



Planning and Development Acts 2000 to 2020

Planning Authority: Donegal County Council

Planning Register Reference Number: 19/51459

Appeal by Pete Duffy and Others care of Joe Bonner, Town Planning Consultant of The Airport Hub, Unit 1, Furry Park, Old Swords Road, Santry, Dublin against the decision made on the 10th day of September, 2020 by Donegal County Council to grant subject to conditions a permission to Irish Water care of Jacobs Engineering of 28 Adelaide Street, Belfast, Northern Ireland in accordance with plans and particulars lodged with the said Council:

Proposed Development: (1) Demolition of existing blockwork walls and construction of a Wastewater Pumping Station (WwPS) with approximately 19 cubic metre storage; (2) Construction of a Wastewater Treatment Plant (WwTP) and a new vehicular access on to the L-5983 road. The WwTP will provide primary treatment for 300 population equivalent (PE); (3) Installation of associated gravity sewers, flushing system, rising mains and extension of the existing sewer with increased diameter and (4) associated ancillary works to the WwPS and WwTP site along the R260 and L-5983 roads within the townlands of Burtonport and Leckenagh, County Donegal as revised by the newspaper notice received by the planning authority on the 4th day of June 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

It is considered that the proposed installation of gravity sewers, flushing system, rising mains together with a new wastewater pumping station and wastewater treatment plant serving the settlement of Burtonport, subject to compliance with the conditions set out below, would constitute a significant improvement in the standard of treated effluent currently being discharged into the harbour area and would be acceptable in terms of flood risk, public health and traffic safety and would not seriously injure the residential or commercial amenities of the area or property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment – Screening

The Board completed a screening exercise 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 Inspector's report and the submissions on file. In completing the screening exercise, the Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Rutland Island and Sound Special Area of Conservation (Site Code: 002283) is a European Site for which there is a possibility of significant effects and which must therefore be subject to Appropriate Assessment.

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 Rutland Island and Sound Special Area of Conservation (Site Code: 002283) in view of the site's Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's conservation objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following:-

- (i) Site Specific Conservation Objectives for the European Site,
- (ii) Current conservation status, threats and pressures of the qualifying interest features,

- (iii) Likely direct and indirect impacts arising from the proposed development, individually or in combination with other plans and projects, including the Burtonport Redevelopment Part 8 Application,
- (iv) The submissions on the file,
- (v) Mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the implications of the proposed development on the integrity of Rutland Island and Sound Special Area of Conservation (Site Code: 002283), having regard to the site's Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development individually or in combination with other plans or projects, would not adversely affect the integrity of Rutland Island and Sound Special Area of Conservation (Site Code: 002283) or other European sites in view of the site's Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

Conditions

1. The proposed 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 7th day of February, 2020, the 4th day of June, 2020 and the 22nd day of July, 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. The developer shall comply with all mitigation and environmental measures and commitments set out in the application documentation including those identified in the Natura Impact Statement and the Construction and Environmental Management Plan submitted with the application.

Reason: In the interest of protecting the environment and clarity.

3. The demolition and construction of the programme shall be managed in accordance with the Construction and Environmental Management Plan submitted to the planning authority on the 22nd day of July, 2020.

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

4. Prior to commencement of development, an invasive species management plan shall be submitted to the planning authority for written agreement. This management plan shall provide for appropriate management of any invasive species in or around the site.

Reason: In the interest of the proper planning and sustainable development of the area.

5. An ecological expert shall be engaged on site for the duration of the works to supervise, monitor and ensure the strict implementation of the construction environmental management plan together with the mitigation measures set out in the Natura Impact Statement and to ensure the appropriate implementation of the invasive species management plan.

Reason: To ensure the ecological integrity of the area and the preservation of qualifying interests associated with Natura 2000 sites.

6. 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 commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for 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 provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

7. Any bulk fuel storage tanks shall be properly bunded with a bunding capacity of at least 110% of that of the fuel tank.

Reason: To ensure the integrity and preservation of Natura 2000 sites and the qualifying interests.

8. The developer shall facilitate the preservation, recording and protection of archaeological/industrial heritage 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 topsoil stripping, site investigations and other investigation works,
 - (c) cease works should archaeological material be found and consult with the planning authority regarding any mitigation action (for example, preservation in situ and/or archaeological excavation),
 - (d) provide arrangements acceptable to the planning authority, for the preservation in situ and/or archaeological/industrial heritage excavation of such material found on site,

- (e) agree arrangements for post excavation analysis, reporting and archiving following consultation with the planning authority, National Monument Service and National Museum, and
- (f) submit a final report on the completed archaeological works to the National Monuments Service, National Museum and the planning authority within one year unless otherwise agreed.

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

- 9. The development shall comply with the requirements of the planning authority in respect of surface water management.

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

- 10. All service cables associated with the proposed development shall be located underground.

Reason: In the interest of visual amenity.

11. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Saturdays inclusive and not at all on Sundays or 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 amenities of property in the vicinity.

12. Details of the materials, colours and textures of all external finishes to the proposed buildings and structures above ground shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Details of the roadside boundary shall also be agreed in writing with the planning authority prior to commencement of development.

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

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

Dated this day of 2021