



An
Bord
Pleanála

Inspector's Report

ABP-305277-19

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| Development | Retain change of use from mixed use Enterprise Building to Meat & Animal by products processing facility and other works |
| Location | Largy Td, Clones, Co Monaghan |
| Planning Authority | Monaghan County Council |
| Planning Authority Reg. Ref. | 192 |
| Applicants | Fayman Europe Limited |
| Type of Application | Retention |
| Planning Authority Decision | Grant retention |
| Type of Appeal | Third Party |
| Appellant | Ross Adamson |
| Date of Site Inspection | 14 th November 2019 |
| Inspector | Dolores McCague |

1.0 Site Location and Description

- 1.1.1. The site is located at Largy Td, near the centre of Clones County Monaghan. Access is provided by a road which serves the mart site (south of the site) and which also serves a halting site (south-east of the site). To the east is the Sacred Heart Cemetery. Roslea road is to the north. There are a few dwellings to the south of the mart and residential development to the east of the cemetery, including the objectors house. A primary school and residential estates are on the opposite side of Roslea Road.
- 1.1.2. The site and adjoining development comprise low density development close to the town centre on land that was once part of rail line infrastructure, now disused. Here the Portadown & Cavan Branch line joined the mainline of the Great Northern Railway. Structures on site remaining from that time include the retaining walls along Roslea Road (which is higher than the subject site), a gateway to Roslea Road which may have been the cattle access to the line, and a section of platform.
- 1.1.3. The site, which is the shape of a parallelogram with an east west emphasis, is occupied by a single storey building, parking and access areas, and large areas of undeveloped land.
- 1.1.4. The building is laid out in compartments, with only some of the pre-existing rooms being currently in use. A production area is located to the east of the main entrance, in which drums of incoming material and drums of processed material are stored. A single large machine, in which the processing takes place, is located in this room; not included in the photographs taken during the site visit for reasons of commercial sensitivity. A room to the rear (north east), accessible only from a door in the eastern elevation, is not currently in use. At the rear of the building to the north west of the main entrance, there is a small laboratory / office.
- 1.1.5. No significant odour was detectable on the date of inspection.
- 1.1.6. The site is given as 1.27ha.

2.0 Proposed Development

- 2.1.1. The proposed development is the:

- Retention of change of use of a from mixed use enterprise building to meat & animal by products processing facility,
- Retention of all elevational changes,
- Retention of all changes to internal layout,
- Retention of LPG storage tanks to rear of building,
- Provision of screening to existing hardened storage area, and
- All ancillary site works

2.1.2. The application initially submitted contained:

- A map which appears to be a screenshot of Monaghan County Council's GIS viewer and two drawings.
- Drawing no ENPL035-02 which includes a site layout plan 1:500, drawings of the 2 LPG tanks to be retained 1:100, and of the screen fence panel 1:50
- Drawing no ENPL035-01 includes building plans, elevations and sections 1:50.

2.1.3. In response to the further information request, further maps and drawings were provided:

- An OS map, scale 1:2,500,
- Groundwater vulnerability and aquifer maps,
- Irish Water maps, scale 1:2,500 and 1: 500,
- Drawing no ENPL035-10, a site layout plan scale not given, showing the foul and storm drainage.
- Water protection plan, checklist provided.
- Odour Management Plan, which includes a chart titled Bile Process Flow chart.

2.1.4. The floor area is given as 821.17m².

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority decided (1st August 2019) to grant retention subject to 6 conditions, including:

1 permission to last for two years.

2 revisions to be submitted within 3 months of date of permission.

3 noise and odour management.

4 re. surface water.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1. There are two planning reports on the file, the first planning report recommending further information includes:

- Zoned industry / enterprise/ employment 'to provide for new industrial, enterprise and employment development and to facilitate the expansion of existing industrial and employment enterprises'. Light and heavy industry is acceptable in principle.
- OPW flooding concerns along Ulster Canal.
- Planning history recorded.
- Section reports recorded.
- County Development Plan section 15.17 and 4.88 cited
- INP3 policy (re. industrial development) referred to and proposal assessed in that context.
- No flood risk concern.
- AA – located within 15km of Kilroosky Lough SAC and Sliabh Beagh SPA. There are no significant watercourses located within close proximity of the site and no pathway connectors with the Natura 2000 network. Re. cumulative

impact, it is the opinion of the planning authority that the development is not of a nature or scale to have any significant effects on the integrity of these or other sites. Stage 2 assessment not required.

