



An
Bord
Pleanála

Board Order PL 91.248285

Planning and Development Acts 2000 to 2017

Planning Authority: Limerick City and County Council

Planning Register Reference Number: 16/345

Appeal by Kevin Feeney of 18 Ard Aulin, Mungret, County Limerick and by Limerick Against Pollution and others care of Tim Hourigan of 12 Cedar Court, Kennedy Park, Limerick and by Irish Cement Limited care of Brady Shipman Martin of Canal House, Canal Road, Dublin against the decision made on the 8th day of March, 2017 by Limerick City and County Council to grant subject to conditions a permission to Irish Cement Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: A ten-year permission for development to allow for the replacement of fossil fuels through the introduction of lower carbon alternative fuels and to allow for the use of alternative raw materials in the Limerick Cement Factory. To facilitate the on-site handling, storage and introduction of the alternative fuels and alternative raw materials it is proposed to construct: a tyre storage area (gross area 3,000 square metres) with tyre handling/separation area, and associated conveyor to Kiln 6 with fire-water retention tank (25.6 metres by 10.6 metres external, maximum height 2.5 metres high), a proposed pumpable fluids storage tank (comprising one number tank of 8.24 metres diameter with a height of 9.02 metres, volume 320 cubic metres) which is located within a concrete bund area (circa 20 metres by 25 metres by two metres high) with associated covered unloading station (15 metres by 15 metres by 6.15 metres) all within a 2.4 metres high security fencing, a proposed fine

solids handling building (gross floor area circa 1,051 square metres, maximum height 19.03 metres) with two number associated truck unloading areas (16.86 metres by 28.1 metres) and associated feed conveyors, associated switch room building (gross floor area 86.67 square metres, maximum height 9.98 metres) and associated conveyor from screening building (gross floor area 86.73 square metres, maximum height 15.28 metres) to dosing building (gross floor area 33.6 square metres, maximum height 12.52 metres) at front end of Kiln 6, as well as a fine solids transfer building (gross floor area 28.8 square metres, maximum height 12.64 metres), associated conveyor connecting to a proposed fine solids dosing building (gross floor area 33.6 square metres, maximum height 16.7 metres) to back end of Kiln 6 and associated fire-water retention tank (9.6 metres by 10.6 metres external, maximum height 2.5 metres high), a proposed alternative raw materials storage building (gross floor area 1,282.4 square metres, maximum height 14.3 metres) with concrete path surround, three number proposed silos for the introduction of free-flowing solids (two number 5.5 metres diameter, maximum height 26.23 metres volume, 379.94 cubic metres each, and one number silo five metres diameter, maximum height 19.04 metres, volume 196.25 cubic metres), a proposed by-pass filter comprising a bag filter (circa 15.67 metres by 8.98 metres by 21.45 metres high) and a cooling tower (circa three metres diameter by maximum height of 55.92 metres), a proposed coarse solids building (gross floor area of 5,013 square metres, maximum height of 12.15 metres) with concrete path surround and one number fire-water retention tank (9.6 metres by 12.6 meters external, maximum height 2.5 metres high). The works include for the demolition of four number steel and metal clad covered car park bay structures (four number by five metres by 25 metres, gross floor area 500 square metres). The works also include for associated mechanical equipment and ancillary works, including provision of short sections of internal roadway, pavement, fencing and landscape works. In reducing the quantity of fossil fuel use, the proposed development seeks to introduce a range of alternative fuels up to a maximum of 90,000 tonnes per annum. The use of alternative raw materials is contained within this proposed overall quantity. The application area extends to 10.52 hectares within Limerick Cement Factory at Castlemungret, 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

Having regard to-

- (a) the written submissions made in respect of the planning application and the submissions made at the Oral Hearing,
- (b) the planning history of the site,
- (c) the established nature of the existing Cement Works on the application site, the detailed nature, scale and form of the development and its location relative to nearby sensitive receptors,
- (d) mitigation measures which are proposed for the construction and operation phases of the development,

- (e) the provisions of the Limerick City Southern Environs Local Area Plan 2011-2017, which has been extended to 2021 under which this site is zoned 'Industry' zoned land,
- (f) the European, national and regional policy context for the development notably provided by:
- Waste Framework Directive 2008/98EC,
 - A Resource Opportunity – Waste Management Policy in Ireland, July 2012 (Department of the Environment, Community and Local Government),
 - National Hazardous Waste Management Plan 2014-2020, and
 - Southern Region Waste Management Plan 2015-2021,
- (g) the requirement to obtain an Industrial Emissions Licence for the proposed development from the Environmental Protection Agency, which itself will be subject to the Commission's Implementing Decision establishing Best Available Techniques for the Production of Cement (2013/163/EU),
- (h) the permitting and licensing of other cement plants within the country to incinerate alternative fuels in kilns,

- (i) the history of environmental compliance associated with the operation of the existing plant,
- (j) the mitigation measures set out in the submitted Environmental Impact Statement, as amended by additional information submissions to Limerick City and County Council and at the Oral Hearing, and
- (k) the report and recommendations of the Planning Inspector,

Appropriate Assessment

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

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report 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 sites' conservation objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the Lower River Shannon Special Area of Conservation (Site Code: 002165) or the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077), or any other European Site, in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board considered the nature, scale and location of the proposed development, the documentation submitted with the application including the Environmental Impact Statement, the submissions made on file, the applicant's response to submissions, the mitigation measures proposed, and the report, assessment and conclusions of the Planning Inspector. It is considered that this information was adequate in identifying and describing the direct and indirect effects of the proposed development. The Board completed an Environmental Impact Assessment in relation to the proposed development, either by itself or in combination with other development in the vicinity and concluded that, subject to the mitigation measures proposed, and the conditions set out below, the effects of the proposed development on the environment would be acceptable. In doing so the Board adopted the report of the Inspector.

