



An  
Bord  
Pleanála

## Inspector's Report ABP-307394-20

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<b>Development</b>	Demolition of agricultural structures and construction of a central gas injection facility
<b>Location</b>	Corracunna and Garryleagh, Mitchelstown, County Cork
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	19/6089
<b>Applicant(s)</b>	Gas Networks Ireland
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	An Taisce
<b>Observer(s)</b>	Friends of the Irish Environment
<b>Date of Site Inspection</b>	13 <sup>th</sup> October, 2020
<b>Inspector</b>	Kevin Moore

## 1.0 Site Location and Description

1.1. The site of the proposed development is located in a rural area approximately 3.5km north-east of the town of Mitchelstown in North Cork. It has frontage onto the N73 national secondary road approximately 1.2km west of Junction 12 of the M8 Motorway. It comprises the north-western section of a level field in grass and contains a farm building on its west side. It is bounded to the west and north by hedgerow. There is an existing Gas Networks Ireland above ground installation on lands immediately to the west of the site. Development in the vicinity comprises farm developments and sporadic housing. The nearest house and farm complex is located approximately 100m to the east of the site.

## 2.0 Proposed Development

2.1. The proposed development would comprise the demolition of existing agricultural structures and the construction of a central gas injection (CGI) facility within a site area of c.1.8 hectares. The development would include:

- A concrete apron
- 16 no. truck bays
- A welfare/office facility
- A medium voltage substation
- 8 no. pressure reduction skid units
- 2 no. boiler units
- A network entry facility unit
- A flare unit
- An odorant injection unit
- Propane storage
- A compressed natural gas refuelling area
- An electrical and instrumentation kiosk
- A generator kiosk

- A transformer kiosk
- 8 no. compressor container units
- 4 no. gas chromatograph units
- A covered shelter for storage of gas bottles
- A compressed natural gas dispenser
- A compressor building
- On-site drainage
- Underground pipework
- A new site entrance from the N73
- Associated drainage to serve the proposed facility and the adjacent existing Corracunna above ground installation facility
- The removal of the existing Corracunna above ground installation entrance
- All associated site development works

2.2. Permission is sought for a period of ten years. The Major Accident Regulations would apply to the proposal as a lower tier SEVESO development.

2.3. Details submitted with the application included a cover letter, a copy of landowner consent permitting the making of the application, a letter from Cork County Council permitting the making of the application as it relates to works affecting the public road, an Environmental Report, an Appropriate Assessment screening report, and a planning statement. The Environmental Report addressed issues relating to policy, screening for EIA, population and human health, noise, biodiversity, hydrology and water quality, traffic and archaeology.

2.4. The purpose of the proposed development is to accommodate the injection of biomethane gas into the national gas network. It is intended to facilitate smaller agricultural anaerobic digestion (AD) facilities through providing a common injection location. Thus, the gas would be produced and processed off-site at AD facilities throughout the region. It would then be transported to the GNI facility via pressurised road tankers and would be transferred to decanting stanchion units using flexible hoses. The expected volume of traffic is estimated at 25 HGVs per day.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 19<sup>th</sup> May 2020, Cork County Council decided to grant permission for the proposed development subject to 22 conditions.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner noted the policy context for the development and reports received. It was considered that the key planning issues were the principle of the proposed development, the environmental impact, traffic and transport impacts, the impacts on the character of the greenbelt and on the adjacent scenic route, the siting/design/phasing, and appropriate assessment. Notwithstanding the development being within a greenbelt, it was considered that it could be considered further. It was recommended that further information be sought on odour impacts, flaring, potential major accidents, on the operation of the facility, a road safety audit and entrance details, a landscaping plan, a visual presentation of the proposed entrance, finishes to structures, and clarity on phasing of the development.

The Senior Planner concurred with the Planner's recommendation.

#### **3.2.2. Other Technical Reports**

The Area Engineer had no objection subject to the attachment of a schedule of conditions.

### **3.3. Prescribed Bodies**

Inland Fisheries Ireland requested that best practices be employed in relation silt/suspended solids, storage of fuel oils and refuelling of vehicles, fire control and chemical spillage control, site drainage and biosecurity measures.

Transport Infrastructure Ireland (TII) considered the proposal would be at variance with official policy in relation to control of development on/affecting national roads. It

was considered that insufficient data was provided to demonstrate that the proposal would not have a detrimental impact on the capacity, safety or operational efficiency of the national road network and recommended that a road safety audit should be carried out.

The Health and Safety Authority sought further information, namely a document identifying the potential major accidents as they relate to the application.

An Taisce recommended that a geophysical survey should be carried out to establish the potential for subsurface archaeology on the site and that the Council should ensure odour and increased traffic generation are addressed. A number of climate impact issues were raised relating to silage growth required to feed anaerobic digestors serving the development, the lack of removal of ammonia by anaerobic digestors, the leakage of methane from anaerobic digestors, and the need to move away from gas use to meet national and international climate targets. It was requested that these issues be assessed as cumulative impacts of the proposal.

Irish Water had no objection to the proposal.

3.4. On 16<sup>th</sup> October 2019, a request for further information was made in accordance with the Planner's recommendation. A response to this request was received from the applicant on 6<sup>th</sup> December, 2019. This included a Major Accidents Report, a Stage 1 Roads Safety Audit, a Landscape Masterplan, a Lighting Report, responses on odour impacts, the operation of the facility, and updated drawings.

3.5. Following the receipt of this further information, the reports to the planning authority were as follows:

Transport Infrastructure Ireland stated it had no observations to make.

The Area Engineer submitted that there was no objection from a roads perspective and set out a schedule of conditions.

The Planner submitted that clarification was required in the form of the HSA confirming their satisfaction with the safety aspects of the development, the reason for the opening hours proposed, and the operation of floodlighting.

The Senior Planner concurred with the Planner's recommendation.

3.6. A request for clarification was sought on 10<sup>th</sup> January 2020. A response to this request was received on 14<sup>th</sup> April 2020. This included the provision of a blast wall adjacent to proposed propane storage tankers in accordance with HSA requirements.

3.7. The reports received by the planning authority were as follows:

The Health and Safety Authority submitted a report dated 7<sup>th</sup> April 2020 and stated that, on the basis of information supplied, the Authority had determined that the siting criteria for new establishments had been met and, accordingly, the Authority did not advise against the granting of planning permission in the context of major accident hazards.

The Area Engineer had no objection to the proposal and set out a schedule of conditions.

The Planner noted the clarification submission, had no objection to the proposed development and recommended that permission be granted subject to a schedule of conditions.

The Senior Planner concurred with the Planner's recommendation.

## 4.0 **Planning History**

I have no record of any previous planning application or appeal relating to this site.

## 5.0 **Policy Context**

### 5.1. **Cork County Development Plan 2014**

#### Energy

Objectives include:

### *ED 1-1: Energy*

Ensure that through sustainable development County Cork fulfils its optimum role in contributing to the diversity and security of energy supply and to harness the potential of the county to assist in meeting renewable energy targets.

### *ED 4-3: Bioenergy*

Support and encourage the development of the bioenergy sector and facilitate its development for energy production, heat storage and distribution.

Encourage the development of commercial bioenergy plants; on brownfield sites which are adjacent to industrial areas or on lands which are reserved for industrial uses or on brownfield sites in rural areas.

Commercial bioenergy plants should be located close to the energy source and the point of demand, where they can be served by public roads with sufficient capacity to absorb increased traffic flows and adjacent to transport corridors.

Visual, noise and odour impacts on adjacent residential property will be key considerations when assessing any such proposals.

### *ED 6-3: Gas Network Infrastructure*

Facilitate the delivery and expansion of natural gas infrastructure throughout the County and have regard to the location of existing gas infrastructure in the assessment of planning applications.

### Landscape

The site lies within an area designated 'High Landscape Value' that is seen to be a landscape character type of high landscape sensitivity.

Objectives include:

#### *GI 6-1: Landscape*

a) Protect the visual and scenic amenities of County Cork's built and natural environment.

- b)** Landscape issues will be an important factor in all landuse proposals, ensuring that a proactive view of development is undertaken while maintaining respect for the environment and heritage generally in line with the principle of sustainability.
- c)** Ensure that new development meets high standards of siting and design.
- d)** Protect skylines and ridgelines from development.
- e)** Discourage proposals necessitating the removal of extensive amounts of trees, hedgerows and historic walls or other distinctive boundary treatments.

### Scenic Routes

The N73 onto which the site has frontage is a designated 'Scenic Route'. Objectives include:

#### *GI 7-2: Scenic Routes*

Protect the character of those views and prospects obtainable from scenic routes and in particular stretches of scenic routes that have very special views and prospects identified in this plan.

#### *GI 7-3: Development on Scenic Routes*

- a) Require those seeking to carry out development in the environs of a scenic route and/or an area with important views and prospects, to demonstrate that there will be no adverse obstruction or degradation of the views towards and from vulnerable landscape features. In such areas, the appropriateness of the design, site layout, and landscaping of the proposed development must be demonstrated along with mitigation measures to prevent significant alterations to the appearance or character of the area.
- b) Encourage appropriate landscaping and screen planting of developments along scenic routes which provides guidance in relation to landscaping. See Chapter 12 Heritage Objective HE 46.