- Further information recommended on 5 points

3.2.2. Other Technical Reports

3.2.3. Municipal Engineer – 8/02/2019 - conditions.

3.2.4. CFO – 21/02/2019 - conditions.

3.2.5. Roads – 11/02/2019 - conditions.

3.2.6. Environment Section -13/02/2019 - locally important aquifer of high groundwater vulnerability and receiving waterbody is currently moderate status. The meat & animal by-products processing facility takes in animal by-product 'bile', it goes through a heat treatment process and the end product is used as a pharmaceutical ingredient. 60/70 tonnes of raw material are used per month. Chemicals used in the process are stored inside, the end product is sealed and stored inside. The bile comes in sealed containers and is loaded at the front of the building for storage inside. The containers (IBC's) that the bile is delivered in are washed outside and washwater goes to the sewer. During the site inspection a S 16 licence from Monaghan County Council was referenced.

This file should be referred to Water Services for comment.

This file should be referred to the EHO for comment.

No water protection plan has been submitted.

The site layout plan does not clearly show foul and storm lines and manholes.

Additional information is required:

- Water protection plan
- List of chemicals, MSDS sheet and volume used per annum.
- Proposals for storage of chemicals.
- Revised site layout showing drainage.
- Proposals for storm water management.

- 3.2.7. EHO – 04/03/2019 – Further information recommended – 1) per Environment Section; 2) applicant to submit details of proposed advanced extraction filtration to be fitted so that no odours be emitted to the external air.
- 3.2.8. Flood risk planning – 5/03/2019 – the OPW preliminary flood risk assessment maps indicate that the entrance to the site is vulnerable to a 1:1,000 year event but the main part of the site is not at risk of flooding. Proposed change of use will be at no greater risk than previous use.
- 3.2.9. Water Services Section – 11/03/ 2019 (after the FI request issued) – as this commercial premises has an existing waste water connection to the public foul sewer and water connection to the public watermain and as no new connection is required/proposed, IW may not have an appropriate opportunity to capture details of effluent discharge characteristics and discharge pumping rates/quantities to the connection network which will comply with IW approval and requirements. FI required: 1-5 per IW report.

3.3. **Prescribed Bodies**

Irish Water – 4/03/2019 – further information recommended:

Submit a detailed layout scale 1:500 of the existing foul network within the development indicating existing pumping station, pipe diameters, gradients and manholes.

Details of the nature or characteristics of the raw wastewater as a result of the proposed development.

Proposed location and specification of existing/proposed grease interceptor prior to discharge to the existing on-site pumping station.

Details of the proposed additional increase in wastewater generation volumes over existing discharge volumes (M³ per day) as a result of the proposed development.

Specifications and details of the existing flow meter installed on pumped rising main discharge to the public foul sewer, and provide confirmation that the flow meter has been calibrated and is operating in compliance with manufacture specification.

3.4. Further Information

3.4.1. Further information was sought – 05/03/2019 – on 5 points:

- 1) a) – e) Per Environment Section
- 2) a) – e) per IW and Water Services Section.
- 3) in accordance with policy INP3 of Monaghan County Development Plan 2013-2019 the following to be addressed: a) to c) re traffic.
- 4) Submit details on the process and any potential noise/impact on residential amenity.
- 5) The planning authority is aware of significant ongoing problems with smell nuisance from the premises and the associated processes carried out within it which detrimentally impact on the amenity of the area and nearby properties. The applicant shall submit a comprehensive report from an appropriate qualified individual or company, which outlines the processes within the factory, all potential sources of smell nuisance and details of advanced extraction filtration which shall ensure that no odours are emitted which would detrimentally impact on the amenity in the area.

3.4.2. A response to the further information request was received – 05/07/2019 from Joe Beggan, Engineer on behalf of Fayman Europe Ltd, including:

- Responding to item 1:

Water protection plan checklist provided

MSDS for the only chemical used: formaldehyde, 2,000 litres per annum.

