

An
Bord
Pleanála

Board Order
ABP-308942-20

Planning and Development Acts 2000 to 2021

Planning Authority: Galway County Council

Planning Register Reference Number: 19/1812

Appeal by Sustainable Bio-Energy Limited care of Halston of IHUB, Westport Road, Castlebar, County Mayo against the decision made on the 2nd day of December, 2020 by Galway County Council to refuse permission for the proposed development.

Proposed Development: The Biogas Plant will utilise anaerobic digestion technology to produce renewable energy and organic fertiliser. The plant will consist of: (i) two storey office building (509 square metres floor area) with connection to public sewer, incorporating, offices/reception area, switch room, laboratory, welfare facilities, meeting room, storage room and electrical switch room; (ii) single storey electrical substation building (14.43 square metres floor area) and associated banded transformer; (iii) 13.4 metres high feedstock reception building (3,806 square metres floor area) incorporating, airlock lobby, feedstock reception area, processing and mixing areas, pasteurisation vessels and ancillary heating technology, wash down area, feedstock quarantine area, storage areas, workshop area, hygiene facilities, digestate separation area and process wastewater tanks; (iv) banded tank farm (14,805 square metres) containing two number pump house buildings (216 square metres) and delivery pipework serving feedstock reception building, eight

number digester vessels (each of circa 15 metres in height and circa 5,120 cubic metres in capacity) and four number storage vessels (each of circa 15 metres and circa 5,120 cubic metres) fitted with gas collection roofs/domes, stairwell towers and gantries, banded digestate dispatch bays; (v) biogas purification plant on raised concrete apron including containerised electrical room and gas modules, gas scrubber and filter unit (up to 14 metres in height), compressors, cooler, chiller, bottling plant and loading bays; (vi) carbon dioxide processing building (10.44 metres in height, 138 square metres floor area) containing treatment plant and four number outdoor storage tanks (each of 12 metres in height and 50 cubic metres capacity) and dispatch area; (vii) odour control system comprising air scrubber units, carbon adsorption bed and associated stack of up to 23 metres in height; (viii) energy centre, containing combined heat and power (CHP) plant and two number standby boilers with exhaust stacks (16.4 metres in height); (ix) biogas ground flare stack (circa 8 metres in height) and gas booster station; (x) weighbridge with secure lift barrier and all ancillary development, including perimeter fencing, internal access roads, emergency entrance/exit, planted soil berm and landscaping, car parking, surface water settlement and storage lagoons, lighting and all civil engineering works for the disposal of foul and surface water. The development includes for construction of a new entrance to the site from the N18/R458 with associated signage and an access road (area of 1.734 hectares) from the new entrance to the biogas plant, all on a 10.01 hectares (ha) site located in the townlands of Ballynamantan, Kinicha and Glenbrack, County Galway. Permission is being sought for a period of 10 years and is a development that is for the purposes of an activity requiring an Industrial Emissions Licence from the Environmental Protection Agency (EPA).



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 condition set out below.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the policies and objectives set out in the National Planning Framework and the Regional and Spatial Economic Strategy for the Northern and Western Regional Assembly,
- (b) the policies and objectives set out in the Galway County Development Plan 2022-2028 and the Gort Local Area Plan 2013-2023,
- (c) the provisions of the Climate Action Plan 2021 and the Climate Action Plan 2023 (Government of Ireland),
- (d) the Draft Bioenergy Plan issued by the Department of Communications, Energy and Natural Resources in October 2014,
- (e) the National Policy Statement on the Bioeconomy issued by the Government of Ireland in January 2018,
- (f) the Waste Action Plan for a Circular Economy – National Waste Policy 2020-2025 issued by the Department of Environment, Climate and Communications in September 2020,
- (g) the Connaught Ulster Regional Waste Management Plan 2015-2021,
- (h) the Planning System and Flood Risk Management Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government and The Office of Public Works, (2009),
- (i) the nature, scale and design of the proposed development,
- (j) the pattern of existing and permitted development in the area,



- (k) the planning history of the site and the surrounding area,
- (l) the submissions and observations received, and
- (m) the report of the Inspector.

Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the:

- Coole-Garryland Special Area of Conservation (Site Code: 000252),
- Carrowbaun, Newhall and Ballylea Turloughs Special Area of Conservation (Site Code: 002293),
- East Burren Special Area of Conservation (Site Code: 001926),
- Lough Coy Special Area of Conservation (Site Code: 002117),
- Caherglassaun Turlough Special Area of Conservation (Site Code: 000238),
- Kiltartan Cave (Coole) Special Area of Conservation (Site Code: 000286),
- Termon Lough Special Area of Conservation (Site Code: 001321), and
- Coole-Garryland Special Protection Area (Site Code: 004107)

are the European sites for which there is a likelihood of significant effects. The Board noted the decision of the planning authority and submissions from third parties and prescribed bodies regarding the potential for significant effects on the Lough Cutra Special Area of Conservation (Site Code: 000299), Peterswell Turlough Special Area of Conservation (Site Code: 000318), Galway Bay Complex Special Area of Conservation (Site Code: 000268), and the Inner Galway Bay Special Protection Area (Site Code: 004031), but agrees with the conclusion in the Inspector's report that significant effects are not likely on these sites having regard to the absence of surface water and/or



groundwater pathway, the separation distance involved and the nature/sensitivity of their qualifying interests.