### Greenbelts around Towns

The site is located within the greenbelt for Mitchelstown. The Objective for this greenbelt and other towns outside of the Cork Metropolitan Greenbelt is as follows:



### *RCI 5-8: Greenbelts around Settlements*

- a) Retain the identity of towns, to prevent sprawl, and to ensure a distinction in character between built up areas and the open countryside by maintaining a Greenbelt around all individual towns.
  
- b) Reserve generally for use as agriculture, open space or recreation uses those lands that lie in the immediate surroundings of towns. Where Natura 2000 sites occur within Greenbelts, these shall be reserved for uses compatible with their nature conservation designation.
  
- c) Prevent linear roadside frontage development on the roads leading out of towns and villages.
  
- d) The local area plans will define the extent of individual Greenbelts around the ring and county towns and any of the larger villages where this approach is considered appropriate. They will also establish appropriate objectives for the Greenbelts generally reserving land for agriculture, open space or recreation uses.

### Transport

Objectives include:

#### *TM 3-1: National Road Network*

...

- e) Prevent the undermining of the strategic transport function of national roads and to protect the capacity of the interchanges in the County from locally generated traffic.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of the appeal may be synthesised as follows:

## Functional Interdependence and Assessing the Source of Biomethane

- The applicant fails to consider the considerable environmental impacts of biomethane production, particularly that which is reliant on intensive dairy farming and silage production. The provision of biomethane can only be seen to be sustainable if the climate mitigation potential is not negated elsewhere in the lifecycle of the gas, notably in the feedstock production. The input of biogas establishes a direct functional interdependence between the injection facility and the AD plants. Consequently, the injection facility cannot survive without the input of feedstock to create the primary biogas.
- Reference is made to An Taisce -v- An Bord Pleanála (2015) IEHC 633 relating to Edenderry Power Station.
- The application is considered deficient in evaluating the direct, indirect and cumulative impacts of all aspects of the proposed CGI facility. The biogas plants and their respective feedstock sources should have been assessed as part of a full EIA. Also, by not doing this it fails to ensure the sustainability of the supply of biogas for injection and of the feedstock needed to create the biogas. A full EIAR is required.
- To assess the feedstock production impacts on the surrounding European site river catchment as well as other European sites, a full Appropriate Assessment must be carried out.

## Biogas and Sustainability Concerns

- Biomethane perpetuates and prolongs a lock-in to fossil gas infrastructure development and consumption, and it inhibits investment and deployment of low carbon renewable alternatives, particularly for heating and transport.
- Feedstock sources and the supply chain of these feedstock sources need to be managed responsibly. In worst cases the emissions mitigation potential of biogas may be negligible.
- Slurry and waste from dairy production as well as grass silage will be key components of the biogas feedstock. It is crucial to examine the impacts of the AD process itself, the fertiliser-intensive production of silage, and the bovine agriculture required for slurry production, namely in relation to:

- Greenhouse gas emissions, water quality and nitrates, ammonia air pollution, and biodiversity loss,
  - Lock-in to fossil gas with the transferred biogas needing to be enriched with liquid petroleum gas to meet quality and safety standards; and
  - Sustainable uses for biogas in electricity generation and transport.
- There is a need for a full river basin catchment-level Environmental Impact Assessment. The submitted Environmental Report does not evaluate the direct, indirect and cumulative impacts of the feed source, digestion process, transport, outputs and fugitive emissions. Given the clear functional interdependence between the CGI facility and the farm-based AD plants, as well as the impacts of AD production, a full EIAR is needed. The applicant's Environmental Report has treated the proposal as a standalone project on the site only. There is no specific information on biogas source locations and on their respective feedstock sources.
  - The Appropriate Assessment screening wholly failed to analyse potential impacts on Natura 2000 sites as a result of the biomethane production at the AD plants as well as the impacts of the feedstock sourcing. As a result, the extent of risks to the Natura 2000 network could not be identified and quantified. The AA screening has not presented complete, precise and definitive findings, hence reasonable scientific doubt and potential impacts on protected sites remain and granting approval for the application would contravene Article 6(3) of the Habitats Directive.
  - Other considerations include:
    - The Planner's report is defective in providing any substantive evaluation of the proposal, particularly in assessing the Environmental Report and the Appropriate Assessment screening.
    - In light of the intensification of dairy production required to meet the demands of the proposal, a grant of permission would contravene the Climate Action and Low Carbon Development Act 2015.
    - Current and continuing nitrate fertiliser grass-based bovine agriculture levels in Ireland is incompatible with the objectives of the EU Nature Restoration Plan.

It is concluded that:

- a full Environmental Impact Assessment and Natura Impact Statement are needed, which would include an assessment of the full anaerobic digestion catchment area as well as the full water catchment area.
- the granting of approval would contravene the EIA Directive, the Habitats Directive and the Climate Action and Low Carbon Development Act 2015.

The Board is asked to overturn the grant of permission issued by Cork County Council.

The following are attached with the appeal submission:

- Submission on the Department of the Taoiseach Economic Division Discussion Document for the preparation of a National Policy Statement on the Bioeconomy (November 2017)
- Consultation on Gas Networks Ireland Ten-Year Development Plan by Commission for the Regulation of Utilities (2019)
- Department of Agriculture, Food and the Marine “Code of Good Agricultural Practice for reducing Ammonia Emissions from Agriculture”
- Legal Complaint by An Taisce to Department of Communications, Climate Action and Environment on continuing breach of EU Emission ceiling threshold on ammonia air pollution

## 6.2. Applicant Response

The applicant’s response to the appeal may be synthesised as follows:

### Functional Interdependence of the Proposed Development and the AD Supply Chain

- No functional or legal interdependence arises between the project and any AD plant or cohort of AD plants.

### Requirement for an EIAR

- Following a comprehensive review of the categories of the EIA Directive, the applicant's legal opinion agrees with the conclusion of the EIA screening carried out that a mandatory EIA is not required. It is a "sub-threshold development" to which Article 109 of the Planning Regulations applies.
- The Board is obliged to complete a "preliminary examination" under the Planning and Development Regulations and consider whether there is any real likelihood of significant effect. If there is none, the Board must conclude that no EIA is required. Where there is significant and realistic doubt, the Board must consider the information specified in Schedule 7A of the Regulations and complete a screening determination. The applicant's Environmental Report includes information to satisfy this requirement. An updated screening is submitted to further demonstrate the robustness of the application (Appendix 5).

### Adequacy of Appropriate Assessment

- The applicant's legal opinion concludes that this preliminary issue does not arise as the project is not functionally interdependent on any AD plant.

### Overarching and Background Considerations Informing the Appeal

#### *Response to Appendices of Appeal Submission*

- There is currently an oversupply of potential feedstock in Ireland which is resulting in the excessive spreading of slurries on lands which in itself could be having a negative environmental impact. AD facilities will help reduce this oversupply.
- The applicant has assessed the complete accessible region of the Mitchelstown CGI catchment area which extends to approximately 60km radius from the proposed injection facility. The maximum design capacity of the project would require independent AD producers to handle up to 1.2 Mt of

animal slurries and a maximum of 0.64 Mt of grass silage or equivalent rotation crop alternatives. Over 10 Mt of animal slurries are in storage annually within the catchment area (c. 25% of the national total storage volume), only 12% of which would be required to service the project at full capacity. Total potential grass silage capacity in the catchment is approximately 22.2 Mt so the requirement would represent just 3% of this. Grass silage and rotational crop within the region alone would have the sustainable capacity to produce approximately 3.9 Mt (3.3 Mt of grass silage plus 0.6 Mt of rotation crop). The project would draw on just 16% of this net capacity. All of this additional grass silage density reflects capacity beyond fodder and food production demand and the AD facilities could act as a strategic storage reserve of grass fodder for the region in the event of future climate emergency events.

- Anaerobic Digestion facilities could perform a central role in promoting and rewarding tillage and beef suckler farmers in implementing the Green Deal objectives by providing the necessary income security that could reward farmers for planting and maintaining cropland rotation cover crops, reducing beef herd size and converting poor performing grassland into carbon sinks through organic grass silage production.
- In order to service the project there will be no demand to intensify agricultural practices in the region.
- As Ireland's licensed gas Transmission System Operator, GNI is required to submit an annual Ten-Year Network Development Plan (TYNDP) to the Utilities Regulator, the CRU. GNI is also required to submit a long-term development statement to the CRU in accordance with its TSO licence. The TYNDP also facilitates compliance with the requirements of the Gas (Interim) (Regulations) Act 2002.
- The TYNDP constitutes a "plan or programme" for the purposes of the SEA Directive as it is prepared by GNI as a public authority and is required by legislative and regulatory obligations. The TYNDP was found not to require a SEA as it did not set the framework for the future development consent of projects listed in Annexes I and II of the EIA Directive and it did not require an

AA in view of its likely effect on protected sites. The screening report confirmed both these conclusions.

- The TYNDP is also a plan which is required to be screened for AA under the Habitats and Birds Directive. It was GNI's determination that a full AA was not required for the 2018 TYNDP.
- International, European and Irish law and policy provide clear support for AD as part of the solution to climate change. The use of AD facilities can assist in the reduction of ammonia released to the air in accordance with RED II for the promotion of the use of energy from renewable resources.
- GNI cannot provide detailed inputs into the sustainability of the agriculture sector in Ireland and the alleged increase in ammonia emissions, fertiliser use and dairy herd numbers. However, the AD process can significantly reduce the overall emissions of ammonia to the atmosphere as a whole.

