



An
Bord
Pleanála

Board Order
ABP-305444-19

Planning and Development Acts 2000 to 2019

Planning Authority: Cavan County Council

Planning Register Reference Number: 19/250

Appeal by Sheelin and McCabe Planning Services Limited of Mountnugent, County Cavan against the decision made on the 22nd day of August, 2019 by Cavan County Council to grant subject to conditions a permission to Kevin Kiernan care of C.L.W. Environmental Planners Limited of The Mews, 23 Farnham Street, Cavan in accordance with plans and particulars lodged with the said Council:

Proposed Development: Demolition of four number existing pig houses and two number manure storage tanks, and construction of six number replacement pig houses together with all ancillary structures (to include meal bins, wash water tanks and ancillary stores) and all associated site works arising from the proposed development at Dungummin Lower, Mountnugent, County Cavan.

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:

- (a) the existing structures on the site,
- (b) its location in a rural area, generally removed from residential development,
- (c) the agricultural nature of the proposed development to be carried out in accordance with statutory regulations for animal welfare and good agricultural practice for protection of waters,
- (d) the fact that the proposed development will be subject to licence by the Environmental Protection Agency, and
- (e) the provisions of the Cavan County Development Plan 2014-2020,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not give rise to an undue risk of water pollution, would not be prejudicial to public health and would 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

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Lough Sheelin Special Protection Area (Site Code: 004065), Moneybeg and Clareisland Bogs Special Area of Conservation (Site Code: 002340) are the 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 European Sites in view of the site's Conservation Objectives Lough Sheelin Special Protection Area (Site Code: 004065), Moneybeg and Clareisland Bogs Special Area of Conservation (Site Code: 002340). 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 likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, mitigation measures including specific measures for land-spreading of organic fertiliser which are included as part of the current proposal (section 5 of the Natura impact statement), and the Conservation Objectives for these 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 sites' 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 European sites in view of the sites' Conservation Objectives.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment in compliance with section 172 of the Planning and Development Act 2000, as amended of the proposed development taking into account the nature, scale, location and extent of the proposed development, the Environmental Impact Assessment Report and associated documentation submitted with the application, the submissions from the applicant, the appellant and the planning authority, and the Planning Inspector's report.

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.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- Water and Biodiversity: Potential impacts on groundwater, surface water and downstream water dependent habitats and species arise from the generation, storage and discharge of organic waste and soiled water from the site. Measures to avoid potential impacts

include the provision of an adequate storage capacity, leak detection systems and disposal off site of organic waste, in accordance with the requirements of the Nitrates Directive, and the separate management of storm water and soiled water (to be directed to slurry storage tanks),

- Air: Potential impacts on air quality could arise from odour generated by the pig farm, with indirect effects on people and material assets. Mitigation measures to avoid, prevent or reduce such effects include continuous washing, disinfecting and resting of housing between batches, optimum stocking rates, adequate ventilation, storage of carcasses in sealed containers and removal of manure by vacuum and management of the farm generally in accordance with the requirements of an Industrial Emissions Licence.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in section 4 and 7 of the E.I.A.R. and, subject to compliance with the conditions set out below, 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.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 mitigation and monitoring measures set out in sections 4 and 7 of the Environmental Impact Assessment Report and in section 5 of the Natura impact statement submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: To protect the environment.

3. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water shall comply with the requirements of the planning authority for such works and services. Surface water run-off shall be discharged via an appropriately designed silt trap/petrol interceptor into the field drain. All contaminated and soiled waters shall be directed to the manure storage tanks located on site. All drainage details and the location of the water supply to the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

4. Prior to the commencement of development, detailed design of the entrance to the site shall be submitted to the planning authority for written agreement and the hedgerow alongside the local road (L7087-0) shall be set back in accordance with these details.

Reason: In the interest of traffic safety.

5. Prior to the commencement of development, a survey of the site for the presence of bats shall be carried out by a suitably qualified specialist and submitted to the planning authority, and if necessary, an application made to the National Parks and Wildlife Services for a derogation licence.

Reason: In the interest of maintaining and safeguarding biodiversity.

6. The proposed pig farm shall be run in strict accordance with the requirements of the European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2017, as amended, and shall provide at least for the following to the planning authority prior to the commencement of development:-
 - (a) details of the number of livestock to be housed at the development at any one time,
 - (b) the arrangements for the collection, storage and disposal of all effluent generated from the facility, and

- (c) the arrangements for the cleansing and disinfecting of buildings and structures including the public road where relevant.

Reason: In order to avoid pollution and protect residential amenity.

7. All liquid effluent and other contaminated run-off generated by the proposed development in the farmyard shall be conveyed through properly constructed channels to the proposed storage facilities and no effluent or other contaminated run-off shall discharge or allowed to be discharged to any stream, river, watercourse or public road.

Reason: In the interest of public health.

8. Slurry generated by the proposed development shall be disposed of by spreading on land or other acceptable means to be agreed in writing with the planning authority. The location, rate and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in accordance with the requirements of the European Union (Good Agricultural Practice for the Protection of Waters) Regulations 2017, as amended.

Reason: To ensure the satisfactory disposal of waste material in the interest of amenity, public health and to prevent pollution of watercourses.

9. Details of the colour of all external finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

10. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This plan shall be prepared in accordance with “Best Practice Guidelines on the Preparation of Waste Management Plans for the Construction and Demolition Projects” published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provisions of the Waste Management Plan for the region of which the site is situated.

Reason: In the interest of sustainable waste management.

11. 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 hours of working, noise management measures and means to protect the public road.

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

12. 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.

Maria FitzGerald

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

Dated this day of 2020