



Planning and Development Acts 2000 to 2020

Planning Authority: Westmeath County Council

Planning Register Reference Number: 20/6168

Appeal by Seamus Murphy of Rathgarrett, Toar, Tyrellspass, County Westmeath and Barry Murphy of Rathgarrett, Toar, Tyrellspass, County Westmeath against the decision made on the 7th day of December, 2020 by Westmeath County Council to grant subject to conditions a permission to Bord na Móna care of Fehily Timoney and Company of J5 Plaza, North Park Business Park, North Road, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Retention and continuation of development at a site at Toar Biomass Facility in the townland of Rathgarrett, County Westmeath. The development consists of works for an existing biomass facility on a site of 14.34 hectares. The facility is used for the storage and seasoning of biomass logs (6 - 9 months) followed by chipping of the seasoned logs. The proposed retention development consists of the installation of temporary structures, a weighbridge cabin (7.44 square metres) and a weighbridge (125 square metres). Retention permission is also sought for a biomass storage area (circa 4.7 kilometres linear log storage space equating to 24,910 tonnes of wet logs), a low steel post and rail fence with gates at the entrance from the L1113, unpaved access tracks (4.7 kilometres in length), a paved roadway (120

metres total length from the site entrance) and all ancillary works. The log storage area or long pile is linear with a diameter of circa 4 metres and up to a height of 4.1 metres. There is no storage of chipped biomass on site. This site will be operational until 2030. Planning permission is sought for alterations to improve the existing access of the L1113, all at Toar, Rathgarrett, Tyrellspass, County Westmeath.

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 the nature of the development for which retention is sought which is in accordance with government policy to promote renewable energy use, as set out in plans and policies at national, regional and local level, to the pattern of development in the area and to the scale of the operation to be retained, it is considered that, subject to compliance with the conditions set out below, the development for which retention is sought would not seriously injure the amenities of the area, or unduly impact on nature conservation in the area or on the use of the adjoining local road by other users, and would,

therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out, retained and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 18th day of November, 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. This facility shall only be used between 0700 hours and 1900 hours on Mondays to Fridays inclusive, and only between 0800 hours and 1400 hours on Saturdays. It shall not operate on Sundays or public holidays.

Reason: In the interest of amenity.

3. The developer shall ensure that activities at the site shall not give rise to noise levels beyond the site boundary which exceed 55dB(A) L_{eq} :20 minutes.

In addition, noise levels measured at noise sensitive locations in the vicinity of the site shall not exceed a level of 10dB(A) above the existing noise levels.

Noise measurements shall be carried and assessed in accordance with Environmental Protection Agency 'Guidance Note for Noise: Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4)', at any time at the request of Westmeath County Council. Noise sensitive locations shall be agreed in writing with the planning authority prior to the carrying out of noise measurements.

Reason: In the interest of amenity.

4. Dust deposition from the works at the site boundary shall not exceed 350mg/sq.m/day (based on a 30-day composite sample) as measured using the Bergerhoff Gauge method or 130mg/sq.m/day measured on a "Frisbee" type dust gauge. Dust monitoring shall be submitted to the planning authority on request.

Reason: In the interest of amenity.

5. The developer shall comply with the requirement of the planning authority in relation to the storage of fuel and oil on the site, including the provision of an oil/fuel “spill kit” or similar. Such measures shall be subject to the written agreement of the planning authority within three months of the date of this Order.

Reason: In order to protect waters.

6. (a) No contaminated surface water shall be discharged to any surface water drainage system.
- (b) The developer shall carry out grab sampling annually, downstream of the facility, to test for the parameters required by the planning authority and the results shall be submitted to the planning authority.

Reason: In order to protect waters.

7. This permission is for a period up to 31st day of December, 2030. The use of the facility shall cease at that date unless its continued use is permitted by a future planning permission.

Reason: In the interest of clarity.

8. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48 (2) (c) of the Planning and Development Act 2000 in respect of road restoration works on the L-1113 at the entrance due to the associated HGV turning movements. The amount of the contribution 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 for determination. The contribution shall be paid within three months from the date of this Order or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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 within three months from the date of this Order 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.



Terry Prendergast

Member of An Bord Pleanála

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

Dated this *11th* day of *May* 2021