#### Functional Interdependence and Assessing the Source of Biomethane

- The applicant's legal opinion (Appendix 3) confirms that, as there is no necessary, direct and specific link between the project and any AD plants, the Board is not obliged to assess the environmental impacts of the AD plants when completing its assessment of the project.

#### Biogas and Sustainability Concerns

- Under Article 29 of RED II, energy from biofuels, bioliquids and biomass cannot be taken into account for the purposes of contributing towards the EU's renewable energy target if it does not meet the sustainability and GHG savings criteria set out in Article 29 of RED II. Producers of biomethane will require a Proof of Sustainability in order to prove that their biomethane is renewable for the purposes of contributing to national shares of the RED II renewable energy targets.
- Biomethane production in Ireland is not predicated on maximising nitrogen fertilisers or fossil/chemical-based fertilisers. Chemical fertiliser can be displaced by organic digestate from the AD process thereby reducing nitrous

oxide emissions overall. Emissions are lower for raw digestate than the predominantly used chemical alternative and it provides better grass yields, with less leaching. Therefore, increasing grass growth does not mean an increase in emissions.

- There will be a sustainable supply of feedstock for the project and the production of biomethane will not compete with food production or climate action objectives.

### Sustainability Issues of Agriculture Related Feedstocks

- The applicant's legal opinion (Appendix 3) confirms that, as there is no necessary, direct and specific link between the project and any AD plants, the Board is not obliged when completing its assessment of the project to assess the impacts from any AD plant.

### Greenhouse Gases

- AD plants are specifically designed to be closed systems and to capture the methane which is released from organic matter. Approximately 99% of methane is captured in the AD process, a significant improvement on the volumes which escape to the atmosphere from the natural breakdown of manures. Leakage will be factored into calculations needed to demonstrate compliance with the requirements of RED II.
- The applicant cannot provide detailed inputs into how the sustainability of the agricultural sector in Ireland compares to other countries internationally. GNI believes that the sustainability of the agricultural system in Ireland can be greatly enhanced through the development of an indigenous agri-based AD industry.

### Water Quality and Nitrates

- The facility will not require an increase in silage production within the catchment area. Due to the higher solid content of digestate compared to



slurry, combined with the higher soil absorption properties of digestate due to the higher active ammonium content, the digestate largely remains where it is spread and doesn't wash off into watercourses in the same manner that slurry does.

- This bio-fertiliser could have further positive effects such as a reduction in the need for herbicides and pesticides to protect crops, leading to a lower risk of chemicals being leached into watercourses.
- As digestate will need to be compliant with the Nitrates Directive, the issue of overspreading or spreading outside designated times of the year will not arise.

### Ammonia and Air Pollution

- The AD process will largely capture and convert unstable ammonia to stable organic ammonia, which does not generate any emissions when in storage and is more readily available to plants as a fertiliser, thus significantly reducing the overall emissions of ammonia to the atmosphere.

### Biodiversity Loss

- AD can enhance biodiversity in a number of ways, the main way being through the replacement of chemical fertilisers with digestate and the reduction in pesticide and herbicide usage. Other ways include through support for catch and rotation cropping in the tillage sector and AD supports many of the objectives in the Green Deal's Farm to Fork Strategy.

### Lock-In to Fossil Gas

- LPG is not required for "safety standards required to enter the grid". It is only intended as redundancy should propanation be required to increase the calorific value of the biomethane to the minimum grid entry parameters for injection into the gas network. The AD feedstock and the upgrading process used by the producer will determine the methane content of the biomethane.

- There is no claim of the project itself being carbon neutral. The initial use of LPG is expected to be minimal and to reduce as processes and biogas upgrading technologies improve. The use of LPG will be included in the independently audited LCA carried out for the AD facility if the biomethane is to be categorised as “Renewable Gas” under RED II. It will be economically advantageous for the AD plant to produce biomethane which meets the CV requirements during its AD production process.

### Sustainable Uses for Biogas

- The project will support end users in urban areas being able to avail of the sustainable benefits of biomethane. It can be targeted at the sectors which are most difficult to decarbonise such as transport, domestic and industrial heating, and power stations.
- It is not always viable or sustainable to locate CHP plants at point of biogas production.
- Biogas is not suitable for transport as it is not a certifiable fuel and is not compatible with Compressed Natural Gas vehicles due to impurities in the biogas. Biogas, unlike biomethane, is not suitable for re-sale for domestic heating due to its impurities.

### Need for Full River Basin Catchment Level EIA

- The applicant’s Environmental Report addresses all of the planning and environmental issues. There is no requirement to evaluate the environmental effects of AD. This is supported by the applicant’s legal opinion.

### Appropriate Assessment

- The AA Screening assessed the project and its potential impact on European sites and is considered adequate. This is supported by the applicant’s legal opinion.

## Other Considerations

- The injection of biomethane does not contravene the Climate Action and Low Carbon Development Act 2015. The Climate Action Plan 2019 includes the objective to set a target for the level of energy to be supplied by biomethane injection by 2030. The national drive to support AD can also be found in the draft National and Energy Climate Plan 2021-2030.

The response included the attachment of two legal opinions on legal matters arising from the appeal, namely Appendix 3 relating to “Functional Interdependence” and Appendix 4 relating to “Requirement for Environmental Impact Assessment”. It also included a Screening Checklist.

### **6.3. Planning Authority Response**

I have no record of any response to the appeal from the planning authority.

### **6.4. Observations**

Friends of the Irish Environment raise concerns relating to:

- The failure to provide an EIAR that assesses the direct, indirect and cumulative impacts of the development and its functional dependence on the continued expansion of bovine ruminant agriculture in the surrounding catchment area to provide biomethane feed source for the proposed development.
- At national level, the principle of using biomethane to dilute up to 20% of the gas pipeline system strategy has not been subject to SEA under the SEA Directive, including its approval by the Commission for Regulation of Utilities.
- The principle of injecting biomethane into a fossil fuel gas pipeline infrastructure is fundamentally problematic since it perpetuates and can increase fossil fuel use dependence.

- The full emissions profile of the biomethane production process in the application, including fugitive methane emissions, has not been assessed.

## 6.5. Further Responses

*The third party response to the applicant's response to the appeal may be synopsised as follows:*

### Legal Considerations

- Since the appeal was lodged and the applicant's response was made the Supreme Court has ruled that the National Mitigation Plan does not meet the requirement of the Climate Action and Low Carbon Development Act 2015. The June 2019 Climate Action Plan does not resolve this obligation. Existing Irish energy and agriculture strategies can no longer be relied upon, including the strategy of GNI. A complete re-evaluation is required of the use of fossil gas in tandem with that of agriculture, including determining the capacity to sustainably produce biomethane from agricultural sources, appropriate future use of any sustainably produced AD, and prevention of "lock-in" to combustion technology through dilution and the undermining of fossil fuel free technologies. The concept of using any sustainable biomethane as a substitute for fossil gas or other fossil fuel sources would need to be assessed *de novo* as preferential to perpetuating fossil gas combustion by diluting biomethane into the fossil gas pipeline system.
- The proposal is an integral part of GNI's GRAZE project to deliver 20% of Ireland's gas supply by 2030 and 50% by 2050. Therefore, the Board must consider the issues surrounding GNI's Ten-Year National Development Plan (TYNDP). The TYNDP has not been approved by the CRU and if it was it would have to be abandoned to address the Supreme Court judgement.
- The future use of fossil gas and biogas needs to be integrated with an effective, timetabled and statutorily-based National Mitigation Plan under the 2015 Act.

### Sustainability of “Renewable Gas”

- Without counting the GHGs of the processes on which the operation of the injection facility is dependent, the project cannot constitute “proper planning and sustainable development”.
- The appellant further addresses issues relating to greenhouse gas reductions for biogas, methane slippage, ammonia emissions, and nitrogen and fertiliser use, with reference made to a range of studies

### Integration with EU Farm to Fork and 2030 Biodiversity Strategies

- The appellant emphasises the increase in ammonia emissions since 2016, referencing a 2020 Department of Agriculture report, and refers again to the need for SEA and AA for the GNI national plan prior to granting permission for AD plants or injection facilities dependent on biomethane from AD plants.
- The appellant refutes the findings of two studies cited in the GNI Vision 2050 plan and reiterates concerns relating to chemical fertiliser.
- The benefit of the proposed injection facility cannot be assessed until the full impact of the AD production and sourcing from the catchment area around Mitchelstown can be evaluated with regard to ‘A Farm to Fork Strategy’ and integrated with the overlapping EU ‘Biodiversity Strategy for 2030’.

### RED II and “Renewable Gas”

- Biomethane is highly unsustainable in power generation.
- As GNI projects increase future total gas usage, the injection of biomethane into the gas grid is unsustainable.
- Renewable Natural Gas (RNG) is not sustainable under the recast RED II for heat and so may only be sustainable for transport usage. It appears unlikely that the bulk of the biomethane being supplied can be judged to meet the RED II recast rules.

### Silage Co-Digestate

- There is a significant lack of clarity in the applicant’s response regarding the proposed silage input to the AD plants required for the injection facility.

### Functional Interdependence and EIA

- The applicant's legal assessment appears not to specifically address the lack of assessment of indirect effects.
- The appellant does not allege that the proposal and the related AD installations constitute a single project for the purposes of the EIA Directive. It is considered that when the indirect effects associated with these installations are taken into account it will show that there is a real likelihood of significant effects on the environment arising from the proposed development, including the inputs into the project necessary for the installation to run.

