



Planning and Development Acts 2000 to 2019

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 16/801

Appeal by Robert McGarry of Freshford Road, Troyswood, Kilkenny, by Irish Water of Colville House, 24-26 Talbot Street, Dublin and by Killian and Margaret McGlynn of Woodview House, Troyswood, Kilkenny against the decision made on the 16th day of November, 2017 by Kilkenny County Council to grant subject to conditions a permission to the said Irish Water in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development will consist of the upgrade of and extension to the Troyswood Water Treatment Plant (WTP). Works will include development of a new raw water intake from the River Nore upstream of Troyswood Weir and an adjacent new raw water pumping station, new chemical storage and treated water pumps building, new residuals treatment building, relocated DWIRP building, extension to the existing treatment building, new treated water storage tank, new process tanks, internal access roads and paving, process and surface water pipework, fencing, attenuation basin, new on-site wastewater treatment system, landscaping and decommissioning of the existing raw water intake. The construction of a new treated water rising main of approximately 2.8 kilometres between Troyswood Water Treatment Plant and Radestown Water Treatment Plant, across fields,

under the River Nore and in roadway, all on site at Troyswood, Loughmerans, Baun, Radestown North and Radestown South Townlands, County Kilkenny, as amended by the revised public notice received by the planning authority on the 23rd October, 2017.

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:

European legislation, including of particular relevance:

- Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union.
- Directive 2000/60/EC for establishing a framework for Community action in the field of water policy.

National legislation, including of particular relevance:

- European Union (Drinking Water Regulations) 2014.

National and regional planning and related policy, including:

- The National Planning Framework – Ireland 2040, which contains objectives to secure adequate supplies of water resources and water services.
- The Water Services Strategic Plan, which identifies the requirement to ensure provision of a safe and reliable water supply including in relation to supporting social and economic growth.
- The River Basin Management Plan for Ireland 2018-2021.
- The South-East Regional Planning Guidelines 2010-2022.

The local planning policy including:

The provisions of Kilkenny County Development Plan 2014-2020.

The following matters:

- (a) The strategic need for the scheme in the context of providing increased water supply to meet existing and future demand in Kilkenny city and environs.
- (b) The inclusion of the Radestown Wastewater Treatment Plant on the Remedial Action List of the Environmental Protection Agency and the need to improve the quality of water supply serving Kilkenny City and environs,

- (c) The need to replace the abstraction from the River Dinin and River Douglas both of which are 'at risk' under the Water Framework Directive,
- (d) The proposal to retain a reservoir at Radestown, which is considered reasonable in order to provide a supply to connect with existing water supply infrastructure,
- (e) The community need, the overall benefits and the public interest served by the proposed development,
- (f) The selected route alignment to connect the Troyswood Water Treatment Plant with the Radestown site, which is considered to be suitable and proportionate to the identified need,
- (g) The policies and objectives of the Kilkenny County Development Plan 2014-2020,
- (h) The submissions made in relation to the application including those submitted at the Oral Hearing and,
- (i) The reports of the Inspector and of the Inspectorate Ecologist and the recommendation of the Inspector.

Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would enable sustainable residential and economic growth through the delivery of increased and high quality drinking water supply, would be acceptable in terms of the environmental impacts, would assist Ireland in meeting obligations set down under EU Directives, national legislation and planning policy, would not seriously injure the residential amenities of nearby properties, and would be generally acceptable in terms of noise, water quality, landscape, cultural heritage impacts and of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1

The Board agreed with and adopted the screening assessment and conclusions carried out in the Inspector's report that the only European sites in respect of which the proposed development has the potential to have a significant effect are the River Barrow and River Nore Special Area of Conservation (Site Code 002162) and the River Nore Special Protection Area (Site Code 004233).

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and the two addendum reports, the associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, the oral hearing submissions and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development as part of the overall proposed upgrade project for the River Barrow and River Nore Special Area of Conservation (Site Code 002162) and the River Nore Special Protection Area (Site Code 004233), 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 appropriate assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the development, both individually, when taken together and in combination with other plans or projects,
- (b) the mitigation measures, which are included as part of the current proposal, and
- (c) the conservation objectives for the 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 these European sites, having regard to their conservation objectives. In overall conclusion, the Board was satisfied 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.

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 23rd day of October 2017, and as amended by the further plans and particulars submitted at the oral hearing and by the documentation submitted to the Board on the 24th day of December 2018, 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, or in default of agreement, shall be referred to An Bord Pleanála for determination, and the proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All of the mitigation measures contained in the documentation including the Schedule of Mitigation and the Outline Construction and Environmental Management Plan, as submitted to An Bord Pleanála on the 24th day of December 2018, shall be implemented in full, except as may otherwise be required in order to comply with the following conditions. All monitoring measures, as outlined, shall be incorporated, including continued monitoring of the water levels at the Dunmore Complex for the duration of the works and for a period of at least one year thereafter. In the event of any changes in such levels, the developer shall implement such measures as may be required by the planning authority, in consultation with the National Parks and Wildlife Service.

Reason: In the interest of clarity, and in order to ensure appropriate protection of the environment and to avoid or mitigate any impacts on flora and fauna.

3. The proposed intake/pumping station building shall be of concrete construction with a concrete roof.

Reason: In order to protect the residential amenities of nearby properties.