It is stored in IBC containers which are bunded when in use on site, photographs provided.

Revised site layout plan with sewage and storm drainage. No washings taking place externally.

Given the volume of washings/washdowns a SUDS based system is not required and the existing on site drainage system is fit for purpose.

- Responding to item 2:

Surveyed existing foul network indicating pipe diameters, gradients and manholes.

The raw waste water will contain traces of animal by-products. There are grease interceptors on site, all located internally in the building and they are monitored regularly as part of the ISO systems of quality assurance employed by Fayman Europe, and emptied regularly as required. Data sheet for chemical used. The only by-product is polluted water with a ph of 7, daily volume c3000 litres.

All existing grease traps are located internally and oversized for the process involved. They were specified for the previous abattoir activity which has now ceased. There is no fat from the process which goes to waste.

There will be a decrease in the volume of waste water generated over the previous abattoir. The volume per day is 3m³ which is an average value over a working week. They commit to replacing the flow meter.

- Responding to item 3:

At present one car per day and one rigid truck per week.

No HGVs.

On average one vehicle, which belongs to the operator.

- Responding to item 4:

The process involves the treatment of liquid animal by-product via the chemicals mentioned and steam/hot water. The process is all internal and there is no noise impact on any residential amenity, closest dwelling 70m to the north. There are no proposals to increase activity on site at present. Should the activity increase, noise monitoring and mitigation measures will be employed if necessary.

- Responding to item 5:

They are aware of representations made to the Local Authority in relation to a reported smell nuisance and provide a comprehensive report outlining the measures proposed to be taken to mitigate against the purported smell.

3.4.3. Attached to the response is a report titled Odour Management Plan, May 2019, from Traynor Environmental Ltd, which includes:

- It is proposed to install a biofilter composed of shredded wood. A 3 step odour management plan is proposed to: prevent the release of odour, contain the release, and minimise and reduce the release.

- Odour contingency measures are proposed when elevated odour levels are detected – logging and investigating complaints, etc.
- Site layout drawings and a cross sectional drawing show the proposed bio-filter to be located to the north west of the building.
- Section 2 of the report includes a ‘Bile Process Flow Chart: current operations’.

3.5. Further Reports

3.5.1. Following receipt of the further information response further reports were received.

3.5.2. Water Services – conditions – 1) full details of the interceptors and trap types, specifications and condition reports to be submitted to IW in advance of commencement of any works. All grease interceptors and grease traps on site located internally to the building shall be monitored regularly and emptied as required. 2) existing flow meter on site to be replaced. Full details of the type, specification and approval of this flow meter will be in accordance with IW specifications and submitted to IW in advance of commencement of any works.

3.5.3. EHO – 5/09/2019 – conditions.

3.5.4. Environment Section – 30/07/2019:

Per item 1a) - water protection plan checklist submitted.

Per item 1b) - list of chemicals, MSDS sheet and volume used per annum.

Per item 1c) - proposals for storage of chemicals. – IBC

Per item 1d) - revised site layout showing drainage. Drawings not submitted. IW web maps were submitted outlining the foul drainage onsite. It is stated in the submission that no washing takes place externally and all takes place internally. However during reporter’s site inspection she was advised that the IBC’s that the bile is delivered in are washed outside & washwater goes to the sewer.

Per item 1e) proposals for storm water management; it is stated that SUDS system is not required. Refer to water services for comment whether the washing out is of concern and requires any measures in place prior to discharge.

Conditions.

3.5.5. Planning report – 1/08/2019 – further information and further reports are noted. Permission recommended, subject to conditions; which issued.

3.6. **Prescribed Bodies**

3.6.1. Irish Water 18/07/2019 – conditions.

3.7. **Third Party Observations**

3.7.1. A third party observation was received including re. odour nuisance. Odour management plan and bio filter are insufficient, and observer is not optimistic. Observer has been complaining about smell issues for 8 months. They should not be allowed to process category 3 animal waste inside the town boundary and close to observer's home. An EIA should be carried out before this application can be even considered. ROW from observer's site to Roslea Rd has been blocked by the developer.

4.0 **Planning History**

86/2012 – demolish existing premises – IDA

93/2008 – new enterprise centre – Clones Development Society Ltd.

