

An  
Bord  
Pleanála

**Board Order**  
**ABP-312450-22**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Tipperary County Council**

**Planning Register Reference Number: 20/1348**

**Appeal** by Seamus Moloney of Mortlestown, Cahir, County Tipperary and by Jim and Marie Casey of Shortcastle, Cahir, County Tipperary against the decision made on the 7<sup>th</sup> day of December, 2021 by Tipperary County Council to grant subject to conditions a permission to Michael McEniry care of NRGE Limited of Mooresfort, Lattin, County Tipperary in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Construction of a covered geomembrane lined manure storage basin and associated works, all at Kedrah, Cahir, County Tipperary as amended by the revised public notice received by the planning authority on the 14<sup>th</sup> day of October, 2021.

## **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 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 the amenities 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 Screening:**

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted to the planning authority and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development could have a significant effect on the Lower River Suir Special Area of Conservation (site code: 002137) in view of the site's conservation objectives, and that a Stage 2 Appropriate Assessment is, therefore, required.

## **Appropriate Assessment**

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 definite 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 for the site and that there is no reasonable scientific doubt as to the absence of such effects.

## **Conditions**

1. The 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 14<sup>th</sup> day of October, 2021 and by the further plans and

particulars received by An Bord Pleanála, 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. 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. 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.

4. Organic fertilizer generated by the proposed development shall be applied to the holding as indicated by the Nutrient Management Plan submitted to the planning authority on the 14<sup>th</sup> day of October, 2021, unless otherwise agreed in writing to 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, 2022, as amended.

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

5. 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.

6. The installation of the proposed geomembrane lined slurry store shall be carried out in compliance with S126 Minimum Specification for Geomembrane Lined Slurry/Effluent Stores and Ancillary Works issued by the Department of Agriculture, Food and the Marine. Within 2 weeks of installation, the developer shall submit a copy of the contractor's certificate of ground preparation and leak tightness for geomembrane lined slurry stores to the planning authority for written approval.

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

7. 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.

  
Eamonn James Kelly  
Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.



Dated this 31<sup>st</sup> day of May, 2024.