



Planning and Development Acts 2000 to 2019

Planning Authority: Cavan County Council

Planning Register Reference Number: 18/184

Appeal by Ian and Sinead McMahon and others of Burreen, Burrenrea, Virginia, County Cavan against the decision made on the 11th day of June, 2019 by Cavan County Council to grant subject to conditions a permission to Glanbia Ireland D.A.C. care of Malone O'Regan of St. Catherine's House, Catherine Street, Waterford in accordance with plans and particulars lodged with the said Council:

Proposed Development: Development consisting of extension to existing facility comprising works to include (1) erection of a new six-storey 42 metres high dryer plant (6,522 square metres) adjoining the existing dryer facility, (2) erection of a two-storey adjoining building (746 square metres) with changing facilities and canteen at ground floor with offices at first floor, (3) construction of a new entrance onto and exit from the N3 including road improvement work to the N3 with a new right turning junction to access the facility, (4) construction of a new single storey security hut (28 square metres) and reception (36 square metres), (5) construction of 218 new car parking spaces, (6) construction of a new milk intake building (487 square metres), (7) alterations to the existing silo farm and construction of a single storey silo

access building (112 square metres) between silos, (8) construction of four number new storage silos, (9) upgrade works to the wastewater treatment plant including extension to administration building (20 square metres) and miscellaneous site works including underground drainage, landscaping, provision of 2 number new weighbridges, diesel fill area, truck wash and oil-water separators, internal road works, closure of existing entrance onto and exit from the N3 and removal of existing car parking spaces as amended by the revised public notice providing for a revised entrance design and location, revised car park layout and a Natura Impact Statement received by the planning authority on the 23rd day of April, 2019, all at Burrenrea, Virginia, County Cavan. The site currently operates under EPA Licence Registration Number P0405-2.

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 Project Ireland 2040 - National Planning Framework, the Capital Investment Plan 2016-2021, the Border Regional Authority Planning Guidelines (2010 – 2022), Food Wise 2025, the “Spatial Planning and National Roads Guidelines for Planning Authorities” issued by the Department of the Environment, Community and Local Government in January, 2012, the current Cavan County Development Plan and the policies to implement the provisions set out in ‘Harvest 2020’, the Environmental Impact Assessment Report submitted, the Natura impact statement submitted, the long established enterprise in the area, and the Inspector’s report, it is considered that, subject to compliance with the conditions set out below, the proposed development would not have an adverse impact on the biodiversity of the area, the carrying capacity of the N3 or on traffic safety and would not seriously injure residential or visual amenities. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Stage 1 Appropriate Assessment Screening

The Board completed a Stage 1 Screening for Appropriate Assessment in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the application and the Inspector’s report and submissions on file. 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 site’s 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 any other European sites, in view of the site's conservation objectives other than 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) which are the European sites for which there is a likelihood of significant effects.

Stage 2 Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that 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) are European sites for which there is a likelihood of significant effects.

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 River Boyne and River Blackwater Special Area of Conservation (site code 002299) and the River Boyne and River Blackwater Special Protection Area (site code 004232), 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 appropriate assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or 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 the aforementioned European Sites, having regard to the site's 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 any European sites in view of the sites' conservation objectives

Environmental Impact Assessment

The Board completed, in compliance with section 172 of the Planning and Development Act, 2000, as amended, an Environmental Impact Assessment of the proposed development, taking into account:-

- the nature, scale, and extent of the proposed development,
- the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- the submissions from the applicant, planning authority, the observers, and the prescribed bodies in the course of the application and the appeal, and
- the planning inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application and the appeal. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation (including environmental conditions) and are incorporated into the Board's decision.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed as set out in the Environmental Impact Assessment Report, and, subject to compliance with the conditions set out herein, the effects on the environment of the proposed development, by itself and cumulatively with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting inspector.

Reasoned Conclusions on the Significant Effect

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts below:

- traffic effects arising from additional traffic on the N3 and additional traffic turning movements to and from the facility. These effects would be mitigated by the reduction in access points from two accesses to a single access, significant improvements in the location and design of the access, a vehicle booking/scheduling for HGV's, and a Mobility Management Plan for staff,
- effects on Biodiversity including aquatic and terrestrial ecology. Those arising during the construction phases would be mitigated by timing the removal of existing vegetation, implementing landscaping proposals, implementation of a Construction Environmental Management Plan and standard operating procedures for works near water including guidelines on protection of fisheries during construction works in or adjacent to Waters (Inland Fisheries Ireland). Those arising during operational phase would be mitigated by the wastewater treatment plant upgrade, the measures proposed to collect and treat surface water, and satisfactory proposals to deal with the containment of all fire-water within the site,
- effects on water which are similar to the foregoing and which would be similarly mitigated, and
- potential indirect impacts on the climate arising from association of the proposed development with activities in the dairy sector, which activities are given recognition in the targeted measures outlined in the Climate Action Plan such as the positive engagement of farm enterprises in sustainability initiatives and making food production more efficient and enhancing environmental outcomes.

