



Planning and Development Acts 2000 to 2019

Planning Authority: Mayo County Council

Planning Register Reference Number: P18/627

Appeal by Noel and Ann Mulhern care of CLW Environmental Planners Limited of The Mews, 23 Farnham Street, Cavan, County Cavan against the decision made on the 2nd day of May, 2019 by Mayo County Council to refuse permission for the proposed development.

Proposed Development: Construction of one free range poultry house together with all ancillary structures (to include ancillary manure/general purpose store, meal bins and soiled water tanks) and associated site works, at Brownhall Demesne, Balla, Castlebar, County Mayo. The proposed development was revised by further public notices received by the planning authority on the 10th day of April, 2019 and by An Bord Pleanála on the 1st day of August, 2019.

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 the size, scale and agricultural nature of the proposed development in an established farming area in a rural location, and to the policies and objectives of the Mayo County Development Plan 2014-2020, including Objective AG-01 which seeks to support the sustainable development of agriculture, with emphasis on local food supply and agriculture diversification, it is considered that, subject to compliance with the conditions set out below, the proposed development would not have an adverse visual impact, would not seriously injure the amenities of the area or of property in the vicinity by way of odour or noise nuisance, would not be prejudicial to public health, would not materially contravene the current development plan for the area and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

Stage One – Screening

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the River Moy Special Area of Conservation (Site Code:002298) is the only European Sites for which there is a likelihood of significant effects.

Stage Two – Appropriate Assessment

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 the nearby European Site, River Moy Special Area of Conservation (Site Code 002298), in view of the site's 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) mitigation measures which are included as part of the current proposal,
- (iii) Conservation Objectives for the European Site,
- (iv) view of the Department of Arts, Heritage and the Gaeltacht, and
- (v) the view of Inland Fisheries Ireland.

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 Site, with the exception of the potential impact on the water quality and certain Qualifying Interests of the site.

The Board identified that the main likely impact arising from the proposed development would be on those Qualifying Interests of the European Site which would be impacted by changes in water quality, namely White-clawed crayfish, Sea lamprey, Brook lamprey, Salmon and Otter. It is a conservation objective of the European Site to maintain the favourable conservation condition of these species.

Having regard to the nature and scale of the proposed poultry house, and to the mitigation measures identified in section 5 of the Natura Impact Statement, the Board concluded that the proposed development would not adversely affect the favourable conservation status of White-clawed crayfish, Sea lamprey, Brook lamprey, Salmon and Otter because the implementation of these mitigation measures will ensure that impacts on water quality of the European Site will not occur.

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

In deciding not to accept the Inspector's recommendation to refuse permission, the Board was satisfied that, subject to the conditions set out below, the proposed development would not seriously injure the amenities of properties in the vicinity, by reason of noise and general disturbance, or depreciate the value of properties in the area. Furthermore, the Board was satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant adverse effect on the European Site, River Moy Special Area of Conservation (Site Code 002298), in view of the site's 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 19th day of March, 2019 and by the further plans and particulars received by An Bord Pleanála on the 28th day of May, 2019, 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 development shall provide no more than 12,000 places for poultry hens.

Reason: In the interest of clarity.

3. The mitigation measures identified in section 5 of the Natura Impact Statement, submitted to An Bord Pleanála on the 28th day of May 2019, shall be implemented in full. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of protecting biodiversity.

4. The measures to control noise and odour, set out at sections 13 and 14 of the further information submitted to the planning authority on the 19th day of March, 2019, respectively, shall be implemented in full during the operation of the proposed development. In the event that the development gives rise to noise or odour that cause a serious nuisance for dwellings in the vicinity, the planning authority may direct that its operation cease until revised measures to control such noise or odour have been agreed in writing with the planning authority.

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

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

6. A minimum of 22 weeks storage shall be provided in the underground storage tank. Prior to commencement of development, details showing how it is intended to comply with this requirement shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of environmental protection and public health.

7. Details of the finishes of the poultry house, the location of fencing and the design, scale and finishes of the proposed feed silo shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The feed silo shall be finished in green and the roofing material shall be dark green or black in colour.

Reason: In order to allow the planning authority to assess the impact of these matters on the visual amenity of the area before development commences and in the interest of orderly development.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including traffic management measures, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

9. 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 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.

John Connolly

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this day of 2019.