



Planning and Development Acts 2000 to 2018

Planning Authority: Cavan County Council

Planning Register Reference Number: 18/181

APPEAL by Inland Fisheries Ireland care of Noel McGloin of IFI Dublin, 3044 Lake Drive, Citywest Business Campus, Dublin against the decision made on the 21st day of December, 2018 by Cavan County Council to grant subject to conditions permission to Murmod Estimators Limited care of Wynne Gormley Gilsenan of 21 Church View, Cavan, County Cavan.

Proposed Development Complete part of housing development known as "The Drumlins", (previous approved planning register reference numbers 04/2182 and 05/907 relate to this site), the works to include the construction and completion of 27 dwellings as follows; (1) complete two number semi-detached dwellings at first floor level; (2) complete and alter four number three-bed semi-detached dwellings at first floor level with optional attic accommodation; (3) complete and alter four number four-bed semi-detached dwellings at slab level with optional attic accommodation; (4) complete and alter six number four-bed semi-detached dwellings at slab level with optional attic accommodation; (5) erect six number four-bed semi-detached dwellings with optional attic accommodation; (6) erect four number dual fronted semi-detached dwellings; (7) complete and alter one number four-bed detached dwelling with attached domestic garage; (8) complete part of site services and service road for this phase and all associated site works, all at "The Drumlins",

Bailieborough Road, Virginia, County Cavan, as revised by the further public notice received by the planning authority on the 14th day of November, 2018.

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

1. The site of the proposed development would ultimately be connected to the Virginia Wastewater Treatment Plant, which in turn discharges into Lough Ramor.

Having regard to:

- (a) The existing constraints at the Virginia Wastewater Treatment Plant, which is currently operating beyond its design capacity of 3,800 p.e,

- (b) the lack of certainty in respect of future capacity improvements to the Wastewater Treatment Plant, and the extended timescale with which any such improvements may be carried out,
- (c) the existing biological status of Lough Ramor, which has been classed by the Environmental Protection Agency as of bad ecological status,
- (d) article 5 of the European Communities Environmental Objectives (Surface Waters) Regulations, 2009, which requires that a public authority, in performance of its functions, shall not undertake those functions in a manner that knowingly causes or allows 'deterioration in the chemical or ecological status of a body of surface water, and
- (e) article 28(2) of the said Regulations, which states that a surface water body whose status is determined to be less than good shall be restored to at least good status not later than the end of 2015,

it is considered that the proposed development would be premature by reference to the existing deficiencies in the provision of sewerage facilities and the period within which this constraint may reasonably be expected to cease and would be prejudicial to public health.

2. The proposed development discharges to the Virginia Wastewater Treatment Plant, with a primary discharge to Lough Ramor, which links directly to the River Boyne and River Blackwater Special Area of Conservation (Site Code 002299) and River Boyne and River Blackwater Special Protection Area (Site Code 004232). A Natura impact statement (NIS) accompanied the proposed development which:
 - (a) identified a potential impact as additional loading on the treatment plant and concluded that the proposed development would not lead to any impact on Lough Ramor once the treatment plant is upgraded, and
 - (b) included mitigation measures linking compliance with Emission Limitation Values (ELVs) in line with the Discharge Licence.

In the absence of any upgrade of the treatment plant above its existing capacity the Natura impact statement could not definitively conclude that the proposed development would not have a significant negative impact on the Conservation Objectives of the European Site.

Accordingly, the Board cannot be satisfied, beyond reasonable scientific doubt on the basis of the information contained in the Natura impact statement made in connection with the planning application and the appeal, that adequate information has been provided on the impact of the proposed development on ecological status of the receiving waters in the River Boyne and River Blackwater (Site Code 002299) and River Boyne and River Blackwater Special Protection Area (Site Code 004232).

It is considered, therefore, that the Board is unable to ascertain, as required by Regulation 27(3) of the European Communities (Natural Habitats) Regulations, 1997, that the proposed development will not adversely affect the integrity of a European Site and it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area

Paul Hyde

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

Dated this day of 2019.