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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Louth County Council**

**Planning Register Reference Number: 19113**

**Appeal** by James Carolan and Deirdre Lynch and Others care of EPH Services of 154 Riverside Drive, Red Barns Road, Dundalk, County Louth against the decision made on the 23<sup>rd</sup> day of August, 2019 by Louth County Council to grant subject to conditions a permission to John Lambe care of CLW Environmental Planners Limited of The Mews, 21 Farnham Street, Cavan, County Cavan in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Construction of one number pig house together with all ancillary structures, (to include meal storage bin(s)), and all site works associated with the proposed development at Rossmakay, Knockbridge, County Louth. The proposed development was revised by further public notices received by the planning authority on the 2nd day of July, 2019, and by notices received by An Bord Pleanála on the 27th day of March, 2020.

## **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**

### **Appropriate Assessment Screening**

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Dundalk Bay Special Area of Conservation (Site Code: 000455) and the Dundalk Bay Special Protection Area (Site Code: 004026) are the European Sites for which there is a likelihood of significant effects.

### **Appropriate Assessment**

The Board considered the revised Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for these European Sites in view of the sites' 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,

- (i) the likely impacts arising from the proposed development, both individually and in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) 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 would not adversely affect the integrity of European Sites Dundalk Bay Special Area of Conservation (Site Code 000455) and the Dundalk Bay Special Protection Area (Site Code 004026), in view of the sites' Conservation Objectives.

### **Environmental Impact Assessment**

In compliance with Section 172 of the Planning and Development Act 2000, the Board completed an environmental impact assessment of the proposed development, taking into account:

- (i) the nature, scale, location, and extent of the proposed development,
- (ii) the Environmental Impact Assessment Report and associated documentation submitted with the application,
- (iii) the submissions on file, and

(iv) the report of the Inspector.

The Board considered that the Environmental Impact Assessment Report, supported by the information submitted by the applicant, identifies and describes adequately the direct, indirect 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. The Board is satisfied that the Inspector's report sets out how these were addressed, in the assessment and recommendation, 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, 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.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are –

- (a) the potential for water pollution during construction and operation of the pig house site and from inappropriate application of manure as a fertiliser to land, and
- (b) the potential for air pollution and odour associated with the building ventilation and the inappropriate application of manure as a fertiliser to land,

which will be mitigated by construction environmental management measures and through adherence to regulations which control spreading of slurry to land (including codes of best practice). In this regard, the Board noted that the effluent arising can be spread on the applicant's lands in the vicinity of the site, where it will replace the use of imported fertiliser.

The Board is satisfied that this reasoned conclusion is up to date at the time of taking this decision.

### **Conclusions on Proper Planning and Sustainable Development**

Having regard to the provisions of the Louth County Development Plan 2015-2021, the nature, scale and extent of the proposed development and the associated lands, the location of the proposed development in an area of fertile agricultural lands, and the distance to dwellings or other sensitive receptors from the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenity of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, 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 received by the planning authority on the 2<sup>nd</sup> day of July 2019, and by the further plans and particulars received by An Bord Pleanála on the 27<sup>th</sup> day of March, 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 mitigation measures included in the Environmental Impact Assessment Report and Natura Impact Statement shall be implemented in full.

**Reason:** In the interest of clarity.

3. The proposed underground tank shall be constructed to Department of Agriculture, Food and The Marine specifications with leak detection underneath. The structure shall be certified by an indemnified structural engineer prior to use and at least every five years following an inspection and a report submitted to the planning authority confirming its structural stability.

**Reason:** In the interest of sustainable development and pollution control.

4. All silt drains and farmyard discharge shall be in accordance with the specifications within the Department of Agriculture's Minimum Specifications for Farmyard Drainage, Concrete Yards and Roads.

**Reason:** In the interest of sustainable development and pollution control.

5. The storage, handling and use of all wastes and fertilisers arising on site shall be in accordance with SI 605 of 2017, as may be amended.

**Reason:** In the interest of sustainable development and pollution control.

6. Entrance details, including gates, shall comply with the requirements of the planning authority for such works.

**Reason:** In the interest of traffic safety.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.

8. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

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.

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

**Dated this                      day of                      2020.**