



Planning and Development Acts 2000 to 2019

Planning Authority: Clare County Council

Planning Register Reference Number: P19/31

Appeal by Michael J. Duffy of 1 Clós na hEaglaise, Kilfenora, County Clare against the decision made on the 27th day of September, 2019 by Clare County Council to grant subject to conditions a permission to Irish Water care of Nicolas O'Dwyer Limited of Unit 4E, Nutgrove Office Park, Nutgrove Avenue, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: 1. Provision of the following in the townland of Kilcarragh: Construction of a new 330 PE wastewater treatment plant and demolition of the existing treatment works. The development will consist of inlet works, a storm water storage tank, treatment works including tertiary filtration and UV disinfection, sludge treatment, a control kiosk, flood protection bund, site lighting, a 2.4 metres high security fence and a scheme identification sign. All associated site development and site excavation works above and below ground for the wastewater treatment plant. 2. Provision of the following in the townland of Ballybreen: Construction of a percolation area, including a treated effluent pumping station, a control kiosk, an internal road, site lighting, a 1.2 metres high fence and a scheme identification sign. All

associated site development and site excavation works above and below ground for the percolation area. All at Kilfenora, County Clare. The proposed development was revised by further public notices received by the planning authority on the 6th 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

It is considered that the proposed Kilfenora wastewater treatment plant, including the provision of tertiary filtration, UV disinfection and a percolation area, would, subject to compliance with the conditions set out below, constitute a significant improvement in the standard of treated effluent currently discharged, would provide a suitable means of dispersing the treated effluent, would eliminate direct discharge to ground, would be acceptable in terms of flood risk, public health and traffic safety and would not seriously injure the residential amenities of the area or of property in the vicinity. 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 East Burren Complex Special Area of Conservation (Site Code: 001926), the Corofin Wetlands Special Protection Area (Site Code: 004220) and the Inagh River Estuary Special Area of Conservation (Site Code: 000036) are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement (incorporating an updated appropriate assessment screening report submitted at appeal stage) and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for the East Burren Complex Special Area of Conservation (Site Code: 001926) and Corofin Wetlands Special Protection Area (Site Code: 004220) and Inagh River Estuary Special Area of Conservation (Site Code: 000036) 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 Appropriate Assessment, the Board considered, the likely direct and indirect impacts (including potential water quality impacts during construction and operation) arising from the proposed development both individually or in combination with other plans or projects, the mitigation measures including the project design and discharge standards which are included as part of the current proposal, the Conservation Objectives for these European Sites and the view of the Department of Culture, Heritage and the Gaeltacht.

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 in view of the sites' 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 further plans and particulars submitted to the planning authority on the 30th day of July, 2019 and as revised by the details submitted to An Bord Pleanála on the 26th day of November, 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 developer shall comply with all mitigation and environmental commitments in the application documentation, including those identified in the Ecological Impact Assessment Report, the Natura Impact Statement and the finalised Construction and Environmental Management Plan.

Reason: In the interest of development control and clarity.

3. The demolition and construction shall be managed in accordance with a Construction and Environmental 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 the proposed construction practice for the development including traffic management, noise management measures, hours of construction and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity and to ensure proper disposal of waste.

4. The percolation area shall comply with the requirements of Table B.3 of the Code of Practice: Wastewater Treatment Systems for Single Houses, published by the Environmental Protection Agency in 2009.

Reason: To ensure suitable separation between the percolation area and karst features.

5. The effluent quality standards to be achieved at the wastewater treatment plant shall be as follows:

Parameter	Unit	Final effluent standard at wastewater treatment plant
BOD	mg/l	10
COD	mg/l	40
Ammonia	mg/l	1.0
Nitrates	mg/l	50
Ortho-Phosphate	mg/l	0.5
Suspended solids	mg/l	10

Pathogenic reduction	-	Log 3 reduction
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Reason: In the interest of clarity.

6. 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 National Monuments Service of the Department of Culture, Heritage and the Gaeltacht 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 topsoil stripping, site investigations and other excavation works,
 - (c) cease works should archaeological material be found and consult with the National Monuments Service regarding any necessary mitigating action (for example, preservation in situ and/or archaeological excavation),
 - (d) provide arrangements, acceptable to the National Monuments Service, for the preservation in situ and/or archaeological excavation of archaeological material found on site,
 - (e) agree arrangements for post-excavation analysis, reporting and archiving following consultation with the National Monuments Service and the National Museum, and

- (f) submit a final report on the completed archaeological works to the National Monuments Service, the National Museum and the planning authority within one year, unless otherwise agreed.

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.

7. The development shall comply with the requirements of the planning authorities with respect to surface water management.

Reason: In order to protect water quality and to avoid the creation of flood risk.

8. Details of the materials, colours and textures of all the external finishes to the proposed buildings and structures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The new roadside boundary at the Ballybreen site shall be finished with either a low stone wall or a grass covered berm.

Reason: In the interest of the visual amenities of the area.

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

Dated this day of 2020.