



Planning and Development Acts 2000 to 2020

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 18/433

APPEAL by John Brennan of 18 Ashington Crescent, Navan Road, Dublin against the decision made on the 20th day of December, 2018 by Kilkenny County Council to grant subject to conditions a permission to Eamonn and John Phelan care of PHM Project Management Limited of 11 Mallow Street, Limerick.

Proposed Development: The application to the planning authority was described as an application for permission for development at this site. The development consists of an agricultural slurry and rotation crop based Anaerobic Digestion Plant for the production of renewable energy and fertiliser will comprise of the following: one number single storey reception building with welfare facilities, staff and visitor car-parking, truck delivery and pickup hardstanding area, one number water storage tank, one number wheel wash, one number weighbridge, two number digester tanks, two number digestate storage tanks, two number slurry storage tanks, four number feed-stock clamps, one number biogas flare, one number gas boiler container, one number pump and control room container, one number biogas cleaning and upgrading container, one number gas compression container, two number surface water attenuation tanks, two number surface water interceptor units,

two number surface water flow limited outfalls, one number foulwater treatment unit and pump sump, one number Electricity Supply Board substation, external perimeter stockproof fencing and gates, landscaping and tree screening and associated site works. All at Rathcash, Dunbell, County Kilkenny. Following a request from An Bord Pleanála, a Natura impact statement is being submitted.

Decision

REFUSE permission for the above proposed development in accordance with the reasons and considerations 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 the documentation submitted with the planning application and the appeal, the Board is not satisfied that the proposed development does not entail the processing of waste and to a quantum for which a Waste Licence may be required. In these circumstances, and by reference to the planning application documentation including statutory notices, the Board is precluded from granting permission.

In deciding not to accept the Inspector's recommendation to grant permission, the Board noted the commentary of the Inspector regarding the nature of the materials which would be processed at the proposed development and the consideration of thresholds regarding potential Waste Licence obligations. It was determined that having regard to the documentation submitted with the planning application and the appeal and the response from the Environmental Protection Agency to The Board, received on foot of the section 131 Notice issued on the 5th day of January, 2021 and the subsequent responses to the Environmental Protection Agency submission received by other parties to the appeal, the Board could not be certain that the proposed development did not entail an activity for which a Waste Licence is required.

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

Dated this day of 2021.