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 above sites' 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 sites' conservation objectives using the best available scientific knowledge in the field. The Board accepted the Inspector's conclusion that it is not feasible or practical to assess the impacts of feedstock supply and digestate land-spreading over a multiplicity of sources/destinations, particularly under the circumstances when these activities are already occurring and will be suitably controlled by good agricultural practice and legislation and determined that the cumulative impacts of these activities do not form part of the Appropriate Assessment of this project. In completing the assessment, the Board considered, in particular, the following:

- Site Specific Conservation Objectives for these European Sites,
- Current conservation status, threats and pressures of the qualifying interest features, likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- Submissions from observers, prescribed bodies and the reports of the planning authority, and
- 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 potential effects of the proposed development on the aforementioned European Sites. The Board identified that the main likely impacts arising from the proposed development on the European Sites would arise from operational air quality impacts on Coole-Garryland Complex Special Area of Conservation (Site Code: 000252) and Coole-Garryland Special Protection Area (Site Code: 004107), surface water quality impacts on Coole-Garryland Complex Special Area of Conservation and Coole-Garryland Special Protection Area at construction and operational stages, groundwater impacts to European Sites within the same groundwater body during construction and operational stages, and the impacts on Lesser Horseshoe Bats of Kiltartan Cave (Coole) Special Area of Conservation (Site Code: 000286) as a result of lighting and the loss of foraging habitat and linear features. Having regard to these potential impacts and the avoidance and mitigation measures as set out in the Natura Impact Statement, the Board concluded that the proposed development, subject to the identified mitigation measures, would not adversely affect any of the habitats or species within the relevant European sites. In the overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European sites in view of the site's conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.



Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale, location and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted with the application, and the further particulars submitted to An Bord Pleanála on the 7th day of June 2022,
- (c) the reports and decision the planning authority, and the submissions received third party observers and the prescribed bodies in the course of the application and the appeal, and
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation and further information submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board agreed with the Inspector's conclusion that it is not feasible or practical to assess the potential impacts associated with the provision of feedstock, the disposal of digestate, and the connection of the gas to the national network, particularly under the circumstances when these activities/projects are already occurring and will be suitably controlled by good agricultural practice/legislation and/or separate planning processes. Accordingly, the issue of project-splitting does not arise in this case, and it is not reasonable or practical to assess the cumulative impacts of activities/projects associated with feedstock provision, digestate spreading or gas grid connection.



The Board agreed with the 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 planning application and the appeal. The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Direct positive employment impacts from the construction and operational stages, as well as indirect employment associated with haulage, services and other spin-off sectors.
- Potential risks associated with major accidents and/or disasters, which will be suitably mitigated through compliance with the relevant health and safety regulatory regimes and by limiting the quantities of dangerous substances present on site to levels below the relevant thresholds for the COMAH Regulations.
- Direct and indirect impacts on Biodiversity at the construction and operational stages due to the loss of habitat, disturbance of species due to noise and lighting, and impacts on water quality and air quality. These impacts will be addressed by embedded mitigation measures including a sealed effluent/water system and landscape/habitat creation. Construction stage impacts will be mitigated by the implementation of a Construction Environmental Management Plan including the establishment of a working corridor near treelines/hedgerows and an active approach to silt control. Operational stage impacts will be mitigated by the provision of suitable lighting and habitat creation, as well as future monitoring and remediation of habitat restoration proposals.



- Potential direct and indirect impacts on Hydrology and Hydrogeology at construction and operational stage as a result of construction materials/substance pollution, soil disturbance/removal, groundwater flood risk, and pollution from the operational processes and materials. These potential impacts will be mitigated through a Construction and Environmental Management Plan and appropriate operational measures for the bunding design, storage and containment of potential pollutants. Surface water management, including SuDS, attenuation, and interceptors, will be employed to ensure that all potential discharges to water will be adequately contained. Further ground investigations will inform the detailed foundation design for structures and ongoing Integrity test and monitoring will apply to all potential pollution sources. Any potential cumulative water impacts have been satisfactorily addressed by the mitigation measures included in the M18 Motorway project and by the recent upgrade to the capacity of the Gort Wastewater Treatment Plant.
- Direct air and odour impacts on sensitive receptors (including designated sites and biodiversity) and populations in the site vicinity as a result of emissions during the construction and operation stages. Construction stage impacts will be suitably distanced from sensitive receptors and will be mitigated by dust suppression measures. Operational air and odour emissions will be appropriately treated (including containment, CHP combustion, and odour abatement) and dispersed at height to comply with the Air Quality Standards Regulations 2011 (S.I. No. 180 of 2011) and stringent odour target values.
- Positive indirect impacts on Climate due to a reduction in carbon dioxide emissions through the production of biogas as a replacement of fossil energy sources.