98/2015 – first floor training workshop – Clones Enterprise Centre

04/2003 - first floor training workshop area and toilet facilities – Clones Development Society Ltd.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. Monaghan County Development Plan 2019-2025 is the operative plan. Relevant provisions include:

Zoned:

Industry, Enterprise & Employment.

To provide for new industrial, enterprise and employment generating development and to facilitate expansion of existing industrial and employment generating enterprises.

IEO 2 objective to facilitate the growth and/or expansion of existing industrial enterprises where appropriate, subject to development management guidelines as set out in Development Management Guidelines, Monaghan County Development Plan 2019-2025. Such developments should not unduly impact on the residential amenity of existing residential properties.

IEO 3 objective to encourage and promote the sustainable development of industry within the towns over the plan period.

5.2. Legislative Context

5.2.1. Planning and Development Act 2000 as amended

section 34 of the Act.

(as amended by S 23.of the Planning and Development (Amendment) Act 2010)

Subsection 12 states:

A planning authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required that one or more than one of the following was carried out—

- (a) an environmental impact assessment,
- (b) a determination as to whether an environmental impact assessment is required,
- or
- (c) an appropriate assessment.

5.2.2. Planning and Development Regulations

SCHEDULE 5

Development for the purposes of part 10

Part 2

item 6 Chemical Industry (development not included in Part 1 of this Schedule)

(a) Installations for treatment of intermediate products and production of chemicals using a chemical or biological process.

(b) All installations for production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides using a chemical or biological process.

item 11 other projects

(i) Knackers yard in a built up area.

5.2.3. Abbatoirs Act 1988

5.2.4. section 2 interpretation:

“knackery” means any premises used for and in connection with the collection, delivery, supply, slaughter, storage, skinning or cutting up of animals or parts of animals which are not intended for human consumption, and “knackery” shall include any premises which are used — (a) as a knacker's yard, or (b) for the cutting up of dead animals, or parts of dead animals, for sale as dog or pet food, or (c) as a kennels where dead animals or parts thereof are fed to hounds, or (d) as a dead animal collection depot, or (e) for hide removal,

but shall not include a premises used exclusively as either a meat and bonemeal or rendering plant, or as both a meat and bonemeal and rendering plant, or a premises registered under the Diseases of Animals (Feeding and Use of Swill) Orders, 1985 and 1987.

section 23. (1) The occupier of any premises shall not use such premises, or permit such premises to be used, as a knackery unless he is the holder of a licence (in this Act referred to as a “knackery licence”) in respect of such premises.

(2) A person, who is not the occupier of a premises, shall not use such premises as a knackery unless the occupier of the premises is the holder of a knackery licence in respect of such premises.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence.

5.3. Natural Heritage Designations

5.3.1. The nearest Natura sites are Kilroosky Lough Cluster SAC 001786 less than 600m straight line distance to the north, upstream; Sliabh Beagh SPA (site code 004167) approximately 12 km straight line distance to the north; Lough Oughter and Associated Loughs SAC (site code 000007) approximately 10 km straight line distance to the south west. All being trans frontier sites.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal against the planning authority's decision has been submitted by The Planning Partnership on behalf of Ross Adamson. The issues raised include:

- Requesting that the application be considered de novo. Given the specific nature of the use the planning authority has not fully assessed the potential for impacts on the environment including sensitive receptors and protected sites. The council was not in possession of sufficient information as to the nature of the use to enable the required determination that planning permission would not negatively impact on the amenity of the area, give rise to detrimental effects on the receiving environment, or adversely affect the integrity of Natura sites in the vicinity.
- The Board may conclude that it is precluded under s34(12) of the Planning and Development Act 2000-2019 from considering the application.
- The description is ambiguous, referring to meat & animal by products processing, although only animal ox bile is detailed and no meat based by-products processing occurs. It may be intended to introduce additional animal by products processing. The current activities are focused on the northern side of the building and an area currently identified as 'processing' may be used to facilitate an expanded use that is not currently operated on the site.

