

An
Bord
Pleanála

Board Order
ABP-316132-23

Planning and Development Acts 2000 to 2022

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 22687

Appeal by Wild Ireland Defence CLG care of Peter Sweetman of Shangri La, Newtown, Bantry, County Cork against the decision made on the 27th day of February 2023 by Kilkenny County Council to grant, subject to conditions, a permission to Tirlán Limited (formerly Glanbia Ireland DAC) care of Malone O'Regan Consulting Engineers of 3/4 Canada Street, County Waterford in accordance with plans and particulars lodged with the said Council:

Proposed Development: The proposed development will consist of: Construction of two anaerobic digesters, one equalization tank to include concrete base, earth embankment and associated works; construction of biogas storage dome with biogas flare, desulfurization unit; construction of membrane and control building with yard slab and link road; construction of ferric chloride storage tank; installation of a new pipeline with underground and overground sections for the purpose of conveying renewable biogas to the Glanbia facility east of the N77 road; realignment of the existing internal road to facilitate vehicle movements; drainage works and all associated site works including landscaping. The dismantling and removal of an existing disused sludge mixing tank; dismantling and removal of an existing biotower. Ballyconra , Ballyragget , 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 the nature, scale and location of the proposed development within the existing wastewater treatment plant on the application site, and also having regard to; the established use on the application site and associated landholding; to the planning history pertaining to the landholding; to the environmental and ecological benefits accruing from the proposed development, in particular, the reduction in sludge requiring disposal per annum, the reduction in CO2 emissions per annum from existing operations on the landholding, the reduction in demand for natural gas to power existing operations on the landholding, and the on-site production and use of biogas to power existing operations, it is considered that, subject to compliance with conditions set out below, the proposed development would not adversely impact on the visual or residential amenities of the area, would not adversely impact on the receiving environment including the local ecology, would not pose an unacceptable risk to water quality in the area and would improve upon existing environmental impacts arising from existing operations on the site and associated holding. The Board was satisfied that a decision to grant permission for the proposed development would be consistent with its obligations under the Climate Action Plan 2024 and would not conflict with the objectives and targets of the National Biodiversity Plan 2023-2030. Furthermore, the Board was satisfied that the proposed development would not be contrary to the provisions of the Kilkenny City and County Development Plan 2021-2027. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1:

The Board considered the Natura Impact Statement submitted with the application, and all the other relevant submissions on file, and carried out an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites in the vicinity. The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that the River Barrow and River Nore Special Area of Conservation (Site Code 002162) and River Nore Special Protection Area (Site Code 004233) were the only European Sites in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for these sites and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for these European Sites 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 best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following:

- (i) the site-specific conservation objectives for these European Sites,
- (ii) the current conservation status, threats, and pressures of the qualifying interest features,
- (iii) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans and projects, and

(iv) 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 implications of the proposed development on the integrity of the aforementioned European Sites, having regard to the Sites' conservation objectives.

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 there was 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 to the planning authority, as amended by the further plans and particulars received by the planning authority on the 1st day of February 2023, 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 mitigation measures contained in the submitted Natura Impact Statement (NIS) shall be implemented.

Reason: To protect the integrity of European Sites.

3. The mitigation measures contained in the submitted Environmental Report shall be implemented.

Reason: To protect the Environment.

4. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Environmental Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including noise and dust management measures and off-site disposal of construction/demolition waste, soils and ground water protection.

Reason: In the interest of public safety and amenity.

5. Prior to the commencement of development, the applicant shall submit to, and agree in writing with, the planning authority, detailed design proposals for all works in the vicinity of the N77 which shall include, inter alia, programming for such works and reinstatement works on the N77. All such works shall comply with the requirements of the planning authority.

Reason: In the interest of clarity, road safety and to protect the integrity of the public road.

6. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between the hours of 0700 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will 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.

7. The developer shall engage a suitably qualified archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, and groundworks associated with the development.

Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with National Monuments Service regarding appropriate mitigation which may include preservation in-situ or full archaeological excavation.

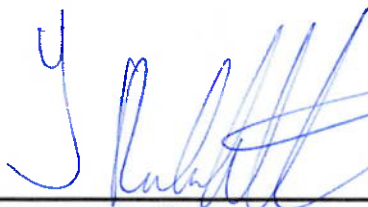
The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.

The planning authority and National Monuments Service of the Department shall be furnished with a final archaeological report describing the results of all archaeological monitoring and any archaeological investigative work/excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the development.

Reason: To ensure the continued preservation, either in situ or by record, of places, caves, sites, features or other objects of archaeological interest.

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.



Tom Rabbette

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

Dated this 25th day of FEB. 2025.