### Deficiency in EIA Screening Report

- The applicant does not appear to have taken into account the available results of other relevant assessments of the effects on the environment carried out pursuant to EU legislation other than the EIA Directive, in particular the Water Framework Directive, the National Emissions Ceilings Directive and the Habitats and Birds Directives.

It is concluded that the applicant has failed to consider indirect significant impacts resulting from inputs to the injection facility and the need for considerations by way of EIA and AA and it is recommended that the Board overturns the Council's decision.

The response includes a copy of the Supreme Court judgement *Friends of the Irish Environment CLG v The Government and Ireland and the Attorney General* (Appeal No. 205/19), a Legal infringement complaint on GNI regarding lack of SEA for its TYNDP, and a High Level Implementation Committee for FoodWise 2025 report.

*The applicant's response to the appellant's response to its submission on the appeal may be synthesised as follows:*

### Procedural Issues and Legal Considerations

- A letter from the applicant's Solicitors forming Appendix 2 of this submission, which is supplemental to the opinions furnished with the applicant's previous

response, explains why there is nothing in the appellant's submission that changes the opinion that the project is not functionally interdependent with third party "farm-based anaerobic digestions plants" and "their respective feedstock sources". When the Board is screening for EIA and AA it is not obliged to consider the impact on the environment of third party AD plants that might deliver gas to the project.

- As there is no interdependence with third party AD plants, the criticism of the applicant's EIA screening report relating to assessment of such plants is not relevant.
- It is true that the Supreme Court has ruled that the National Mitigation Plan does not meet the requirement of the Climate Action and Low Carbon Development Act 2015. However, it does not follow that the Board must refrain from dealing with pending applications or refuse applications pending a revised plan.
- Strategies on energy and agriculture were not the subject of the Supreme Court judgement. They have not been challenged and remain valid expressions of national, regional or local policy.
- The GNI network development plans (TYNDP) do not set the framework for any development consent. The judgement on the National Mitigation Plan is not relevant to the TYNDP and to the preparation of annual demand/capacity statements to assist forecasting.

#### Response to the Appellant's Submission

- The matters raised in Section 2 of the appellant's submission fall outside of the required review of the project.
- Further to the submission that AD should be limited to biogas production for the generation of electricity, it is submitted that the injection of biomethane into the gas network is aligned with both EU and individual Member State strategies across Europe. Biomethane is applicable to multiple end uses.

Injecting into the gas network facilitates efficient transportation of the gas to a number of uses hard to decarbonise and is supported by the EU Sector Integration Strategy.

- There will continue to be a role for synchronous power generation in the future to continue to provide power grid stability, reliability and flexibility for end users. Replacing natural gas with biomethane where synchronous generation is required is an appropriate use and an enabler to a resilient fully carbon neutral system.
- It is unlikely that grass will be digested on its own. The Long and Murphy report referenced by the appellant supports the production of biomethane from co-digestion of wastes and lingo-cellulosic materials to produce a sustainable renewable fuel which can be applied across all sectors.
- There is currently an oversupply of slurry particularly in the Mitchelstown area. Additional grass and crops will need to be sourced. AD biomethane plants offer a solution to dairy farmers who are exceeding the Nitrates Directive limits or having reached land bank limits.
- Based on modelling, it is estimated that the CGI facility would require the following volumes of feedstocks to produce the required biomethane for injection at the facility:
  - Up to 1.2 million tonnes of animal slurries
  - Up to 0.64 million tonnes of grass silage or equivalent, including rotation crop alternatives.

The feedstock potential in the region is estimated to be:

- Over 10 million tonnes of animal slurries currently in storage annually within the catchment area. A maximum of 12% of these would be required at full CGI capacity.
- The total potential grass silage capacity in the catchment area is c. 22.2 million tonnes per annum, with just 3% of this being required at full capacity.



Accessing an additional 3% grass silage in the region would not be the cause of any significant risk to the environment. The replacement of traditional fertiliser practices with digestate from the AD plants can meet the additional 3% requirement, thereby not requiring additional lands to be made available. There is also the potential for the tillage sector to introduce rotation cropping practices which can be supplied to AD plants as feedstock. There could also be opportunities for loss making farm enterprises to diversify their revenue streams and supply grass for feedstock.

The response includes Appendices which include a legal opinion relating to functional interdependence (Appendix 2) and a detailed response to Section 2 of the An Taisce Submission (Appendix 3).

## **7.0 Assessment**

### **7.1. Introduction**

- 7.1.1. I am satisfied, having regard to the location of the proposed development adjoining an existing gas installation, and the layout and form of the proposed development, that this proposal would be compatible with established land uses, would not result in any undue adverse impact on the landscape, have any significant adverse visual impact within the locality, and would not undermine any scenic views or the character of any designated scenic routes in this area. I consider that the principal planning issues requiring consideration are the development in the context of policy and legislation, the question of biomethane and its appropriate use, the interdependence of the proposed development with anaerobic digestion plants, the need for Environmental Impact Assessment, the impact on European sites, the traffic impact, and the development in the context of Mitchelstown's greenbelt.

## 7.2. **The Development in the Context of Policy and Legislation**

### 7.2.1. **European Policy**

#### **EU Renewables Directive 2009/28/EC**

This Directive established a common framework for the promotion of energy from renewable resources. It set mandatory national targets for the overall share of energy from renewable sources in gross final consumption of energy and for the share of energy from renewable sources in transport. It established the requirement for Member States to adopt a national renewable energy action plan (NREAP) to set out national targets for the share of energy from renewable sources consumed in transport, electricity and heating and cooling in 2020. Each Member State had flexibility to set targets across the heating, transportation and electricity sectors to meet the overall renewable energy targets. Annex I indicated that the national target for Ireland for the share of energy from renewable sources in gross final consumption of energy in 2020 was set at 16%. This target has not been met in Ireland.

The Directive also established sustainability criteria for biofuels and bioliquids. According to Article 2, 'biofuels' means liquid or gaseous fuel for transport produced from biomass, with the meaning of 'biomass' including the biodegradable fraction of products, waste and residues from biological origin from agriculture. Article 17 established the sustainability criteria for biofuels and bioliquids. Article 19 set out the calculation of the greenhouse gas impact of biofuels and bioliquids.

#### **Renewable Energy Directive (2018/2001) (RED II)**

This Directive establishes a common framework for the promotion of energy from renewable resources. The definition of 'renewable energy' set out in Article 2 includes biogas, while 'biogas' is defined as gaseous fuels produced from biomass. Article 3 obligates Member States to collectively ensure that the share of energy from renewable sources in the Union's gross final consumption of energy in 2030 is

at least 32% and national contributions to meet the target are required to be set out in a Member State's integrated national energy and climate plan (NECP). The following is also addressed:

- The calculation of the share of energy from renewable sources (Article 7),
- The organisation and duration of the permit-granting process (Article 16),
- The simple-notification procedure for grid connections (Article 17),
- Guarantees of origin for energy from renewable resources (Article 19),
- Access to and operation of the grids (Article 20),
- Renewables self-consumers (Article 21), and
- Calculation of greenhouse gas impact of biofuels, bioliquids and biomass fuels (Article 31).

Article 26 sets out specific rules for biofuels, bioliquids and biomass fuels produced from food and feed crops. Article 29 establishes sustainability and greenhouse gas emissions saving criteria for biofuels, bioliquids and biomass fuels. Under this Article, energy from biofuels, bioliquids and biomass cannot be taken into account for the purposes of contributing towards the EU's renewable energy target if it does not meet the sustainability and greenhouse gas savings criteria laid down in paragraphs 2-7 and 10 of that Article. Article 30 refers to verification of compliance with the sustainability and greenhouse gas emissions saving criteria. This requires operators to show that the gas emissions saving criteria laid down in Article 29 have been fulfilled.

It is evident from the above that the use of biogas as a renewable energy source is supported under RED II. It is also apparent that the responsibilities to meet with RED II's sustainability and greenhouse gas emissions saving criteria for biofuels, bioliquids and biomass fuels in the first instance lies with the producers, i.e. in the case of the current application before the Board the anaerobic digestion plant operators. The producers of biomethane would be required to produce proof of how the biomethane from an AD plan meets with the sustainability and greenhouse gas emissions saving criteria set out in Article 29 to ensure that the biomethane is renewable for the purposes of contributing to the national shares of the RED II

renewable energy targets. It is also understood that Gas Networks Ireland would have a responsibility to oversee, monitor and affirm the proof of the sustainability criteria of the biomethane for injection into the grid. It is clear that GNI proposes to meet with such obligations if the proposed development proceeds.

### **European Green Deal**

The European Green Deal, published in 2019, is a set of policy initiatives which aims to deliver net-zero greenhouse gas emissions at EU level by 2050 and to increase the EU-wide greenhouse gas emissions reduction target from 40% to up to 55% by 2030. This includes the aim of decarbonising the energy sector and a 'Farm to Fork' strategy.

### **EU Farm to Fork Strategy**

The Farm to Fork Strategy relates to food sustainability, the pursuit of climate-friendly production, increasing efficiency, developing sustainable agriculture, reducing the use of fertilisers, etc. It aims to accelerate the EU's transition to a sustainable food system that should:

- have a neutral or positive environmental impact
- help to mitigate climate change and adapt to its impacts
- reverse the loss of biodiversity
- ensure food security, nutrition and public health, making sure that there is access to sufficient, safe, nutritious, sustainable food, and
- preserve affordability of food while generating fairer economic returns, fostering competitiveness of the EU supply sector and promoting fair trade.

