
- (d) the Inspector's report.

It is considered that the environmental impact statement, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, by itself and in combination with other development in the vicinity, and subject to the implementation of the mitigation measures proposed, the effects of the proposed development on the environment would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector. The Board is satisfied that the operation of the extended tailings facility does not rely on the proposed integrated constructed wetland and, therefore, the omission of the wetland does not conflict with the above conclusion.

Appropriate Assessment

Screening (Stage 1):

The Board completed an appropriate assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the appropriate assessment screening report submitted with the application and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have significant effects on any European Site in view of the site's conservation objectives, with the exception of the River Boyne and River Blackwater Special Area of Conservation (Site Code 002299) and the River Boyne and River Blackwater Special Protection Area (Site Code 004232) and that these were the only sites requiring a Stage 2 Appropriate Assessment.

Appropriate Assessment (Stage 2):

The Board undertook an appropriate assessment in relation to the effects of the proposed development on the River Boyne and River Blackwater Special Area of Conservation (Site Code 002299) and the River Boyne and River Blackwater Special Protection Area (Site Code 004232). Having regard to the nature, scale and location of the proposed development, the submitted Natura impact statement, including the mitigation measures proposed, the Inspector's report and the submissions on file (including submission made to the oral hearing), the Board concluded 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. In doing so, the Board concurred with the conclusions of the Inspector and adopted his report in this respect. The Board is satisfied that the operation of the extended tailings facility does not rely on the proposed integrated constructed wetland and therefore, the omission of the wetland does not conflict with the above conclusion.

Proper Planning and Sustainable Development of the Area.

Having regard to: -

- the presence of the existing tailings facility at Randalstown,
- the environmental licensing regime (Industrial Emissions Directive) under which the facility will be regulated by the Environmental Protection Agency,
- the pattern of existing development in the area,
- the design of the proposed extension and ancillary works,
- the environmental controls inherent in the design, construction management and operational proposals,
- the provisions of the Meath County Development Plan 2013-2019, and
- the report of the Inspector who conducted the oral hearing,

it is considered that, subject to compliance with the conditions set out below, the proposed extension to the tailings facility would represent an acceptable extension of the established land-use thereby facilitating the ongoing operations of the Tara Mines facility, would be acceptable in terms of traffic safety and convenience of road users including pedestrians, would not seriously injure the residential amenities of the area, or have an impact on agricultural activities in the area, would not have unacceptable impacts on the visual amenities or the landscape character of the area, would not be prejudicial to public health and would not be detrimental to the natural heritage of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 16th 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 the 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 integrated constructed wetlands proposed to the south of the existing tailings storage facility shall be omitted.

Reason: In the interest of clarity, with reference to the reasons set out in the refusal element of this Order.

3. The proposed development shall not be carried out until such time as the Environmental Protection Agency Industrial Emissions Directive Licence for the facility is in place.

Reason: In the interest of orderly development.

4.
 - (a) The proposed development shall be constructed in two phases as indicated in the documentation submitted with the application.
 - (b) No works on Phase 2 (Stage 6(b)) shall commence without having fully completed Stage 6(a).

- (c) The construction period shall be limited to a period of five years from the date of commencement of works.

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

5. The construction of the proposed 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 hours of working, noise management measures, dust management measures and off-site disposal of construction/demolition waste.

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

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

7. (a) All temporary stockpiles of overburden materials which are to remain intact for periods longer than six months shall be graded, top-soiled and grass seeded as soon as practicable after being constructed. Dust suppression sprays shall be used during periods of dry weather until stable grass covering has been established on the stockpiles.
- (b) All permanent embankment side slopes shall, unless otherwise agreed with the planning authority be top-soiled and grass seeded as soon as practicable after their construction. Dust suppression sprays shall be used during periods of dry weather until a stable grass covering has been established.

Reason: To minimise dust emissions.

8. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within 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) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (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.

9. All service lines and cables serving the proposed development shall be located underground except where otherwise agreed in writing with the planning authority.

Reason: In the interests of orderly development and visual amenity.

10. Maintenance strips of a minimum width of 10 metres shall be maintained along the Duog Stream, the Simonstown Stream, the Yellow River and the diverted Blake's Stream and any other drainage channels shall be secured on both sides of the channel during and after construction. The drainage channels shall be maintained in accordance with the "Guidelines on the Protection of Fisheries during the Construction Works in and Adjacent to Waters" (Inland Fisheries Ireland 2016) during construction works.

Reason: In the interest of protecting water quality.

11. The Tara Mines Emergency Response Plan shall be updated to include Stage 6 of the tailings storage facility.

Reason: In the interest of public safety.

12. Prior to the commencement of development, the applicant shall submit to and agree in writing with the planning authority, a revised landscaping plan to include:

- (a) proposals for landscaping along the western boundary of the site and further details in relation to landscaping along the Milestown Road (L74141), and

- (b) provision of planting along the external side slopes of the berms.

Reason: In the interest of visual amenity.

- 13. The applicant shall establish a liaison committee including local residents' groups to address roads and mobility issues which may arise over the five-year construction term. Details of the proposed composition and operation of the liaison committee shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of road safety and to provide an opportunity for local input into the management of the construction phase.

- 14. (a) The developer shall carry out before and after surveys of the condition of the road network affected by the proposed development. A proposal for these surveys, and for ongoing monitoring of road condition during the construction phase, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) The applicant shall bear full responsibility for the costs associated with any overlays due to any damage incurred on the R163, R162, R147 and N51 and any additional safety measures to be carried out at Kilberry Cross arising from traffic associated with the development.
- (c) The applicant shall be responsible for the cost of repairing any structural road defects arising from the development.
- (d) The applicant shall meet with the planning authority annually to monitor and address progress and issues in relation to traffic and road safety associated with the proposed development.

Reason: In the interest of the safety of road users.

15. The developer shall pay to the planning authority a financial contribution of €150,000 (one hundred and fifty thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), 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 the cost of implementing safety measures at Kilberry Cross. This contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such an agreement the matter shall be referred to An Bord Pleanála to determine.

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

16. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in respect of works to be carried out at the Sillogue Bridge to improve pedestrian and vehicular safety in the vicinity of the bridge. 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 the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

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

17. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in respect of the costs of the works necessary for the overlaying of the Milestown Road and Regional Roads R162, R163, R147 and the N51 in the vicinity of Navan Town to facilitate the proposed development as detailed in condition number 14 above. 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 the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

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