- Direct Noise impacts during the construction phase which will be suitably mitigated through compliance with construction noise standards and a Construction Environmental Management Plan.
- Landscape and visual impacts due to the scale of the project, which will be mitigated by embedded design measures including the proposed layout, form and colours, as well as the creation of additional berm screening and landscape planting.
- Direct and indirect traffic and transport impacts which will be mitigated by the design of the proposed entrance and the control of haulage vehicle type and routes.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the proposed 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 the proposed development would be in accordance with national, regional and local policy relating to energy and waste, would be consistent with national climate ambitions and consistent with the provisions of the Climate Action Plan 2021 and the Climate Action Plan 2023 and notwithstanding the appeal is not zoned for industrial use and the proposed development does not include a connection to the gas or electricity network, the Board did not consider that the proposed development was precluded at this location by any of the policies and objectives set out in the Galway County Development Plan 2022-2028 or the Gort Local Area Plan 2013-2023. Furthermore, the Board considered that, subject to compliance with the conditions set out below, the proposed development would be an appropriate use at this location adjoining the planned industrial expansion of Gort, would not seriously injure the residential or visual amenities of the area, and would be acceptable in terms of pedestrian and traffic safety. The proposed development 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 on the 21st day of November, 2019, as amended by the further particulars received by An Bord Pleanála on the 7th day of June 2022, 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 ensure that all mitigation measures set out in the Environmental Impact Assessment Report and Natura Impact Statement submitted with the application, shall be implemented in full, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

3. The following limits and requirements shall be complied with in the anaerobic digestion process:
 - (a) A maximum of 90,000 tonnes per annum of raw materials shall be treated in the anaerobic digesters.
 - (b) The composition of feedstock used as input into the anaerobic digestors shall be as detailed in Table 2.4 of Volume 2 of the Environmental Impact Assessment Report.

Reason: In the interest of clarity.

4. An annual report on the operation of the facility hereby permitted shall be submitted to the planning authority. The content of this report shall be as agreed in writing with the planning authority and shall include inter alia the following:
 - (a) details of the source of all feedstock and final disposal areas of digestate,
 - (b) the volumes of raw materials treated in the anaerobic digester in the previous 12 months,
 - (c) the volume and weight of digestate produced and stored in the previous 12 months, and

- (d) the volume and weight of Biomethane and Carbon Dioxide produced/stored on site in the previous 12 months.

Reason: In the interest of orderly development and to ensure compliance with the parameters set out in the application.

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

Reason: In the interest of public health and to ensure a proper standard of development.

6. The capacity and breakdown of the water/liquor supply sources to be utilised for feedstock mixing at the proposed development shall be in accordance with the further information submitted to An Bord Pleanála on the 7th day of June, 2022.

Reason: In the interest of public health and to ensure a proper standard of development.

7. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

8. (a) Prior to the commencement of development, and on an annual basis post operation, the developer shall submit a mobility plan setting out the haul routes to and from the site for the agreement of the planning authority. The plan shall indicate the main feedstock and digestate spreading locations and demonstrate as far as is practicable how routes to and from the site to these locations are restricted to the primary routes and avoid Gort town centre and residential areas.



- (b) All deliveries to and from the site shall be via Heavy Goods Vehicles and hauliers shall be contractually obliged to adhere to the haul routes agreed by Condition number 8 (a) above.

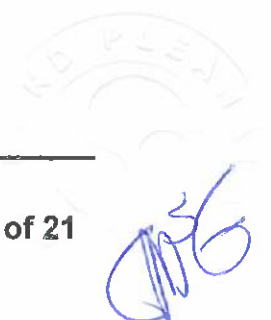
Reason: In the interest of traffic safety and to safeguard the amenities of the area.

9. Feedstock deliveries to the site and transport of digestate and biogases from the site shall be confined to between the hours of 0700 to 1900 Monday to Friday and between the hours of 0900 to 1500 on Saturday and Sunday.

Reason: In the interest of orderly development and the residential amenity of surrounding dwellings.

10. Prior to the commencement of development, the developer shall submit details for the written agreement of the planning authority, of the proposed entrance arrangements and compliance with the recommendations of the Road Safety Audit, including details of signage, lighting and road markings.

Reason: In the interest of traffic safety.



