



An
Bord
Pleanála

Board Order

PL 02.248033

Planning and Development Acts 2000 to 2017

Planning Authority: Cavan County Council

Planning Register Reference Number: 16/136

Appeal by Cavan Better Waste Management care of Environmental Management Services of Outer Courtyard, Tullynally, Castlepollard, County Westmeath against the decision made on the 24th January, 2017 by Cavan County Council to grant subject to conditions a permission to Wilton Waste Recycling Limited care of Boylan Engineering of Man Street, Mullagh, County Cavan in accordance with plans and particulars lodged with the said Council:

Proposed Development: A proposed waste processing and transfer facility at Lismagratty and Corranure, Cootehill Road, Cavan, County Cavan. The development will consist of: (1) demolition of uninhabited dwellinghouse and domestic garage, (2) construction of waste processing building, (3) provision of storage yards, (4) construction of two number weighbridges and weighbridge kiosk, (5) construction of administration building incorporating staff welfare facilities, (6) provision of staff parking area (7) and all ancillary site development works. (As amended by the further public notice received by the planning authority on the 24th day of November, 2016).

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 following:

- (a) national policy with regard to the sustainable management of resources and the development of waste infrastructure,
- (b) the policies and objectives of the Connaught Ulster Region Waste Management Plan 2015-2021,
- (c) the policies set out in the Border Regional Authority Planning Guidelines 2010-2022,
- (d) the policies of the planning authority as set out in the Cavan Town and Environs Development Plan 2014-2020,
- (e) the location of the proposed development, in an area which is zoned in the development plan 'to promote the development of the integrated waste management facility with complementary activities and uses' within which a refuse transfer station is permitted in principle and Objectives WO-02 and WO-04,
- (f) the legislation under which the operation of the facility would be regulated,

- (g) the characteristics of the site and of the general vicinity,
- (h) the distance to dwellings and sensitive receptors from the proposed development,
- (i) the Environmental Impact Statement submitted,
- (j) the Natura impact statement submitted,
- (k) the submissions made in conjunction with the planning application, appeal and at the oral hearing, and
- (l) the Inspector's report and recommendation.

The Board was satisfied that the information before it was adequate to undertake an Appropriate Assessment and an environmental impact assessment in respect of the proposed development.

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 in the course of the application, 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 existing and proposed 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.

Appropriate Assessment Screening (Stage I)

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 Natura impact statement (including an Appropriate Assessment screening statement) submitted with the application, the submissions made in connection with the application and the appeal, including those made at the oral hearing and the Inspector's report. In completing the screening exercise, the Board accepted and adopted the report of the Inspector in respect of the identification of the European sites which could potentially be affected and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the sites' conservation objectives with the exception of Lough Oughter and Associated Loughs Special Area of Conservation (Site Code 000007) and Lough Oughter Complex Special Protection Area (Site Code 004049) and that these were the only two sites requiring a Stage II Appropriate Assessment.

Appropriate Assessment (Stage II)

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that Lough Oughter and Associated Loughs Special Area of Conservation (Site Code 000007) and Lough Oughter Complex Special Protection Area (Site Code 004049) are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura impact statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for nearby 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 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 these European Sites.

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 European sites. In the overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European sites in view of the sites' conservation objectives.

Conclusion on Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute a sustainable development location on appropriately zoned lands and would, subject to mitigation measures proposed in the Environmental Impact Statement and the Natura impact statement and with the planning conditions outlined, align with national and regional waste management policy, enabling increased rates of resource recovery. It is further considered that the proposed development would not seriously injure the amenities of the area or the amenity of the local environment, would not be prejudicial to public health, would not result in adverse significant environmental impacts and would be acceptable in respect of transport and road safety. 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 on the 14th day of November 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 mitigation measures set out in the Environmental Impact Statement and the Natura impact statement shall be implanted in full.

Reason: To protect the environment and European sites.

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

Reason: In the interest of visual amenity.

4. (a) The signage scheme for the facility shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) With the exception of the signage scheme agreed under (a) above, no advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
 - (i) the species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder which shall not include prunus species, and
 - (ii) details of screen planting which shall not include cupressocyparis x leylandii or prunus species.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, or become seriously damaged or diseased are removed and shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of the protection of visual, residential and environmental amenities.

6. The construction of the development shall be managed in accordance with a Construction and Environment Management Plan which shall outline the project specific environmental measures that are to be put in place and procedures to be followed for the scope of construction (including demolition) works, both permanent and temporary, for the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall demonstrate the adoption and use of the best practicable means to protect the environment and to safeguard amenities of the area.

Reason: In the interest of amenities, public health and safety.

7. There shall be no unloading, deposit, handling, storage or sorting of waste materials outside of the proposed facility. Any organic material shall be transported to and from the site in sealed containers.

Reason: In the interests of amenities, public health and safety.

8. Prior to the commencement of development on site, a detailed invasive species management plan shall be submitted to, and agreed in writing with, the planning authority.

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

9. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

10. (a) Hours of site development works shall be between 0800 and 1900 Monday to Friday, between 0800 and 1400 on Saturday and not at all on Sundays or bank or public holidays.
- (b) Hours of operation of the proposed facility shall be between 0800 and 1800 Monday to Friday, 0800 and 1400 on a Saturday and not at all on Sundays or bank or public holidays.

Deviation from these times (site development works and operation) shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

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

11. The noise level shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at any point along the boundary of the site between 0800 and 2000 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose for determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement.

Reason: To protect the amenities of property in the vicinity of the site.

12. The proposed development shall not become operational until such time as the access road junction with the R188 Regional Road has been improved by the planning authority.

Reason: In the interest of traffic safety.

13. The developer shall facilitate the archaeological appraisal of the site 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 planning authority and the Department of Heritage, Regional, Rural and Gaeltacht Affairs 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) submit a copy of the geophysical survey report to the Department of Heritage, Regional, Rural and Gaeltacht Affairs, and
- (c) agree in writing details 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.

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 the 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.

15. 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 in respect of improvement to the junction of the access road to the facility and the R188 regional road. 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.

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

Dated this day of 2017