### **EU Energy Union**

The EU's energy union strategy (COM/2015/080), published on 25 February 2015, aims at building an energy union that gives EU consumers secure, sustainable, competitive and affordable energy.

The energy union builds five reinforcing dimensions as follows:

- Security, solidarity and trust - diversifying Europe's sources of energy and ensuring energy security through solidarity and cooperation between EU countries.
- A fully integrated internal energy market - enabling the free flow of energy through the EU through adequate infrastructure and without technical or regulatory barriers.
- Energy efficiency - improved energy efficiency will reduce dependence on energy imports, lower emissions, and drive jobs and growth.
- Climate action, decarbonising the economy - the EU is committed to a quick ratification of the Paris Agreement and to retaining its leadership in the area of renewable energy.
- Research, innovation and competitiveness - supporting breakthroughs in low-carbon and clean energy technologies by prioritising research and innovation to drive the energy transition and improve competitiveness.

### 7.2.2. National Policy

#### National Energy and Climate Plan 2021-2030

The following is a general review of the content of this recent Plan, seeking to draw on some content regarded as relevant to the nature of the development under consideration by the Board.

#### *Overview*

The National Energy and Climate Plan (NECP), published in June 2020, was prepared in accordance with Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action to incorporate all planned policies and measures that were identified up to the end of 2019 and which collectively deliver a 30% reduction by 2030 in non-Emissions Trading System (ETS) greenhouse gas emissions (from 2005 levels). This Plan builds on previous national strategies and sets out in detail Ireland's objectives regarding the five energy dimensions together with Ireland's planned policies and measures to ensure that those objectives are achieved.

The Plan notes that Ireland is committed to achieving a 7% annual average reduction in greenhouse gas emissions between 2021 and 2030 and that an ambitious and challenging target of increasing reliance on renewables from 30% to 70% by 2030 has been established. It further notes that the government agreed to support the adoption of a net zero target by 2050 at EU level and to pursue a trajectory of emissions reduction nationally which is in line with reaching net zero in Ireland by 2050. It is stated that the Climate Action Plan 2019 has been incorporated into this Plan.

On energy security, it is submitted that Ireland's objectives are to maintain and, where necessary, facilitate the enhancement of resilience of the gas and electricity networks. Key policy and measures on energy security include:

- Support efforts to increase indigenous renewable sources in the energy mix, including wind, solar and bioenergy.
- Facilitate infrastructure projects, including private sector commercial projects, which enhance Ireland's security of supply and are in keeping with Ireland's overall climate and energy objectives

On the internal energy market, key policies and measures include:

- Ireland is developing the regulatory and market regime necessary to allow renewable gas to be injected into the natural gas grid and used in the heat and transport sectors.

### *National Objectives*

National Objectives for agriculture include delivering substantial verifiable greenhouse gas abatement through the adoption of a specified range of improvements in farming practice.

On the Energy Security Dimension, the Plan has a range of objectives which include:

- Maintain and, where necessary, facilitate the enhancement of resilience of the gas and electricity networks provided such enhancements are in keeping with Ireland's overall climate and energy objectives.

- Ensure, in the most cost-effective way, that there is sufficient flexibility in the energy system to maintain energy security of supply and facilitate the integration and transition to clean energy sources.

### *Policies and Measures*

Policies and Measures include:

The Decarbonisation Dimension:

In reference to greenhouse gas emissions in agriculture, it is submitted that the long term vision for the agriculture, forest and land use sectors is based on an approach to carbon neutrality in these sectors, which does not compromise our capacity for sustainable food production and that this effectively means that agricultural emissions are to be balanced by reducing emissions of methane, nitrous oxide and carbon dioxide in so far as the best available science allows, increasing carbon-sequestration through forests and land use and displacing fossil fuel and energy intensive materials with renewable sources. Key actions in the sector referenced in the Plan include:

- Set a target for the level of energy to be supplied by indigenous biomethane injection in 2030, taking account of the domestic supplies of feedstock that meet strict sustainability criteria and consider how the supports necessary to reach such a target would be funded.

The Plan notes that the Climate Action Plan outlines the need to set a 2030 target for the level of energy to be supplied by indigenous biomethane injected into the gas grid and consider how necessary supports would be funded. It is stated that the Marginal Abatement Cost Curve developed for the Climate Action Plan estimated that circa 1.6 TWh was considered part of the most cost-effective pathway to reduce emissions in line with Ireland's decarbonisation target. It is noted that there are a number of limiting factors that need to be considered when setting a biomethane target and that, in particular, biomethane is significantly more expensive than natural gas, impacting commercial viability, and as a result financial supports will be required. It is submitted that, in the absence of certainty in relation to the mechanism

by which biomethane will be supported, it is proposed to set an indicative target which will be reviewed in 2023 as part of the review process for the National Energy and Climate Plan. This review is intended to take into account the development of supports and market development for biomethane and progress towards the indicative target. The indicative target for indigenous biomethane to be reviewed in 2023 is set at 1.6 TWh.

#### Energy Security Dimension:

In terms of gas and electricity, the key policies and measures, in line with national policy including Ireland's National Energy Policy Paper and Programme for Government, include:

- In the context of decarbonisation, put in place the appropriate measures to maintain the resilience of Ireland's gas and electricity systems in the period to 2030 in the context of ensuring a sustainable pathway to 2050,
- Support efforts to increase indigenous renewable sources in the energy mix, including wind, solar and bioenergy, and
- Develop, maintain and upgrade the electricity and gas networks to ensure that our energy system remains safe, secure and ready to meet increased demand.

Having regard to the above, it is evident that the recently adopted Plan presents a strong commitment to reducing greenhouse gas emissions, sees indigenous renewable resources as being important to energy security, seeks to facilitate the transition to and integration of clean energy sources, and supports the enhancement of the gas network. It is particularly relevant that reference is made to allowing renewable gas to be injected into the natural gas grid with the development of a regulatory and market regime. I note again that a key action in the agriculture sector is to set a target for the level of energy to be supplied by indigenous biomethane injection in 2030, taking account of the domestic supplies of feedstock that meet strict sustainability criteria. In my opinion, it can reasonably be ascertained that the principle of the development proposed would be supported by the policies and



provisions of the recently adopted NECP and that its development would aid in achieving the targets set for the level of energy to be supplied by indigenous biomethane injected into the gas grid.

### **Climate Action Plan 2019**

The Plan sets out over 180 actions, together with hundreds of sub-actions, that need to be taken to reduce Ireland's greenhouse gas emissions. The Plan embraces many relevant sectors - electricity, enterprise, the built environment, transport, agriculture/forestry/land use, waste and the circular economy, and the public sector. It identifies the nature and scale of the challenge facing Ireland, outlining the current state of play across the key sectors and it charts a course towards ambitious decarbonisation targets for each of the sectors. The Plan also sets out governance arrangements including carbon-proofing our policies, establishment of carbon budgets, a strengthened Climate Change Advisory Council and greater accountability to the Oireachtas. It recognises that Ireland must fundamentally step up its commitments to tackle climate disruption and put in place a decarbonisation pathway to 2030 consistent with the adoption of a net zero target in Ireland by 2050. The Plan notes that Ireland's carbon intensity in the agriculture sector is substantially higher than the EU average with Ireland emitting 400% more CO<sub>2</sub>eq./capita. This difference is seen to be due to Ireland's agricultural share of total emissions being over three times greater than the EU average and the lower population density. Key measures relating to agriculture include:

- Deliver substantial verifiable greenhouse gas abatement through adoption of a specified range of improvements in farming practice in line with recommendations from Teagasc.
- Support diversification within agriculture and land use to develop sustainable and circular value chains and business models for lower carbon intensity farming, including organic production, protection and enhancement of biodiversity and water quality, and the production of bio-based products and bioenergy through the Common Agricultural Policy and implementation of the National Policy Statement on the Bioeconomy.

To meet the required level of emissions reduction by 2030 the Plan references a number of targets (Section 11.2). The proposed measures to deliver on targets are set out. Those relating to agriculture include measures relating to reducing emissions on farms, forestry, diversification of land use, opportunities in the bioeconomy, energy substitutes, and better soil management. With regard to energy substitutes, the Plan acknowledges that realising the potential of bioenergy supply opportunities, including biomethane supplied from anaerobic digestion, will require sustained attention over the period ahead. Measures include:

- Adopt a whole-of-Government approach to reviewing the potential of anaerobic digestion to supply biogas and biomethane, including opportunities in indigenous grass silage and slurry, and
- Set a target for biogas and biomethane development in Ireland.