11. Permission is hereby granted on the basis that the maximum quantity of biogas and/or biomethane present on the site at one time can never exceed the relevant lower tier thresholds under the Seveso Directive. Prior to the commencement of development, the developer shall submit details for the written agreement of the planning authority that clearly demonstrate compliance with these limits, including details of operational controls to limit the quantities, such as, but not limited to, the monitoring of liquid levels in tanks, monitoring biogas concentrations in the vapour spaces of the tanks, and the use of flaring to manage inventory.

Reason: In the interest of clarity and to prevent the facility from becoming an establishment for the purposes of the Seveso III Regulations.

12. Following further ground investigations and prior to the commencement of development on site, the developer shall submit for the written agreement of the planning authority details of the proposed foundation and bund design. Proposals shall clearly demonstrate that mitigation measures relating to the protection of soil, geology, hydrogeology and groundwater have been appropriately incorporated, and that the bund design shall withstand the uplift pressure of groundwater.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

13. The existing hedgerows along the eastern site boundary shall be retained, protected from damage, and enhanced in such a manner as to ensure that its value as a commuting and foraging habitat is protected. A revised Landscape Mitigation Plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and shall clearly detail proposals in this regard including the precise extent of existing hedgerow to be retained.

Reason: To ensure the protection of a feature of importance for bats.

14. The developer shall facilitate the planning authority in preserving, recording, or otherwise protecting 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 satisfactory arrangements for the recording and removal of any archaeological material which may be considered appropriate to remove.

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

15. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be permitted in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.



16. The construction of the development 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 incorporate all the construction stage mitigation measures outlined in the Environmental Impact Assessment Report and Natura Impact Statement, and shall provide details of intended construction practice for the development, including and not limited to:

- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
- (b) location of areas for construction site offices and staff facilities,
- (c) details of site security fencing and hoardings,
- (d) details of car parking facilities for site workers during the course of construction,
- (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site if required,
- (f) measures to obviate queuing of construction traffic on the adjoining road network,
- (g) measures to prevent the spillage or deposit of clay, rubble, or other debris on the public road network,
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,
- (i) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (j) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,

- (k) details of construction lighting,
- (l) details of key construction management personnel to be employed in the development, and
- (m) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan and monitoring results as appropriate shall be kept for inspection by the planning authority.

Reason: In the interests of amenities, environmental protection, public health, and safety.

17. Monitoring of the construction phase shall be carried out by a suitably qualified and competent person to ensure that all mitigation measures outlined in the Environmental Impact Assessment Report and Natura Impact Statement are fully implemented. In addition, the designated member of the company's staff shall interface with the planning authority and members of the public in the event of complaints or queries in relation to environmental emissions. Details of the name and contact details, and the relationship to the operator of this person shall be available at all times to the planning authority on request whether requested in writing or by a member of staff of the planning authority at the site.

Reason: To safeguard the amenities of the area.

18. 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.

Reason: In the interest of sustainable waste management.

19. All solid wastes arising on the site shall be recycled as far as possible. Material exported from the site for recovery, recycling or disposal shall be managed at an approved facility and in such a manner as is agreed with the planning authority. In any case, no such wastes shall be stored on the site except within the confines of the buildings on site. Adequate on-site arrangements for the storage of recyclable materials prior to collection shall be made to the satisfaction of the planning authority.

Reason: To safeguard the amenities of the area.

20. Lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. The scheme shall minimise obtrusive light outside the boundaries of the development at all times and shall comply with the mitigation measures for bats as outlined in the Natural Impact Statement.

Reason: In the interests of amenity, public safety and the protection of bats.

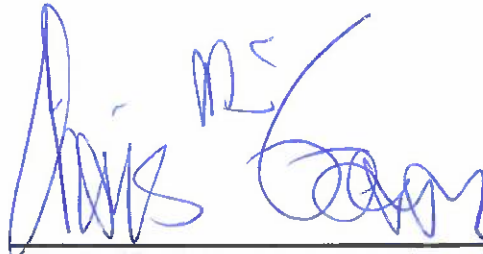
21. An odour management plan, which shall include a monitoring programme, shall be put in place by the developer in respect of the construction and operation phase of the development. The nature and extent of the plan and the monitoring sites shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The results of the programme shall be submitted to the planning authority on a monthly basis.

Reason: To protect the residential amenities of the area.

22. 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.



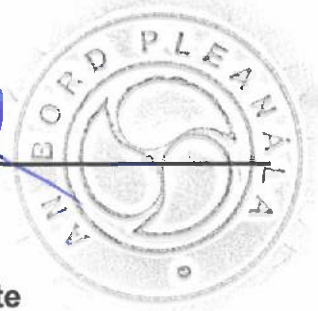
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission



Chris McGarry

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**



Dated this ^{22nd} day of ^{December} 2022.