- Environmental implications can not be established on the basis of the information provided. The applicant may use any retention permission to introduce meat based products processing without prior evaluation. The 2 year limit is an indication that the planning authority lacks confidence that the development will not impact on the receiving environment.
- Risks associated with loading/unloading, handling and washing outside the building of materials, contaminants & chemicals. Regarding discharge to surface water system and ground water, these have not been adequately addressed. There is insufficient detail regarding the class of use: Schedule 5 Party 2 , class 6(b) chemical/pharmaceutical, or 11(i) knackers yard in an urban area. Per article 103 (6) (ii) sub-threshold – where doubt exists sufficient information to provide for EIA screening is required.
- S34(12) precludes determination of application for retention if EIA or EIA screening or AA is required.
- The PA's AA screening was undertaken on the basis of incomplete information and was not revised when further information was submitted. Given the insufficient information and the ongoing odour problems, it is clear that notwithstanding the broad use category, the development is not appropriate to the character of the area and the adjacent uses and is inconsistent with objectives AEO 2 and AEO 4 of the CDP.
- It is an inefficient use of an existing enterprise building. It sustains only one employee, undermines the capacity for sustainable employment growth. The development as outlined in the application documentation is inconsistent with that described in the statutory notices.
- There is no information on specific animal by-products to be processed and the processing method.
- Article 3 reg 1069/2009 EU animal by products regs 2014.
- The 2 year time limit and installation of odour abatement are incompatible. The absence of adequate surface water infrastructure on the site represents a significant environmental risk in the event that an IBC is ruptured. Typically they are single skinned in design. Per data sheet:

- The formaldehyde used should not be allowed to enter the sewer or the immediate environment
- Has an irritating pungent odour
- Is toxic to aquatic organisms and water polluting, and
- Material containing 1% or more of the chemical is considered hazardous waste and should be disposed of through incineration.
- No details have been provided of how this chemical is handled, treated on site, or removed from/disposed from the site therefore the likely impact has not been adequately addressed. They consider that per article 103(b)(ii) information to allow for an EIA screening determination should have been requested. Both Natura sites are transboundary sites. Finding of no significant effect is inconsistent with the request for further information re. water impact.
- Policy IPC 1 of CDP.
- Local Area Action Plan for rejuvenation of identified lands may be prejudiced.
- INDP 12 encourage re-use of buildings.
- Appellant 150m to the east.

6.2. Applicant Response

- 6.2.1. None received within the prescribed time period.

6.3. Planning Authority Response

- 6.3.1. The planning authority has not responded to the grounds of appeal.

7.0 Assessment

- 7.1.1. The only issue which can be addressed in this assessment is with regard to the nature of the use and the application details. The very limited amount of information provided with the application and in response to the further information request, means that the exact nature of the use is uncertain. No information has been provided on the exact nature of the process inputs, the sources of inputs, the

process, the nature of the process outputs or their destination, the scale/volume of the inputs / outputs and how the scale might grow, wastes produced, transportation issues, potential for accidents, potential for nuisances, staffing, etc.

- 7.1.2. The development description as retention of change of use from mixed use enterprise building to meat & animal by products processing facility is not sufficiently informative to enable any meaningful assessment of what issues might arise in relation to the use.
- 7.1.3. I note from the report of the Environment Section that the facility takes in the animal by-product 'bile', puts it through a heat treatment process and the end product is used as a pharmaceutical ingredient. However this is not a statement by the applicant and is not in any case sufficiently detailed to form the basis of an assessment of the planning or environmental implications of this retention application.
- 7.1.4. The appellant raises the issue of environmental impact assessment. The need for such assessment could arise if the development were to come within a category set out in Schedule 5 of the Planning and Development Regulations. In such circumstances the only avenue which would be open to the applicant, since this is a retention situation, would be to apply for leave to apply for substitute consent.
- 7.1.5. In my opinion the Board does not have before it sufficient information to assess this application to retain.

8.0 Recommendation

- 8.1.1. In accordance with the foregoing I recommend that permission should be refused, for the following reasons and considerations.

9.0 Reasons and Considerations

The information available on this file is insufficient to enable the Board to assess the planning and environmental implications of the proposed change of use for which retention is sought and therefore to permit retention would not be in accordance with the proper planning and sustainable development of the area.

Planning Inspector

29th January 2020

Appendices

Appendix 1 Photographs

Appendix 2 Monaghan County Development Plan 2019-2025, extracts