The Board concluded that, subject to the implementation of the mitigation measures set out in the environmental impact assessment report, and subject to compliance with the conditions set out below, the effects on the

environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not have an adverse impact on the biodiversity of the area, the carrying capacity of the N3 or on traffic safety, would not seriously injure residential or visual amenity in the vicinity, would facilitate necessary expansion in dairy production in the region in line with national policy and would, therefore, 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 on the 5th day of April, 2019 and by the further plans and particulars received by An Bord Pleanála on the 22nd day of June, 2020 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. All environmental mitigation measures identified within the Environmental Impact Assessment Report and the Natura impact statement and associated documentation shall be implemented in full, save as may be required to comply with the conditions set out below.

Reason: In the interest of the conservation of the environment and of European sites.

3. Prior to commencement of development, all details relating to improvement works on the N3 National Road to facilitate widening and provision of the right turning lane shall be submitted to, and agreed in writing with, the planning authority. Details to be submitted shall include:-

- (a) detailed design drawings, documents, and all proposed works on site in accordance with the latest standards set out in Transport Infrastructure Ireland publications, including Pavement and Foundation Design Reference DN-PAV-03021,
- (b) all reports including ground investigation and topographical survey information pertaining to the design, and
- (c) all construction stage management plans and traffic management plans for works affecting the National Road.

Reason: In the interest of traffic safety.

4. All necessary consents shall be in place prior to the commencement of works on the public road.

Reason: In the interest of orderly development

5. (a) At its junction with the public road, the gradient of the access road shall not be greater than 2% for a distance of seven metres and not greater than 5% for the remainder of the first 20 metres.
- (b) Car and HGV parking shall be appropriately marked with thermoplastic road marking materials designating parking bays, circulation lanes and areas to be kept clear of parking. All roadways and junctions to have signage and road-markings in accordance with the 'Traffic Signs Manual' issued by the Department of Transport, Tourism and Sport in 2019.
- (c) Car park, internal service road and entrance area shall be structurally designed taking into account ground conditions and proposed levels of use. Areas shall be surfaced using appropriate depths of bituminous bound materials.
- (d) No advertising signs or devices, including those normally considered to be exempted, shall be erected or displayed within seven metres of the nearside edge of the N3 National Road.
- (e) On site lighting shall be appropriately designed and positioned so that it does not cause glare for motorists travelling on the National route. A detailed lighting scheme, to include the specification of downward and sensitive lighting, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of traffic safety.

6. A stage 3 Road Safety Audit of the development and its junction with the public road shall be carried out prior to commencement of phase 2 of the development and shall be submitted to, and agreed in writing with, the planning authority. Recommendations of the Audit shall be implemented by the developer.

Reason: In the interest of traffic safety.

7. Prior to the commencement of development, the developer shall submit details of the proposed Mobility Management Plan (for staff) to be implemented on the site to ensure that there are proactive methods of influencing travel behaviour and a shift to more sustainable travel modes such as walking, cycling, car sharing and public transport per National Transport Authority document 'Achieving Effective Workplace Travel Plans: Guidance for Local Authorities'; and details of the proposed implementation of a Vehicle Booking/ Scheduling for HGV's, for the written agreement of the planning authority.

Reason: To mitigate the impact of increased traffic on the N3, national primary road.

8. During the construction phase the developer shall be responsible for ensuring that no pavement or structural damage occurs to the public road as a consequence of the works and any damage shall be repaired at full cost to the developer.

Reason: In the interest of traffic safety.

9. During the construction phase, the developer shall be responsible for ensuring that public roads travelled by construction traffic are maintained in a clean and soil free condition at all times. Any costs incurred by Cavan County Council for cleaning the affected road system shall be borne by the developer.

Reason: In the interest of traffic safety.

10. A minimum of 10% of all proposed car parking spaces shall be provided with functioning electrical vehicle charging stations/points and ducting shall be provided for all remaining proposed car parking spaces to facilitate the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have not been submitted with the application, in accordance with the above requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to occupation of the proposed development.

Reason: In the interest of sustainable transportation.

11. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

12. Detailed proposals for the containment within the site of all fire-water which would be likely to be required for fire-fighting, in the event of a fire occurring on site, and including a schedule for implementation of works, prior to the commencement of phase two of the proposed development, shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of protecting the lake.

13. Prior to commencement of development, the developer shall submit to, and agreed in writing with, the planning authority, details of external finishes of buildings and structures, boundary treatment and signage and a schedule for the implementation of the landscaping proposals.

Reason: In the interest of orderly development.

14. Prior to commencement of development, the Construction Environmental Management Plan, which in relation to the development taking place within the lake shall adhere to the guidelines on protection of fisheries during construction works in or adjacent to waters (Inland Fisheries Ireland), shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of orderly development.

15. 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.

Stephen Bohan

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board

Dated this day of 2020