It is considered that, subject to compliance with the conditions set out below:

- (a) The proposed development would be in accordance with European, national, regional and local planning policy, notably the National Hazardous Waste Management Plan and the Southern Region Waste Management Plan 2015-2021 which supports the principles of proximity and self-sufficiency in the management of waste in the State and the development of additional thermal capacity for the treatment of non-hazardous municipal waste, industrial process waste and hazardous waste, over the period of the Plans.

- (b) The proposed development is situated in an established industrial area, is reasonably removed from nearby sensitive receptors and will be subject to an Industrial Emissions Licence which will control emissions to air, fugitive dust, noise and water. The proposed development would not, therefore, seriously injure the residential amenities of adjacent properties.

- (c) The proposed development comprises structures which are subordinate in scale and form to the existing structures at the Cement Works site. The proposed development would not, therefore, give rise to significant visual or landscape effects or indirect effects on heritage and/or tourism.

The Board concluded that the proposed development would not seriously injure the amenities of the area or of residential and other property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience and would 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 to the planning authority on the 2nd day of November, 2016 and on the 13th day of February, 2017, and the submissions made at the Oral Hearing, 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 period during which the development hereby permitted may be carried out shall be seven years from the date of this Order.

Reason: Having regard to the nature of the proposed development, the Board considered it appropriate to specify a period of validity of this permission in excess of five years.

3. The total of Solid Recovered Fuel (sourced from Municipal Solid Waste) to be combusted at the cement works shall not exceed 30,000 tonnes per annum.

Reason: In order to comply with the policies of the Southern Region Waste Management Plan 2015-2021, which policies are considered to be reasonable.

4. No alternative fuels/raw materials indicated as being 'Hazardous' in the Environmental Protection Agency publication "Waste Classification – List of Waste and Determining if Waste is Hazardous or Non-hazardous" (valid from the 1st day of June, 2015), shall be combusted at the cement works.

Permission is hereby granted for co-combustion of only those List of Waste codes, outlined in the additional information submission to Limerick City and County Council on the 2nd day of November, 2016, which are determined to be non-hazardous, by reference to the above-mentioned Environmental Protection Agency publication.

Reason: In the interest of sustainable waste management and in view of the limited experience in handling hazardous waste and limited proposed use at these cement works, in conjunction with the Board's decision to grant permission for the use of 50,000 tonnes per annum of hazardous waste at Platin, County Meath (An Bord Pleanála reference number 17.PA0050). The Board has decided that national capacity for self-sufficiency in terms of hazardous waste would be adequately catered for and the need for use of hazardous waste at this plant at this time was, therefore, not justified.

5. No unprocessed alternative fuels/raw materials shall be delivered to the cement works, and no further processing of alternative fuels/raw materials shall take place at the cement works.

Reason: In the interests of clarity and public health.

6. All environmental mitigation measures outlined in the Environmental Impact Statement, and as amended by additional information submissions to Limerick City and County Council and/or at the Oral Hearing, shall be implemented in full. Compliance with, and effectiveness of the mitigation measures, shall be demonstrated in an annual report of compliance to the planning authority, which shall be made available for public inspection.

Reason: In the interest of environmental protection.

7. No substitution of alternative fuels/raw materials shall be carried out unless and until the necessary review of the Industrial Emissions Licence for the cement works has been completed or a new licence has been granted.

Reason: In the interests of orderly development, the environment and public health.

8. All alternative fuels/raw materials delivered to the cement works shall be delivered in sealed containers/covered vehicles, as appropriate.

Reason: In the interests of public health and the amenities of the area.

9. 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.

Reason: In the interest of sustainable waste management.

10. The developer shall maintain and make available for inspection a complaints’ register for the construction, operational and decommissioning stages of the development detailing the nature of complaint, investigations and remediation undertaken.

Reason: In the interests of amenity and orderly development.

11. A community liaison committee shall be established to liaise between the operator of the cement works, the planning authority and the local community. The Committee shall comprise seven members having an independent chairperson, two local community representatives, two elected members of the planning authority, one official of the planning authority and one representative from the operator of the cement works. The community liaison committee shall have responsibility for the administration of the community gain fund account to be set up in accordance with condition number 12 of this Order and for decisions on projects to be supported by the fund in addition to acting as a liaison committee with the local community in relation to ongoing monitoring of the operation of the cement works.

Reason: To provide for appropriate ongoing review of management operations at the cement works in conjunction with the local community and to provide for the allocation of resources from the community gain fund in accordance with the requirements of the local community.

12. A community gain fund shall be established to support facilities and services which would be of benefit to the community in the general catchment area. This fund shall include an annual contribution per tonne of alternative fuels/raw materials to be used at the cement works. The annual contribution shall be €1 (one Euro) per tonne. Details of the management and operation of the community gain fund, which shall be lodged in a special community fund account, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: It is considered reasonable that the operators of the cement works facility should contribute towards the cost of environmental, recreational or community facilities which will be of benefit to the community in the area.

