

An
Bord
Pleanála

Board Order
ABP-313975-22

Planning and Development Acts 2000 to 2022

Planning Authority: Mayo County Council

Planning Register Reference Number: 21/93

Appeal by Gertie Gardiner of Mullafarry, Killala, County Mayo and by Asahi Local Residents' Association care of Alicia Duffy of Ballintiernan, Killala, County Mayo against the decision made on the 7th day of June, 2022 by Mayo County Council to grant subject to conditions a permission to Lisglennon Ad Limited care of Jennings O'Donovan and Partners Limited of Finisklin Business Park, Sligo in accordance with plans and particulars lodged with the said Council.

Proposed Development: An anaerobic digestion (ad) biogas facility and associated gas pipeline comprising of: renewable energy project consisting of an ad biogas facility using locally sourced silage and slurry as feedstock to generate biogas for export to the national grid with residual digestate being available for use locally as bio-fertiliser, two number grass silage storage clamps, access and circulation tract of circa 832 metres with average width of six metres, new site entrance on the Mullafarry Road and circa 236 metres of new four-metre-wide site access track and upgrade of circa 92 metres, pipeline of circa 8.6 kilometres located in the public road and verges to connect the ad facility to the national grid north of Ballina, all ancillary development, including a site office building, weighbridge, perimeter landscaping berm, fencing, lighting, attenuation tank and on-site drainage, all at Lisglennon, Ballybroony, Coonealmore, Coonealcauraun, Rathrooen, Culleens,

Laghtadawannagh and Farrannoo, Ballina, County Mayo, as revised by the further public notices received by the planning authority on the 12th day of May, 2022.

Decision

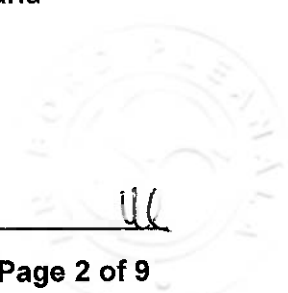
GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to:

- (a) national and regional policy objectives in relation to renewable energy, including in particular the Climate Action Plan 2023,
- (b) the provisions of the Mayo County Development Plan 2022-2028,
- (c) the nature, scale, extent and layout of the proposed development,
- (d) the topography of the area,
- (e) the existing hedging and screening on the site, and
- (f) the pattern of development in the area,

it is considered that, subject to compliance with the conditions set out below, the proposed development would support national and regional renewable energy policy objectives, would not conflict with the provisions of the development plan for the area, would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity, would not be likely to have significant effects on the environment, or the ecology of the area, would be acceptable in terms of traffic and safety, would be acceptable in terms of archaeology, and would not give rise to increased risk of flooding of the site or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



Appropriate Assessment: Stage 1:

The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that the Killala Bay/Moy Estuary Special Protection Area (Site Code: 004036), the Killala Bay/Moy Estuary Special Area of Conservation (Site Code: 000458), the River Moy Special Area of Conservation (Site Code: 002298), and the Lough Conn and Lough Cullin Special Protection Area (Site Code: 004228) are the European Sites in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the sites and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an appropriate assessment of the implications of the proposed development on the Killala Bay/Moy Estuary Special Protection Area (Site Code: 004036), the Killala Bay/Moy Estuary Special Area of Conservation (Site Code: 000458), the River Moy Special Area of Conservation (Site Code: 002298), and the Lough Conn and Lough Cullin Special Protection Area (Site Code: 004228) in view of the 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 scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following:

- (i) the site-specific Conservation Objectives for the European Sites,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) 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.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the sites' Conservation Objectives 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 6th day of October, 2021 and the 7th day of January, 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 proposed 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, as set out in the Natura Impact Statement, the Planning and Environmental Report, the Ecological Impact Assessment and other plans and particulars 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 the protection of the environment during the construction and operational phases of the proposed development.

3. A maximum of 60,500 tonnes per annum of a mix of feedstock of silage and slurry shall be treated in the anaerobic digester.

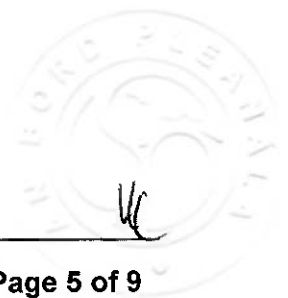
Reason: In the interest of clarity.

4. Feedstock deliveries to the site and the transport of digestate from the site shall be confined to between the hours of 0700 to 2000 Mondays to Fridays and between the hours of 0800 and 1800 on Saturdays, unless otherwise agreed in writing with the planning authority.

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

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. Surface water from the site shall not be permitted to drain onto the adjoining public road or adjoining properties.

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



6. The following wildlife protection measures shall be complied with:
- (a) The developer shall comply in full with the methodologies and mitigation measures in relation to badgers included in the Ecological Impact Assessment.
 - (b) No trees or hedgerows shall be cleared between the months of March to August (inclusive).
 - (c) All trees and hedgerows to be retained on the site shall be adequately protected during the period of construction in accordance with BS: 5837. Such measures shall include a protection fence which shall be erected beyond the branch spread, and no construction work or storage shall be carried out within the protective barrier.

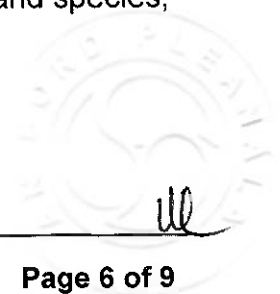
Reason: In the interest of wildlife protection.

7. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing the species, variety, number, size and locations of all proposed trees and hedgerows (which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder).
- (b) Specifications for mounding, levelling, cultivation and other operations associated with grass establishment.
- (c) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.



8. All road surfaces, culverts, watercourses, verges and public lands shall be protected during construction and, in the case of any damage occurring, shall be reinstated to the satisfaction of the planning authority.

Reason: In order to ensure a satisfactory standard of development.

9. 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 or public holidays. Deviation from these times shall only be allowed 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.

10. The construction of the proposed 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 include inter alia:

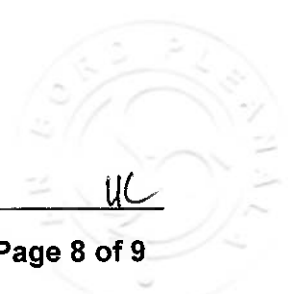
- (a) All mitigation and control measures outlined in the Planning and Environmental Report, the Natura Impact Statement, the Ecological Impact Assessment and all other plans and particulars submitted with the application.
- (b) Details of all archaeological or cultural heritage constraints as may be identified during pre-development archaeological testing and monitoring.
- (c) Details in relation to site access and traffic management.
- (d) Construction method statement in relation to the proposed gas pipeline.
- (e) Details of intended construction practice for the proposed development, including hours of working, noise management measures, and on-site management and off-site disposal of construction/demolition waste.

- (f) Details of the appointed Ecological Clerk of Works. The ecologist shall be present during site construction works. Ecological monitoring reports detailing all monitoring of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

Reason: To safeguard the amenities of the area.

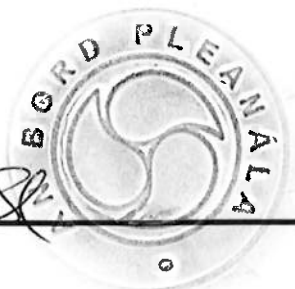
- 11. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operations (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,
 - (c) development of the pipeline will travel within the zone of the notification surrounding enclosure MA030-010. Archaeological testing shall be undertaken at this location in advance of any excavation works and a report on the findings forwarded to all relevant authorities, and
 - (d) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the planning authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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



12. 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.

Una Crosse

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *19th* day of *February* 2024.