The Actions set out for Agriculture include:

- Set a target for the level of energy to be supplied by indigenous biomethane injection in 2030, taking account of the domestic supplies of sustainable feedstock and consider how the supports necessary to reach such a target would be funded. (Action 130)

The Annex of Actions associated with the Plan sets out the steps necessary for the delivery of the Actions and in relation to Action 130 these steps include:

- Set a target for the level of energy to be supplied by indigenous biomethane injection in 2030. The development of this target will take into account the most recent evidence in relation to domestic supplies of sustainable feedstock, sustainability, and consider how the supports necessary to reach such a target would be funded (e.g. exchequer support, a levy on consumers, obligation etc.)
- Carry out a public consultation on the Biofuels Obligation Scheme to include the development of an advanced biofuel obligation to increase the supply of renewable gas (i.e. biomethane) to the transport sector via CNG fuelling stations
- Assimilate policy relevant findings of ongoing research, commissioned by DAFM, SEAI and GNI, in regard to AD technologies more suited to the small-scale applications for biogas in the Irish context

- Development of a system of certification for renewable gas use in the national grid
- Assess potential impacts of moving anaerobic digestion above composting in the waste management hierarchy. Consider in particular impacts for the development of the bio economy
- Develop updated feasibility study on the availability of sustainable feedstocks for an AD industry in Ireland, particularly availability of biodegradable materials including surplus grass in dairy/pig intensive catchments for use in AD and potential fertiliser displacement value
- Consider options to avail of AD infrastructure to manage animal manure production

I acknowledge that the proposed development for consideration by the Board could not be seen to be in conflict with the objectives, stated measures and stated actions of the Climate Action Plan. The pursuit of the development in principle can reasonably be viewed as being consistent with the Climate Action Plan's decarbonisation targets.

#### **Climate Action and Low Carbon Development Act, 2015**

This Act provides for the approval of plans by the Government in relation to climate change for the purpose of pursuing the transition to a low carbon economy by 2050 and to provide for the establishment of the Climate Change Advisory Council. It provides for the making of a national mitigation plan and a national adaptation framework on which the Advisory Council advises and makes recommendations. Section 15 of the Act requires a 'relevant body' (i.e. a prescribed body and public body), in the performance of its functions, to have regard to the most recent approved national mitigation plan, the most recent approved national adaptation framework and approved sectoral adaptation plans, the furtherance of the national transition objective, and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State

### **National Mitigation Plan**

The National Mitigation Plan was adopted pursuant to the Climate Action and Low Carbon Development Act 2015. This Plan was subject to challenge to the courts and it was found not to meet with the requirement of the Climate Action and Low Carbon Development Act 2015.

While I note that this Plan has been set aside, this does not preclude the Board from considering the proposed development now before it and the making of a decision on the proposal, with due regard being given to prevailing EU, national, regional and local plan and policy provisions.

### **7.2.3. National Spatial Plans**

#### **Project Ireland 2040 - National Planning Framework**

The Framework's National Strategic Outcomes include the goal: "*Transition to a low carbon, climate-resilient society.*" The NPF notes that new energy systems and transmission grids will be necessary for a more distributed, renewables-focused energy generation system. Chapter 9, 'Realising Our Sustainable Future', sets out environmental and sustainability goals, with reference to a low carbon economy and emphasising the need to accelerate action on climate change.

National Policy Objective 53 supports the bio economy, including through greater efficiency in land management and the greater use of renewable resources, while National Policy Objective 54 seeks the reduction of our carbon footprint by integrating climate action in the planning system. The NPF supports the reduction of greenhouse gas emissions from the energy sector by at least 80% by 2050 compared to 1990 levels. To this end, National Policy Objective 55 promotes renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050.

## **National Development Plan 2018-2027**

This Plan references the National Strategic Outcomes set out in the NPF and refers to Public Investment Priorities in Chapter 5. With regard to NSO 8 relating to a ‘Transition to a low carbon, climate-resilient society’, it is recognised that Ireland’s energy system requires a radical transformation in order to achieve its 2030 and 2050 energy and climate objectives. Strategic Investment Priorities are identified and these include:

- Development of gas infrastructure projects to support regional and rural development and the low-carbon transition
- Town-scale pilots of food and agricultural waste to gas in agricultural catchments for local gas networks supply and biogas production.

In the context of Project 2040 and the National Development Plan, the proposed development could reasonably be seen to assist in the achievement of the targets and objectives expressly set out in these policy documents relating to agriculture, the further development of gas infrastructure, biogas production in the agriculture sector, increased use of renewable resources, and the reduction in greenhouse gas emissions.

### **7.2.4. Regional Guidelines**

#### **Regional Spatial and Economic Strategy for the Southern Region**

The following is noted from the recently published RSES for the Southern Region:

Chapter 5 addresses climate action and transition to a low carbon economy.

Regional Policy Objectives set out include the following:

#### ***RPO 87***

#### ***Low Carbon Energy Future***

*The RSES is committed to the implementation of the Government's policy under Ireland's Transition to a Low Carbon Energy Future 2015-30 and Climate Action Plan 2019. It is an objective to promote change across business, public and residential sectors to achieve reduced GHG emissions in accordance with current and future national targets, improve energy efficiency and increase the use of renewable energy sources across the key sectors of electricity supply, heating, transport and agriculture.*

#### **RPO 94**

##### ***Decarbonisation in the Agricultural Sector***

*It is an objective to support initiatives that advance an approach to achieve carbon neutrality for agriculture and land-use that does not compromise sustainable food production through:*

- i. Programmes including the Green Low- Carbon Agri-environment Scheme (GLAS) and the Beef Data and Genomics Programme (BDGP) under Ireland's Rural Development Programme 2014-20;*
- ii. Support for the Departments of Agriculture, Food and the Marine, and Communications Climate Action and Environment to enhance the competitiveness of the agriculture sector with an urgent need for mitigation to reduce GHGs as well as adaptation measures. The All-of-Ireland Government Plan on Climate Action and Ag-Climatise will guide action in this area.*

#### **RPO 95**

##### ***Sustainable Renewable Energy Generation***

*It is an objective to support implementation of the National Renewable Energy Action Plan (NREAP), and the Offshore Renewable Energy Plan and the implementation of mitigation measures outlined in their respective SEA and AA and leverage the Region as a leader and innovator in sustainable renewable energy generation.*

#### **RPO 96**

##### ***Integrating Renewable Energy Sources***

*It is an objective to support the sustainable development, maintenance and upgrading of electricity and gas network grid infrastructure to integrate a renewable energy sources and ensure our national and regional energy system remains safe, secure and ready to meet increased demand as the regional economy grows.*

Chapter 8 addresses energy utilities. In Section 8.3, the Strategy notes that Gas Networks Ireland aims to move to a “carbon neutral” gas network by 2050 and that renewable gas is an extremely flexible and efficient fuel that can be fully accommodated into the existing gas network. It further notes that the gas network also has the capacity to accommodate new loads as part of the Climate Change Adaptation Strategy and that increased use of the gas network can provide enhanced energy security at a relatively low cost. It is stated that there is significant demand for renewable gas from industry as a heating and transport fuel and, in addition, the circular economy benefits will also deliver a major decarbonisation benefit for agriculture and industry. It is further stated that GNI is committed to integrating indigenous renewable gas production (including biogas derived from waste) and grid injection, and is progressing a renewable gas injection facility project with Green Generation Ltd and the GRAZE Gas project in Mitchelstown. The RSES submits that there is significant potential for the Region to lead in the integration of the biogas sector and biogas production as a core element of sustainable agriculture, developing a significant indigenous renewable energy industry.

Regional Policy Objectives include:

**RPO 225**

**Gas Network**

*Subject to appropriate environmental assessment and the planning process where required, it is an objective to:*

- a. Promote renewable gas leading to carbon emission reduction in agriculture, industry, heating and transport as well as sustainable local employment opportunities.*
- b. Support the transition of the gas network to a “carbon neutral” gas network by 2050, which will drive Ireland and the Region to becoming a low carbon society.*

*c. Support investment in the sustainable development of agricultural biogas sector and regional gas supply projects which strengthen gas networks in the Region and assist integration of renewable gas to the grid network.*

*d. Support investment in developing renewable gas and provision of CNG refuelling infrastructure which will help reduce the Green House Gas emissions in both the agriculture and transport sectors and support Carbon Capture and Storage initiatives, which has the potential to decarbonise power generation at scale*

*e. Strengthen the gas network sustainably to service settlements and employment areas in the Region, support progress in developing the infrastructures to enable strategic energy projects in the Region.*

It is evident from the above that there is support in the RSES for the proposed development in Mitchelstown. It is clearly understood a development of this nature is an integral part of the process in developing the biogas sector and biogas production as a core element of sustainable agriculture. The development of renewable gas and its injection to the grid comprises a development which is understood in the RSES to support the array of RPOs referenced above. Thus, it is reasonable to conclude that the proposed development would be wholly in keeping with the RSES for the Southern Region.

#### **7.2.5. Local Policy**

I note the energy provisions set out in Cork County Development Plan 2014. The objectives in the Plan include:

##### *ED 1-1: Energy*

*Ensure that through sustainable development County Cork fulfils its optimum role in contributing to the diversity and security of energy supply and to harness the potential of the county to assist in meeting renewable energy targets.*



#### *ED 4-3: Bioenergy*

*Support and encourage the development of the bioenergy sector and facilitate its development for energy production, heat storage and distribution.*

*Encourage the development of commercial bioenergy plants; on brownfield sites which are adjacent to industrial areas or on lands which are reserved for industrial uses or on brownfield sites in rural areas.*

*Commercial bioenergy plants should be located close to the energy source and the point of demand, where they can be served by public roads with sufficient capacity to absorb increased traffic flows and adjacent to transport corridors.*

*Visual, noise and odour impacts on adjacent residential property will be key considerations when assessing any such proposals.*

#### *ED 6-3: Gas Network Infrastructure*

*Facilitate the delivery and expansion of natural gas infrastructure throughout the County and have regard to the location of existing gas infrastructure in the assessment of planning applications.*

Whilst general in content and with no specific reference to the proposed development, it is evident that the intent of the proposed development, which seeks to utilise renewable gas as an integral part of the energy supply, is compatible with the provisions and objectives of the Plan that seek to develop renewable energy production and distribution and to expand the bioenergy sector.

