



An
Bord
Pleanála

Board Order ABP-317749-23

Planning and Development Acts 2000 to 2022

Planning Authority: Donegal County Council

Planning Register Reference Number: 23/50686

Appeal by Northwest Energy Park Limited care of Earth Science Partnership Ireland Limited of Tonranny, Westport, County Mayo against the decision made on the 13th day of July, 2023 by Donegal County Council to refuse permission.

Proposed Development: Construction and continuous operation of an agricultural biogas renewable energy facility consisting of three number primary digester tanks, two number post digester tanks with pump room, pasteurisation unit with auxiliary tanks, emergency flare with base and security fencing, three number agricultural solid feeders with associated concrete bases, two number underground pre-reception tanks, two number covered agricultural digestate storage tanks, gas combined heat and power (CHP) unit with concrete base, site office/control building with associated staff car parking area and wastewater treatment system and percolating area, biogas upgrading treatment and compression system, electric transformer and sub-station with security fence, covered agricultural storage clamp, nutrient recovery system facility with ancillary tanks and equipment, four number ammonium sulphate solution (ASS) storage tanks with concrete bases, digestate drying and pelletising facility, pellet storage facility, (17) weighbridge, construction of new access and entrance improvement works, site lighting with security cameras, surface water drainage system with storage pond and discharge system, boundary

earth bunded areas, landscaping and boundary security fencing and all associated ancillary works, all at Maylin, Newtowncunningham, County Donegal.

Decision

GRANT permission for the above proposed development based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the provisions of the Donegal County Development Plan 2024-2030, Ireland's National Biomethane Strategy (May 2024), the Climate Action Plan 2024 and 2025, Ireland's 4th National Biodiversity Action Plan 2023–2030, the Revised National Planning Framework (April 2025), the nature, scale, extent and layout of the proposed development, the existing hedging and screening on the site, and 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 operative development plan, 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 Lough Swilly Special Area of Conservation (Site Code: 002287) and the Lough Swilly Special Protection Area (Site Code: 004075) are 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 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 Lough Swilly Special Area of Conservation (Site Code: 002287) and the Lough Swilly Special Protection Area (Site Code: 004075) 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) 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 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 received with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 11th day of February, 2025, 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 mitigation measures contained in the submitted Natura Impact Statement shall be implemented in full.

Reason: To protect the integrity of European Sites.

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

Reason: To protect the environment.

4. Prior to commencement of development, a Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority. The Traffic Management Plan shall set out details of proposed haul routes for HGVs and larger vehicles entering and exiting the proposed development and shall exclude any haul route that necessitates a left-hand turn from the N13 onto the L5024.

Reason: In the interest of road safety.

5. The following limits and requirements shall be complied with in the anaerobic digestion process:

- (a) The mix of plant feedstock shall be as described in Table 3.4 of the Environmental Report (April 2023) as submitted with the planning application.
- (b) There shall be no material change in the mix of feedstock or a change in the nature of the feedstock mix without the benefit of a further planning permission.

Reason: In the interest of clarity.

6. 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 0800 and 1800 hours 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.

7. 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.

8. The following wildlife protection measures shall be complied with:
- (a) Prior to commencement of development, a Lighting Plan shall be submitted to the planning authority for written agreement. This plan shall have regard to appropriate guidance and shall seek to minimise light pollution from the proposed development.
 - (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.

9. 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.

10. Site development and building works shall be carried out only between the hours of 0700 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.

11. 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 Preliminary Construction Environmental Management Plan and all other particulars submitted with the planning application.
 - (b) Details in relation to site access and traffic management.
 - (c) Details of intended construction practice for the proposed development, including noise management measures and on-site management and off-site disposal of construction/demolition waste.

Reason: To safeguard the amenities of the area.

12. The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works and topsoil stripping associated with the proposed development following consultation with the planning authority archaeologist. Prior to the commencement of such works, the archaeologist shall consult with and forward to the planning authority archaeologist, as appropriate, a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. 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 the National Monuments Service, regarding appropriate mitigation. 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. Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final

archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

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

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure that the public road is satisfactorily reinstated, if necessary.

14. 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.

15. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of any upgrades to the L-1214 and L-5024 roads which benefits the proposed development. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.

Dated this 13th day of June, 2025.