

An
Bord
Pleanála

Board Order
ABP-319883-24

Planning and Development Acts 2000 to 2022

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 24/60008

Appeal by Peter Sweetman and Wild Irish Defence CLG of PO Box 13611, Bantry, County Cork against the decision made on the 30th day of May, 2024 by Kilkenny County Council to grant subject to conditions a permission to Eamonn and Tom Phelan of Tullowglass, Jenkinstown, County Kilkenny in accordance with plans and particulars lodged with the said Council:

Proposed Development: To construct a slatted cubicle shed with underground effluent storage tanks together with all other associated site works at Tullowglass, Jenkinstown, County Kilkenny as revised by the further public notices received by the planning authority on the 12th day of April, 2024.

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 and scale of the proposed development within an established agricultural farmyard, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenity of the area, would be acceptable in terms of public health and environmental sustainability, would be in accordance with the relevant provisions of the Kilkenny County Development Plan 2021-2027, and 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 River Barrow and River Nore Special Area of Conservation (Site Code: 002162) and the River Nore Special Protection Area (Site Code: 004233) 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 River Barrow and River Nore Special Area of Conservation (Site Code: 002162) and the River Nore Special Protection Area (Site Code: 004233) 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 5th day of April, 2024, 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 the European Sites.

3. A final Construction Management Plan, to include measures to prevent discharge to waters during stream diversion works, shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of the protection of the aquatic habitat.

4. The slatted shed shall be used only in strict accordance with a management schedule which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The management schedule shall be in accordance with the European Union (Good Agricultural Practice for Protection of Waters) (Amendment) Regulations 2022, as amended, and shall provide at least for the following:

- (a) Details of the number and types of animals to be housed.
- (b) The arrangements for the collection and storage of slurry.
- (c) Arrangements for the cleansing of the buildings and structures (including the public road, where relevant).

Reason: In order to avoid pollution and in the interest of residential amenity.

5. All oxidisable and galvanised surfaces of the proposed development shall be painted a dark green matt colour or similar dark matt colour and shall be maintained in perpetuity.

Reason: In the interest of visual amenity.

6. Water supply and drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services. In this regard:
- (a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and
 - (b) all soiled waters shall be directed to a storage tank. Drainage details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

7. All foul effluent and slurry generated by the proposed development and in the farmyard shall be conveyed through properly constructed channels to the proposed and existing storage facilities and no effluent or slurry shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road.

Reason: In the interest of public health.

8. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to existing drains, streams or adequate soakpits and shall not discharge or be allowed to discharge to the foul effluent drains, foul effluent and slurry storage tanks or to the public road.

Reason: In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.

9. A minimum of 16 weeks storage shall be provided in the underground storage tank. Prior to commencement of development, details showing how it is intended to comply with this requirement shall be submitted to, and agreed in writing with, the planning authority.


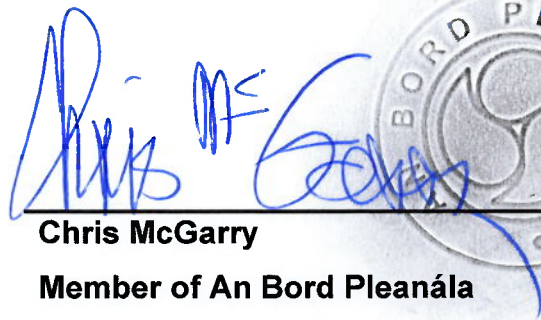
Reason: In the interest of environmental protection and public health.

10. Prior to commencement of development, a Resource Waste Management Plan (RWMP), as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at all times.

Reason: In the interest of sustainable waste management.

11. The removal of organic waste material and its spreading on land by the applicant or third parties shall be undertaken in accordance with the systems of regulatory control implemented by the competent authorities in relation to national regulations pursuant to Council Directive 91/676/EEC (the Nitrates Directive) concerning the protection of waters against pollution caused by nitrates from agricultural sources.

Reason: In the interest of environmental protection.



Chris McGarry

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

Dated this 3rd day of March 2025