#### **7.2.6. Network Service Plans**

##### **Gas Networks Ireland – Network Development Plan 2018**

I note that reference has been made in correspondence to the Board to Gas Networks Ireland's Ten Year National Development Plan (TYNDP). For clarity for the Board, the following seeks to provide an overview of some of the relevant provisions of the Plan in the context of the proposed development.

This Plan provides a view of how the gas network is intended to develop over a ten-year period. It is based on existing supply and demand for gas, as well as projections

for growth in gas infrastructure and consumption. It also examines system operation and consequent capital investment requirements.

The Plan notes that renewable gas is generated principally through anaerobic digestion using feedstock that includes grass, animal slurry and domestic waste, producing biogas which can be purified into biomethane. It is stated that it is envisioned that by 2028 in the region of 15 to 20 Centralised Grid Injection facilities will be geographically dispersed across the country at locations in close proximity to the existing gas grid. It is intended that renewable gas producers within 50km of the existing gas grid will be able to avail of these facilities, using high capacity gas storage trailers to transport their gas via road, and inject into the national gas grid.

The Plan acknowledges that energy from biomethane or renewable gas has the potential to contribute significantly to Ireland's renewable energy targets. It is stated that it could, in particular, greatly assist Ireland in meeting the EU targets for thermal energy from renewables (RES-H) and transport fuel from renewables (RES-T). It is noted, in addition, that it can also deliver significant greenhouse gas mitigations for the agriculture sector, with elimination of greenhouse gas emissions from current slurry storage, slurry land spreading practices, and crop residue emissions.

The Plan notes that GNI has a strategic plan to achieve 20% renewable gas on the gas network by 2030 which is equal to circa 11.6 TWh of renewable gas and, to achieve this level of renewable gas, GNI is focusing on supporting anaerobic digestion (AD) with separate initiatives for the agriculture sector and the commercial waste industry sector. It is forecast that up to 9.8 TWh per annum of renewable gas can be delivered from the agriculture sector by 2030. Agri-based AD is to be supported on the basis that biogas is purified to natural gas standard at the AD site, ready for collection.

Gas Networks Ireland in conjunction with other industry stakeholders intends to invest in the renewable gas collection logistics and Central Grid Injection (CGI) facilities located on the gas transmission network where renewable gas quality will be verified and the grid injection process will be managed and metered. The CGI facilities are designed to operate as gas Entry Points on the network where Gas Shippers can register capacity and transact gas into the system for delivery to their gas customers in the heat, power and transport sectors. The initiative to establish

renewable gas production from Agri-AD is seen to represent a significant opportunity to decarbonise agriculture and the agri-food supply chain, while also providing the opportunity for farmers to diversify, and enhancing Ireland's security of supply.

It is evident from the above that the proposed development is wholly consistent with GNI's TYNDP and, in accordance with this Plan, it is seen to form an integral part of the growth and expansion of gas infrastructure to contribute to Ireland's renewable energy targets.

#### **7.2.7. Policy Overview**

It is my submission to the Board that the review undertaken above clearly demonstrates that the proposed development is consistent with policies, objectives, measures and provisions at EU, national, regional and local levels relating to renewable energy provision and the measures being sought to reduce greenhouse gas emissions in the agriculture sector in Ireland. It is evident that there are express provisions to develop infrastructure of the nature proposed to compliment and support anaerobic digestion and to increase the production of biomethane in order to significantly increase renewable gas entering the gas network.

### **7.3. Interdependence with Anaerobic Digestion Plants**

- 7.3.1. The appellant's submission is that, when the indirect effects associated with the anaerobic digestion installations are taken into account, this will show that there is a real likelihood of significant effects on the environment arising from the proposed development, including the inputs into the project necessary for the installation to run. Reference is made to *An Taisce -v- An Bord Pleanála* (2015) IEHC 633 relating to Edenderry Power Station. It is argued that the biogas plants and their respective feedstock sources should have been assessed as part of a full EIA. It is further argued that, in order to assess the feedstock production impacts on European sites, a full Appropriate Assessment must be carried out, i.e. an assessment which

includes the significant effects on Natura 2000 sites as a result of the biomethane production at the AD plants as well as the impacts of the feedstock sourcing.

7.3.2. The applicant submits that no third party AD plant comprises any part of the project seeking permission. It is further submitted that the concept of functional interdependence is now settled by reference to whether the proposed development serves no function without some other *specific development*. It is contended that the input gas is produced by third parties outside of the applicant's control, that this gas will be transported along public roads outside of the applicant's control, that there is no commitment to source the input gas from any specific AD plant or cohort of AD plants, and there is no historic pattern of behaviour to evidence any other direct link between the proposed development and any specific AD plant or cohort of AD plants. Therefore, the proposed development and third party AD plants are viewed as entirely independent and standalone. The analogy is made that the proposed development is no different from a pumping station or wastewater treatment plant and the sources that might deliver wastewater.

7.3.3. In considering this issue, I first note that the proposal is for a facility which allows for the transportation of gaseous fuels through the gas network. It is not for the production of biomethane. This gas would be produced at independent anaerobic digestion plants. I further note that every AD biomethane production facility would be required to hold a valid certificate of sustainability in accordance with EU requirements to demonstrate compliance with the sustainability criteria in RED II. Producers would be required to provide evidence of this certification to GNI's Green Gas Certification Scheme for their gas to be made available for trading on the market as renewable gas.

7.3.4. It is evident that for the proposed development to have a purpose and to function there is a dependence on gas produced at anaerobic digesters. However, I submit to the Board that there is no functional interdependence in this instance between the proposed development and any specific anaerobic digesters within the region. Anaerobic digestors are developments which themselves are subject to environmental assessment and approval processes. Assuming that plants delivering

gas to the proposed injection facility would have themselves been subject to approvals and that likely significant environmental effects had previously been considered before the giving of any such consents or approvals, it can reasonably be understood that significant effects arising from these proposed anaerobic digestion developments were not anticipated to occur and, thus, they were permitted. I note that there is no understanding in the application of exactly where the AD plants are that are proposed to deliver gas to the injection facility other than they are to come from within the region generally. Exactly which anaerobic digestion operations may avail of the facility may not be understood at this time as such facilities currently in operation clearly have established uses for the gas produced and may or may not avail of the injection facility. I further acknowledge that the proposed development may encourage the development of other AD plants in the region and I submit that one cannot reasonably seek to consider any impacts arising from such unknown possible future developments at this time. Finally, I consider the applicant's analogy relating to a wastewater treatment plant is apt. One cannot reasonably seek to determine the environmental effects of the all of the inputs to an array of established and possible future anaerobic digesters across a region, i.e. for developments that have previously been, and which would be subject to, prior approval after consideration of their likely environmental impacts. I, therefore, consider that it is not reasonable to seek to assess the indirect effects arising from the anaerobic digestion plants that may potentially use the gas injection facility.

#### **7.4. The Need for Environmental Impact Assessment**

- 7.4.1. Having regard to my considerations above, I am satisfied to submit to the Board that the proposed development and existing and proposed independent anaerobic digestion plants in the region do not constitute a single project for the purposes of the EIA Directive. I again note that the purpose of the proposed development is to facilitate injection of biomethane into the gas transmission network from vehicular container units arriving from independent anaerobic digestion installations.

7.4.2. I note that the EIA Directive and Schedule 5 of the Planning and Development Regulations 2001 (as amended) do not refer to such a facility. I acknowledge the project types specified under 'Energy Industry' in Part 2 of Schedule 5 of the Regulations. These include:

3(e) *Installations for the surface storage of fossil fuels, where the storage would exceed 100,000 tonnes.*

7.4.3. I am satisfied to conclude that the proposed development would not constitute an industrial installation under 'Energy Industry' for the production of electricity, steam and hot water, an installation for carrying gas steam and hot water, an installation for surface storage of natural gas, or an installation for underground storage of combustible gases. There are no other project types set out in Schedule 5 to which the proposed development could be compared.

7.4.4. The proposed development would include a maximum stored quantity of 46 tonnes of LPG, 77 tonnes of biomethane, and 0.34 tonnes of odorant. Therefore, it may be ascertained that paragraph 3(e) of Part 2 makes the proposed development 'sub-threshold' development, notwithstanding the low volumes to be stored falling significantly below the prescribed threshold of 100,000 tonnes. Having regard to this, it is reasonable to undertake a screening for EIA in this instance to determine if there is any likelihood of significant environmental effects. I note that the applicant's Environmental Report included an EIA Screening section.

7.4.5. My considerations are as follows:

#### *Introduction*

The applicant's EIA Screening Report has concluded that there will be no significant impacts associated with the proposed development on the receiving environment either in isolation of or cumulatively with other projects or proposals in the area.

### *Mandatory EIA – Schedule 5 Part 1*

The classes of development which require a mandatory EIA are defined in Article 93 and Schedule 5 of the Planning and Development Regulations. The proposed development does not fall within the classes of development which require a mandatory EIA.

### *Sub-Threshold EIA – Schedule 5 Part 2*

The relevant development class determined from Schedule 5 Part 2 is:

#### **Class 3(e)**

*Installations for the surface storage of fossil fuels, where the storage would exceed 100,000 tonnes.*

It is reasonable to determine that the storage of 46 tonnes of LPG, 77 tonnes of biomethane, and 0.34 tonnes of odorant at the site may be seen to constitute sub-threshold development in the context of the above Class.

