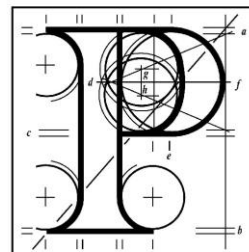


## Addendum



**To:** Anne Marie O' Connor ADP  
**From:** F. Fair Pl  
**Re:** PL17.244154  
**Date:** 27<sup>th</sup> January 2015

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Following the Judicial Review and the remittance of this case back to the Board the following addendum provides an assessment and recommendation to the Board as to whether or not the subject application requires an EIS having regard to its sub-threshold nature.

The development falls under **Category 11 (b) 'Other Projects' of Part 2 of Schedule 5 'Development for the Purposes of Part 10'** as per the Planning and Development Regulations 2001, as amended.

**Category 11 (b)** specifically states: *'Installation for the disposal of waste with an annual intake greater than 25,000 tonnes not included in Part 1 of this Schedule'*.

Planning permission is sought for the following development:

- 2 no. anaerobic digesters to process farm slurry and other biodegradable waste to produce renewable energy and fertilizer.
- Storage tanks
- A reception building (incl. combined heat and power plant and ESB substation)
- A silage pit
- A new vehicular entrance

- All associated site works

The application is for a 500KW Anaerobic Digestion (AD) power plant which will produce renewable heat and electricity by breaking down organic material. It is proposed to use 15,000 tonnes of feedstock per annum to operate the plant, this to consist of:

7,000 tonnes of cow slurry

2,000 tonnes of hen manure

5,000 tonnes of grass silage

1,000 tonnes of other feedstock such as spent vegetables and materials classed as Category 2 by the Department of Agriculture, including catering waste, animal by product (ABP) materials or former foodstuff of animal origin.

It is proposed to source the slurry, hen manure and silage feedstock (14,000 tonnes) from local farms, sites in close proximity to the appeal site. It is proposed to return the digestate to landholders supplying the feed stock for use as fertilizer. The applicant's family farm comprises of 300.6 hectares. While the applicant indicates other lands where it is proposed digestate would be spread and letters of agreement have been submitted from landowners no precise details of specific landholdings have been submitted.

Given that the appeal development is sub threshold Article 109 (2) (3) & (4) of the Planning and Development Regulations 2001, as amended, and Schedule 7 of the Planning and Development Regulations 2001, as amended, are relevant to whether there is a requirement to submit an EIS in the subject appeal case.

**Article 109 (2) states:**

*'Where an appeal relates to a planning application for sub-threshold development, and an EIS was not submitted to the planning authority in respect of the planning application, the Board shall, where it considers that the development would be likely to have significant effects on the environment, require the applicant to submit an EIS to the Board.*

**Article 109 (3) states:**

- (3) *Where an appeal relates to a planning application for sub-threshold development, and an EIS was not submitted to the planning authority in respect of the planning application, and the development would be located on or in—*
- (a) *a European site,*
  - (b) *an area the subject of a notice under section 16 (2)(b) of the Wildlife (Amendment) Act, 2000 (No. 38 of 2000),*
  - (c) *an area designated as a natural heritage area under section 18 of the Wildlife (Amendment) Act, 2000 ,*
  - (d) *land established or recognised as a nature reserve within the meaning of section 15 or 16 of the Wildlife Act, 1976 (No. 39 of 1976) as amended by sections 26 and 27 of the Wildlife (Amendment) Act, 2000 , or*
  - (e) *land designated as a refuge for flora or as a refuge for fauna under section 17 of the Wildlife Act, 1976 as amended by section 28 of the Wildlife (Amendment) Act, 2000 ,*

*the Board shall decide whether the development would or would not be likely to have significant effects on the environment of such site, area or land, as appropriate.*

The appeal site is not located within or in proximity of a Natura 2000 site or a NHA / pNHA. No issues have arisen with respect to flora, fauna or wildlife. Having regard to the Appropriate Assessment Screening report submitted with the appeal, which assesses the nature of the proposed development, nature of the receiving environment and proximity to Natura 2000 sites, it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

**Article 109 (4) states:**

*'The Board shall, in deciding under this article whether a proposed development would or would not be likely to have significant effects on the environment, have regard to the criteria set out in Schedule 7'.*

Schedule 7 of the Planning and Development Regulations 2001, as amended sets out the criteria for determining whether a development would or would not be likely to have significant effects on the environment. It states:

**1. Characteristics of the proposed development**

*The characteristics of proposed development, in particular:*

- *the size of the proposed development,*
- *the cumulation with other proposed development,*
- ***the use of natural resources,***
- ***the production of waste,***
- ***pollution and nuisances,***
- ***the risk of accidents, having regard to substances or technologies used.***

