

Planning and Development Acts 2000 to 2022

Planning Authority: Kerry County Council

Planning Register Reference Number: 2231

Appeal by Noel Donnelly of Caherdaniel Village, Killarney, County Kerry against the decision made on the 10th day of October, 2022 by Kerry County Council to grant subject to conditions a permission to Coiste Phobail Cathair Donall care of Vesi Environmental Limited of Dunhill, County Waterford in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of an integrated constructed wetland (ICW) for the treatment and management of existing untreated wastewaters from the village of Caherdaniel, County Kerry. A two-cell ICW treatment system including a settlement cell, pump chamber and associated works is proposed on lands located to the West of Saint Cronhan's church where wastewaters will be pumped for treatment. The treated effluent will discharge to the Coomnahorna River, at Caherdaniel (Cathair Dónall), Ballycarnahan, County Kerry.

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

Reasons and Considerations

Having regard to:

- (a) the 'Code of Practice, Domestic Waste Water Treatment Systems, (Population Equivalent \leq 10)', Environmental Protection Agency, March, 2021 and the 'Integrated Constructed Wetlands, Guidance Document for Farmyard Soiled Water and Domestic Wastewater Applications', Department of the Environment, Heritage and Local Government, 2010.
- (b) the Project Ireland 2040 National Planning Framework,
- (c) the Regional Spatial and Economic Strategy for the Southern Assembly,
- (d) the West Iveagh Local Area Plan 2019-2025,
- (e) the Kerry County Council Development Plan 2022-2028,
- (f) the nature, scale, and extent of the proposed development,
- (g) documentation submitted with the proposed application including further information received on 16th August 2022, as well as submissions and observations from prescribed bodies, the planning authority and any third parties,
- (h) the separation distances between the proposed development and dwellings or other sensitive receptors,
- (i) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the absence of likely significant effects of the proposed development on European Sites, and
- (j) the report of the Planning Inspector,

P.C.

it is considered that the proposed development would provide an appropriate nature based sustainable solution for the treatment of wastewater for this rural settlement and that, subject to compliance with the conditions set out below, it would accord with European, national, regional and local planning policy, it would not have an unacceptable impact on the environment or ecology, it would not injure the residential amenities of the area or of property in the vicinity and it would protect and improve water quality and integrate with the surrounding landscape. 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 nature, scale and location of the proposed development, the zoning of the site, the Screening for Appropriate Assessment and the Natura Impact Statement Report submitted with the application, the Inspector's report, and the 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 would not be likely to have an adverse effect on any European site in view of the conservation objectives of such sites, other than Kenmare River Special Area of Conservation (site code 002158), which was a European site where there is potential for adverse effects.

Appropriate Assessment – Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions on the file and carried out an Appropriate Assessment of the implications of the proposed development on Kenmare River Special Area of

Conservation (site code 002158), in view of that site's 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 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 Site, having regard to the site's 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 site in view of the site's conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

This conclusion is based on the measures identified to control the quality of water discharges which provide for the interception of silt and other contaminants prior to discharge from the site during construction and operation phase, and measures to limit disturbance during construction phase.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and the plans and particulars submitted with further information on the 16th day of August 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Natura Impact Statement, the Invasive Alien Species Management Plan, Japanese Knotweed Management Plan and Construction Environmental Management Plan submitted with this application, shall be carried out in full.

Reason: In the interest of protecting the environment.

3. (a) The integrated constructed wetland system shall be installed as per the details submitted with this application and as per the requirements and specifications of Uisce Éireann.

(b) Within four weeks of completion of installation and subsequent commissioning of the integrated constructed wetland, the applicant/developer shall submit a certificate from a suitably qualified person (and holder of up-to-date indemnity insurance),

stating that the onsite treatment system, final effluent discharge location and all sundries have been installed in accordance with the terms of the planning permission and in compliance with Uisce Éireann specifications and requirements.

Reason: In the interest of public health.

4. Prior to the commencement of development, the developer shall submit, for the written agreement of the planning authority, details of a maintenance contract or service contract for the on-going maintenance of the onsite wastewater treatment system to include all aspects of the integrated constructed wetland. This service contract must be held with the manufacturer or such suitably qualified person in perpetuity.

Reason: In the interest of public health.

5. No silt/sediment laden water generated during the construction of the integrated constructed wetland shall be discharged to any watercourse/drainage system.

Reason: In the interest of public health.

6. Access to free water surface wetlands shall be controlled and the wetland effectively closed except for maintenance. Details of fencing and boundary treatment shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity and public safety.

P.C.

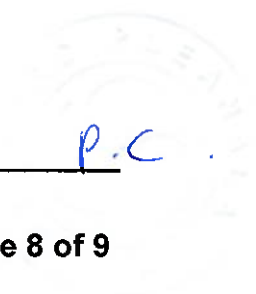
7. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, including Construction Stage Traffic Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) The appointment of a full-time, appropriately qualified environmental manager for the duration of the construction and development phases of the project, responsible for implementation of environmental control measures.
 - (b) The appointment of a full-time, appropriately qualified project ecologist to oversee the construction and development phases of the project, including pre-construction surveys.
 - (c) A Noise Management Plan identifying the potential noise impacts and mitigation of the same.
 - (d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains, and a site-specific water management plan providing details of measures to in accordance with the submitted Natura Impact Statement.
 - (e) A Construction and Demolition Resource Waste Management Plan as set out in the Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition projects (Environmental Protection Agency 2021).
 - (f) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.

- (g) Details of the management of construction traffic accessing the construction site.
- (h) In the event that complaints are received regarding noise, measures to facilitate investigation by Kerry County Council and abate the nuisance.
- (i) Details for the suppression of dust.
- (j) Details of site hoarding.
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained.
- (l) A record of daily checks that the works are being undertaken in accordance with the Construction and Environmental Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, environmental protection and safety.

8. In the event of complaints being received regarding odour nuisance arising from the development to which this permission relates, and upon investigation by the Kerry County Council such complaints are found to be justifiable, the developer shall upon written advice by the Council, retain the services of a specialist to establish the cause of the odour nuisance and outline remediation to abate the nuisance, to be implemented and maintained at the operators expense.

Reason: In the interest of residential amenity and public health.



9. Landscaping and retention of boundary screening (hedgerows/treelines) shall be carried out in accordance with the details which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity

Patricia Calleary

Patricia Calleary

Member of An Bord Pleanála

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

Dated this *11* day of *April* 2024.

P.C.