4. A contract specific Construction and Environmental Management Plan (CEMP) and Surface Water Management Plan (SWMP) shall be submitted to, and agreed in writing with, the planning authority in respect of the proposed development. The Construction and Environmental Management Plan (CEMP) and Surface Water Management Plan (SWMP) shall detail and ensure Best Construction Practice and compliance with statutory obligations. The Surface Water Management Plan (SWMP) shall include monitoring measures which shall be compiled following consultation with Inland Fisheries Ireland.

Reason: To protect the environment during construction.

5.
 - (a) Prior to the commencement of development, full details of any alterations to the public road network including at the entrance to the Troyswood site, shall be agreed in writing with the planning authority.
 - (b) All costs to facilitate these works shall be at the expense of the developer. All works in the public road may be carried out only by the local authority.
 - (c) The developer shall comply with the requirements of the local authority in respect of minimising traffic disruption on the local communities and cleaning and repair of any damage to the public road networks during the construction and operation phases.

Reason: To protect the existing road network and minimise disruption.

6. The developer shall provide on-line pH and Chlorine monitor(s) on the outfalls from the treatment plant to the River Nore, which shall continuously monitor and record pH and Chlorine levels in discharges. The monitor(s) shall be linked to alarm and auto-dial facilities such that relevant management and maintenance staff can be immediately alerted in the event of pH levels being less than or equal to 6 and greater than or equal to 9 units or Chlorine levels exceeding 2 mg/l. Details of such monitoring arrangements, including procedures for notification of the authority in the event of any exceedances, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to ensure appropriate monitoring of the discharges to the River Nore.

7. Prior to the commencement of the development, a detailed landscaping plan for the development which shall include general landscape details including timescales and proposals for maintenance shall be submitted to, and agreed in writing with, the planning authority. This plan shall omit the proposed trees in Planting Zone A, and shall provide for a programme of maintenance of hedgerows in Zones A, L and K. The landscaping shall be carried out in accordance with the agreed details thereafter.

The landscape plan shall incorporate proposals for lighting which shall minimise light spillage to the boundaries of the site.

Reason: In the interest of landscape and visual amenities and to ensure protection of biodiversity and limit impacts on nearby residents.

8. Without prejudice to the operating hours authorised under this permission, noise emissions from the construction phase shall not exceed the following limits during the times/days specified:

65 dBA Leq (60 mins): 0700 -1900 Monday to Friday

0700 - 1300 Saturday

55 dBA Leq (60 mins): 1900 – 2300 Monday to Friday

1300 - 2300 Saturday

0700 – 2300 Sunday

45 dBA Leq (60 mins): 2300 – 0700 All days

Prior to commencement of any development on site, the developer shall submit to, and agree in writing with, the planning authority, a proposed methodology for the piling operations. Piling shall be designed to minimise noise through the use of the rotary rather than percussive where suitable, and/or acoustic screening where necessary to ensure compliance with the above referenced limits.

In addition, all works shall be programmed and managed to ensure that the cumulative noise emissions do not exceed the above stated sound pressure limits measured at four metres from the façade of the nearest inhabited dwelling.

Reason: To provide for the management of noise nuisance during construction.

9. Noise emissions from the operational phase of the development shall not exceed the following limits during the times specified:

50 dBA Leq (15 mins): 0700 -1900 applicable at all external points of any dwelling located along the west of R693 including gardens

45 dBA Leq (15 mins): 0700 - 1900 applicable at all external points of any dwelling located adjacent to proposed intake building including gardens

40 dBA Leq (15 mins): 1900 – 2300 applicable at all external points of any dwelling including gardens

38 dBA Leq (15 mins): 2300 – 0700 applicable at one metre from the façade of any dwelling

There shall be no tonal (including low frequency tones) or impulsive noise audible at the applicable locations (i.e. locations where the above limits are applicable).

Monitoring arrangements for operational noise shall be agreed in writing with the planning authority prior to first operation of the proposed development.

Reason: To provide for the management of noise nuisance during the operation of the development.

10. Within six weeks of final commissioning, the developer shall submit to, and agree in writing with, the planning authority, a post-commissioning noise survey to demonstrate whether the plant is successfully meeting the operational noise limits set out above. The noise survey shall be accompanied by a detailed interpretive report which shall include, in the event of not meeting limits, further additional detailed mitigation measures to ensure that the operations are only carried out within the specified noise limits. Any such additional mitigation measures shall be implemented as soon as reasonably practicable. The noise survey and interpretive report shall also include the assessment and mitigation of any low frequency noise.

Reason: To provide for the management of noise nuisance during the operation of the development.

11. Prior to the commencement of development, a Dust Management Plan shall be submitted to, and agreed in writing with, the planning authority in respect of the development. The plan shall include specific measures relating to the investigation and response to complaints. Dust monitoring during construction and commissioning shall be carried out in accordance with the requirements of the planning authority.

Reason: In the interest of protecting the amenities of the surrounding area.

12. Prior to the commencement of development, the applicant shall submit to, and agree in writing with, the planning authority full details of all external finishes and boundary treatment at the Troyswood Water Treatment Plant site.

Reason: In the interest of visual amenities.

13. The developer shall pay to the planning authority a financial contribution of €61,705 (sixty-one thousand, seven hundred and five euro) 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. The application of any indexation required by this condition 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.

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.

Philip Jones

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

Dated this day of 2019.