

An
Bord
Pleanála

Board Order
ABP-311830-21

Planning and Development Acts 2000 to 2021

Planning Authority: Tipperary County Council

Planning Register Reference Number: 21/615

Appeal by Joseph Power of Heaney's Place, Heaney's Boreen, Kilmacthomas, County Waterford against the decision made on the 5th day of October, 2021 by Tipperary County Council to grant subject to conditions a permission to AEM Farms Limited care of Aidan Kelly of Molough, Newcastle, Clonmel, County Tipperary in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of: (i) Overground effluent tower. (ii) Walled silage slab and all associated site works. Demolition of existing silage pit required, all at Killaghy, Mullinahone, Thurles, County Tipperary, as revised by the further public notices received by the planning authority on the 12th day of August, 2021 which included the submission of a Natura Impact Statement.

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.

Reasons and Considerations

Having regard to the provisions of the Tipperary County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1:

The Board completed an appropriate assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites taking into account the Stage 1 Appropriate Assessment submitted with the further information response to the planning authority, and the report and screening assessment, as completed by the Inspector, which concluded that the Lower River Suir Special Area of Conservation (Site Code: 002137) is the only European Site for which the proposed development has the potential to have significant effects. The Board concluded that appropriate assessment was required for this European Site.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and associated documentation submitted, the mitigation measures contained therein, and the submissions on file, and carried out an appropriate assessment of the implications of the proposed development for the Lower River Suir Special Area of Conservation (Site Code: 002137) in view of the Conservation Objectives for the site. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment and to allow it to reach complete, precise and definitive conclusions for appropriate assessment. In completing the assessment, the Board considered, in particular, the likely direct and indirect impacts arising from the proposed development, both individually and in combination with other plans and projects, and the 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 by the Inspector of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's Conservation Objectives. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the Lower River Suir Special Area of Conservation (Site Code: 002137) in view of the Conservation Objectives of the site and that 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 received by the planning authority on the 12th day of August, 2021, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All mitigation measures and environmental commitments identified in the Natura Impact Statement shall be implemented in full as part of the proposed development.

Reason: In the interest of environmental protection.

3. All oxidisable and galvanised surfaces of the proposed development shall be painted a dark green matt colour or similar dark matt colour and shall be so maintained in perpetuity.

Reason: In the interest of visual amenity.

4. All foul effluent and slurry generated by the proposed development and in the farmyard shall be conveyed through properly constructed channels to the proposed and existing storage facilities and no effluent or slurry shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road.

Reason: In the interest of public health.

5. Slurry generated by the proposed development shall be disposed of by spreading on land, or by other means acceptable, as agreed in writing with the planning authority. The location, rate and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in accordance with the requirements of the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations, 2017, as amended.

Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of watercourses.

6. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains, streams or adequate soakpits and shall not discharge or be allowed to discharge to the foul effluent drains, foul effluent and slurry storage tanks or to the public road.

Reason: In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.

7. A minimum of 16 weeks storage shall be provided in the underground storage tank. Prior to commencement of development, details showing how it is intended to comply with this requirement shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of environmental protection and public health.

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

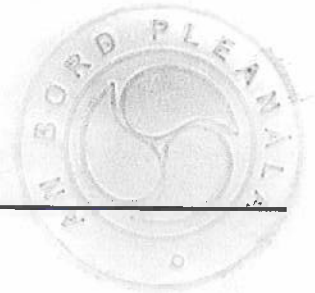
Reason: In the interest of environmental protection and public health.



Peter Mullan

Member of An Bord Pleanála

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



Dated this *26th* day of *January*, 2023.