

An  
Bord  
Pleanála

**Board Order**  
**ABP-312631-22**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Kilkenny County Council**

**Planning Register Reference Number: 21/44**

**Appeal** by Bellevue Residents Association care of RM Doherty of Gorteens, Slieverue, County Kilkenny against the decision made on the 6<sup>th</sup> day of January, 2022 by Kilkenny County Council to grant subject to conditions a permission to Glanbia Ireland DAC care of Malone O'Regan Consulting Engineers of 3-4 Canada Street, Waterford in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Amendments to previously approved development (planning reference 12/234); An Bord Pleanála reference PL10.241077 and Planning Reference 17/153) comprising the development of two boreholes and associated works for the purpose of water abstraction for use in the Milk Processing Plant. The application also seeks permission for the continued use of the existing construction compound for the duration of the works at IDA Science and Technology Park, Gorteens, Port Road, Slieverue, County Kilkenny.

## 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:

- (a) the written submissions made in respect of the application and appeal,
- (b) the established nature of the existing Glanbia development on the adjoining site, the detailed nature, scale and form of the development and its location relative to nearby sensitive receptors,
- (c) the specific operational water supply considerations at the site,
- (d) the mitigation measures which are proposed for the construction and operation phases of the development,
- (e) the provisions of the Kilkenny City and County Development Plan 2021-2027 and the Ferrybank/Belview Local Area Plan 2017, including the zoning of the subject lands under the latter plan for Industrial/Technology Park (ITP),
- (f) the planning history on the Glanbia site and the pattern of development in the area, including the proximity to the existing Glanbia facility and the separation distance of the site from existing dwellings,

- (g) the documentation submitted with the application, including the Natura Impact Statement, and
- (i) the report of the Planning Inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the development plan policies, would not seriously impact on borewells in vicinity of the site and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment Screening**

The Board considered the Natura Impact Statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites. The Board agreed with and adopted the screening assessment carried out and conclusions reached in the Inspector's report that Lower River Suir Special Area of Conservation (Site Code: 002137) and River Barrow and River Nore Special Area of Conservation (Site Code: 002162) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

## **Appropriate Assessment**

The Board considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an Appropriate Assessment of the implications of the proposed development for the aforementioned European Site in view of the sites' Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the Appropriate Assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (ii) the Conservation Objectives for the European Sites.

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, having regard to the sites' Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' Conservation Objectives.

## 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 on the 2<sup>nd</sup> day of December, 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 development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The temporary construction compound authorised under planning register reference number P17/153 may be continued for the duration of the proposed works but no more than three years from the date of this Order, whichever comes earlier.

**Reason:** In the interests of visual amenity, protection of the environment and proper planning and sustainable development of the area.

3. (a) The developer shall identify and monitor at least four adjacent homeowner wells for a minimum period of three years during the operational phase of the development. The monitoring locations shall be agreed with the planning authority prior to commencement of development. The monitoring shall be undertaken at least quarterly and shall include water level and water quality testing. An end of year report shall be submitted in Year 1, Year 2 and Year 3 unless requested or agreed otherwise by the planning authority. The planning authority may amend or add additional locations for monitoring at any time during the three-year period. The end of year reports shall assess the impact of the ongoing abstraction of groundwater on the adjacent wells.
- (b) Where it has been determined at 3(a) above or by the planning authority that the developers ongoing water abstraction is having a negative impact upon adjacent homeowner wells, the developer shall be required to agree and provide a replacement potable water supply to the affected homeowners. The full cost of such measures shall be borne by the developer.
- (c) The developer shall maintain a log of all water related complaints received from homeowners along with corrective actions. The planning authority may request a copy of the log at any time during the operational phase of the development.
- (d) Wells on-site which are not being used for groundwater abstraction shall be promptly decommissioned and closed in an environmentally safe manner. Details in this regard together with a time frame for decommissioning for the purposes of production shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of public health and to provide for the protection of existing groundwater supply in the locality

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include measures for monitoring dust, noise, groundwater and surface water and shall include a proposal for periodic reporting to the planning authority. 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.

5. During the construction works, all tank and drum areas shall be rendered impervious to the materials stored therein. In addition, tank and drum storage areas shall be bunded either locally or remotely to a volume not less than 110% of the capacity of the largest tank or drum within the bunded area. Drainage from the bunded area shall be diverted for collection and safe disposal.

**Reason:** To provide for the protection of the environment.

6. All of the environmental, construction and ecological mitigation measures, as set out in the Natura Impact Statement and associated documentation submitted with the application, shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this Order.

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

7. Monitoring of the construction phase shall be carried out by a suitably qualified competent person to ensure that all environmental mitigation measures contained in the documentation which accompany the application are fully implemented. A designated member of the developers' staff shall interface with the planning authority or 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 developer 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.



8. 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.



Stephen Bohan

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



Dated this  day of  2024.