**2. Location of proposed development**

*The environmental sensitivity of geographical areas likely to be affected by proposed development, having regard in particular to:*

- *the existing land use,*
- *the relative abundance, quality and regenerative capacity of natural resources in the area,*
- *the absorption capacity of the natural environment, paying particular attention to the following areas:*
  - (a) *wetlands,*

- (b) *coastal zones,*
- (c) *mountain and forest areas,*
- (d) *nature reserves and parks,*
- (e) *areas classified or protected under legislation, including special protection areas designated pursuant to Directives 79/409/EEC and 92/43/EEC,*
- (f) *areas in which the environmental quality standards laid down in legislation of the EU have already been exceeded,*
- (g) *densely populated areas,*
- (h) **landscapes of historical, cultural or archaeological significance.**

### **3. Characteristics of potential impacts**

*The potential significant effects of proposed development in relation to criteria set out under paragraphs 1 and 2 above, and having regard in particular to:*

- *the extent of the impact (geographical area and size of the affected population),*
- *the transfrontier nature of the impact,*
- ***the magnitude and complexity of the impact,***
- ***the probability of the impact,***
- ***the duration, frequency and reversibility of the impact.***

**Inspectors Note:** Text highlighted is considered relevant to the subject appeal case.

It is my considered opinion that as per the reasons and considerations set out in my assessment of PL17.241533, copy attached to this report and to Article 109 (2) of the Planning and Development Regulations 2001, as amended and the criteria set out in Schedule 7 of Planning and Development Regulations

2001, as amended, in particular the *characteristics of proposed development*, *'Location of proposed development'* and *characteristics of potential impacts* that the proposed development would be likely to have significant effects on the environment and therefore should permission not be refused as per my recommendation that the Board should require the applicant to submit an EIS in order that sufficient detailed information is contained on the file to aid a full and informed decision of the significant effects on the environment of the proposed development.

I highlight that Environmental Concerns raised in my preceding report are strongly linked to criteria set out in Schedule 7 under *'characteristics of proposed development'*, and *'characteristics of potential impacts'*.

The site is located approx. 1.3 Km outside the Tara Skryne Landscape Conservation Area. Protected View and Prospect 44 Hill of Tara is a panorama view of national importance. The Hill of Tara is visible from the appeal site. I therefore also highlight that Visual Concerns raised in the preceding report PL.17.241533 are strongly linked to criteria set out in Schedule 7 under *'Location of proposed development'*.

I highlight that the planning application was referred pursuant to Article 28 *'Notice to certain bodies'* of the 2001 Regulations, as amended, to the DoAHG, NRA, HSE, IFI and An Taisce, all of which were invited to comment.

Having considered Article 28 (1) (g) (ii), of the Planning and Development Regulations, 2001, as amended, which states *'the development might give rise to significant discharge of polluting matter or other materials to such waters or be likely to cause serious water pollution or the danger of such pollution.'* And in particular Article 28 (1) (k) (i) which states *'where the development comprises or is for the development of an activity requiring an integrated pollution control licence or a waste licence – to the Environmental Protection Agency'* I consider that the planning application has been referred accordingly as I note that the appeal development is not licensable under the Environmental Protection Agency Act, 1992, as amended by the Waste

Management Act 1996, as amended. Therefore consultation and observations are not required between The EPA and An Bord Pleanála.

The proposed AD Plant will be subject and regulated under a Waste Facility Permit (WFP) to be issued by Meath County Council and Approval from the Department of Agriculture, Food and the Marine (Animal by-products section). A WFP is required under the Waste Management Acts 1996, as amended.

## RECOMMENDATION

I recommend that Planning Permission be refused for the reasons and considerations outlined below.

## REASONS AND CONSIDERATIONS

1. It is considered that the information submitted during the consideration of the application including the Environmental Report, lacks clarity in relation to the composition and proportions of input feedstock in relation to animal by-product material and other organic material. There is also lack of information on the frequency and volume of removal of digestate. The variation of the feedstock requires a robust plant design and implementation of mitigation and containment measures. The Board is not satisfied, on the basis of the information provided that the proposed development would not be likely to have significant adverse impacts on the environment. The proposed development would thus be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development by reason of its location approx. 4 Km north east of the Hill of Tara, scale, height and design would interfere with a protected view and prospect of national importance, identified

as panorama view No. 44 from the Hill of Tara in the Meath County Development Plan 2013 – 2019 given that there are clear view to the site from the Hill of Tara

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Fiona Fair  
Planning Inspector  
27.01.2015

Decision Quashed