### *Assessment of Environmental Significance*

#### **Characteristics of the Proposed Development**

- The proposed development would comprise a central gas injection (CGI) facility as described in Section 2 of this report.
- The proposed development would include a maximum stored quantity of 46 tonnes of LPG, 77 tonnes of biomethane, and 0.34 tonnes of odorant on the site.
- The application is covered by Regulation 24(2)(a) of S.I. 209 of 2015 – i.e. the Chemicals Act (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2015. The proposed development would constitute a lower-tier SEVESO site under the Seveso Directive.
- The proposed development would be provided alongside an established above ground gas installation, sharing a common access from the N73 national secondary road. The established facility itself was not subject to EIA.

- The proposed development would include the demolition of a small agricultural shed.
- The proposed development would be located on a 1.8 hectare site currently forming part of a field used for cattle grazing. This field is of no known biodiversity significance. The proposal would include soil stripping, construction of foundations for structures, drainage provisions, and installation of equipment. This would result in a change in ground conditions in this part of the field. The site is of no known geological significance and the soils and land use resource are typical of the wider area. There are no surface water bodies on this site and there are no rivers or streams in the vicinity of the site.
- There is no likelihood of any significant production of waste arising from the nature of the development.
- The likelihood of pollution, nuisance and risk of accidents relates primarily to the site comprising a lower-tier SEVESO site.

#### **Location of the Proposed Development**

- The location for the proposed development is in a rural area where the dominant land use is agriculture.
- The proposed development would adjoin an established above ground gas installation.
- The proposed development would not affect the absorption capacity of any wetlands, coastal zones, mountain and forest areas, nature reserves or parks.
- A Screening for Appropriate Assessment has been undertaken (see below) and it is concluded that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European Site.
- Areas in which the environmental quality standards laid down in legislation of the EU have already been exceeded do not apply in this instance.
- The proposed development would not affect the absorption capacity of any densely populated area.



- The proposed development would not affect the absorption capacity of any landscapes and sites of historical, cultural or archaeological significance.

#### **Characteristics of the Potential Impacts**

- The site of the proposed development would be located in a rural area remote from any densely populated area.
- The Health and Safety Authority has determined that the siting criteria for new establishments has been met. There is no known likelihood of any risk to human health arising from the proposed development.
- There is no particular sensitivity relating to the land take for the proposal. It would not impact in a significant manner on the regenerative capacity of the natural resources of this area.
- A significant schedule of mitigation measures is proposed as part of the proposed development and these measures are set out under the various topics discussed in the applicant's Environmental Report.
- The proposed development would facilitate agricultural anaerobic digestion (AD) facilities in the region by providing a common injection location.
- There would be no transboundary impacts arising from the proposed development.
- There would be no potential significant effects from the proposed development having regard to its magnitude and complexity.
- There would be no potential significant effects from the proposal having regard to the probability of its impact.
- Having regard to the expected onset, duration, frequency and reversibility of the environmental effects of the proposal, the development would be understood to be permanent in its effects.
- The proposed development would be consistent with the pattern, form, scale and nature of gas-related development permitted at this location.

- The proposed development would not result in any known significant cumulative impacts with the gas-related development already approved and functioning at this location.

### *Conclusion*

Overall, it may reasonably be concluded that the proposed development would not exceed the threshold of any project defined in Schedule 5 of the Planning and Development Regulations. Having regard to the consideration of the likely environmental significance of the proposal, it may reasonably be concluded that the characteristics of the development, its location, and the type and characteristics of the potential impacts arising from the construction and operation of the development would not result in a significant environmental impact. It is, thus, reasonably determined that Environmental Impact Assessment is not required and the requirement to submit an Environmental Impact Assessment Report does not arise.

## **7.5. Appropriate Assessment - Screening**

### *7.5.1. Introduction*

The Board will note my consideration earlier in this assessment that there is no functional interdependence in this instance between the proposed development and any anaerobic digesters within the region. This screening therefore considers the possibility of significant effects on European sites arising from the proposed development at the site in Corracunna and Garryleagh, Mitchelstown.

### *7.5.2. Background*

The applicant has submitted an Appropriate Assessment Screening Report as part of the application to the Board. This Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the

development. The applicant's AA Screening Report concluded with a finding of no significant effects on European sites.

Having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone or in combination with other plans and projects, on European sites.

### 7.5.3. *Description of Development*

The applicant provides a description of the project on pages 7 and 8 of the AA Screening Report. In summary, the development comprises the demolition of existing agricultural structures and the construction of a central gas injection (CGI) facility within a site area of c.1.8 hectares. The development would include:

- A concrete apron
- 16 no. truck bays
- A welfare/office facility
- A medium voltage substation
- 8 no. pressure reduction skid units
- 2 no. boiler units
- A network entry facility unit
- A flare unit
- An odorant injection unit
- Propane storage
- A compressed natural gas refuelling area
- An electrical and instrumentation kiosk
- A generator kiosk
- A transformer kiosk
- 8 no. compressor container units

- 4 no. gas chromatograph units
- A covered shelter for storage of gas bottles
- A compressed natural gas dispenser
- A compressor building
- On-site drainage
- Underground pipework
- A new site entrance from the N73
- Associated drainage to serve the proposed facility and the adjacent existing Corracunna above ground installation facility
- The removal of the existing Corracunna above ground installation entrance
- All associated site development works

The purpose of the proposed development is to accommodate the injection of biomethane gas into the national gas network. It is intended to facilitate smaller agricultural anaerobic digestion (AD) facilities through providing a common injection location. The gas would be produced and processed off-site at AD facilities throughout the region. It would then be transported to the GNI facility via pressurised road tankers and would be transferred to decanting stanchion units using flexible hoses.

#### 7.5.4. *European Sites*

A summary of European sites that occur within 15km of the site for the proposed development is presented in Section 4.2 of the applicant’s AA Screening Report.

The following are the European sites within 15km of the site:

<b>Special Areas of Conservation</b>	<b>Distance to Site</b>
Galtee Mountains SAC	c. 5.7km
Lower River Suir SAC	c. 6.4km

Blackwater River (Cork/Waterford) SAC	c. 7.9km
Carrigeenamronety Hill SAC	c. 12.7km
Ballyhoura Mountains SAC`	c. 15km

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<b>Special Protection Area</b>	<b>Location</b>
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Blackwater Callows SPA	c. 13.7km
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Table 4.1 of the applicant's AA Screening Report identifies the relevant European sites, their distance from the site of the proposed development, their conservation objectives, their qualifying interests, threats, and reasons for screening them out.

#### 7.5.5. *Identification of Likely Effects*

##### **General Observations**

- The site of the proposed development is not located in or in the vicinity of any European site.
- The site of the proposed development does not have habitat to support any of the Special Conservation Interests of any Special Protection Area within 15km of the site.
- Five of the six European sites are located at least partially within the Blackwater River catchment and three are within the same sub-catchment as the site for the proposed development. None of these three European sites are directly or indirectly hydrologically linked to the site of the proposed development.

##### **Galtee Mountains SAC (Site Code: 000646)**

The Qualifying Interests of this SAC are:

- Northern Atlantic wet heaths with *Erica tetralix*
- European dry heaths

- Alpine and Boreal heaths
- Species-rich *Nardus* grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe)
- Blanket bogs (\* if active bog)
- Siliceous scree of the montane to snow levels (*Androsacetalia alpinae* and *Galeopsietalia ladani*)
- Calcareous rocky slopes with chasmophytic vegetation
- Siliceous rocky slopes with chasmophytic vegetation

The Conservation Objectives are to restore the favourable conservation condition of the Annex I habitats for which this SAC has been selected.

The following is noted:

- This site is almost 6km away from the site of the proposed development.
- There is no hydrological link between the site for the proposed development and this European site.
- There is no other known pathway between the site of the proposed development and this European site.

It can reasonably be determined that the proposed development would not have any direct or indirect effects on the qualifying interests of this European site.

***Lower River Suir SAC (Site Code: 002137)***

The Qualifying Interests of this SAC are:

- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)
- Mediterranean salt meadows (*Juncetalia maritimi*)
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation
- Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)

- *Taxus baccata* woods of the British Isles
- *Margaritifera margaritifera* (Freshwater Pearl Mussel)
- *Austropotamobius pallipes* (White-clawed Crayfish)
- *Petromyzon marinus* (Sea Lamprey)
- *Lampetra planeri* (Brook Lamprey)
- *Lampetra fluviatilis* (River Lamprey)
- *Alosa fallax fallax* (Twaiite Shad)
- *Salmo salar* (Salmon)
- *Lutra lutra*

The Conservation Objectives are to maintain/restore the favourable conservation condition of the Annex I habitats and/or the Annex II species for which this SAC has been selected.

The following is noted:

- This site is c. 6.4km away from the site of the proposed development.
- There is no hydrological link between the site for the proposed development and this European site.
- There is no other known pathway between the site of the proposed development and this European site.

It can reasonably be determined that the proposed development would not have any direct or indirect effects on the qualifying interests of this European site.

***Blackwater River (Cork/Waterford) SAC (Site Code: 002170)***

The Qualifying Interests of this SAC are:

- Estuaries
- Mudflats and sandflats not covered by seawater at low tide
- Perennial vegetation of stony banks
- *Salicornia* and other annuals colonising mud and sand
- Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)
- Mediterranean salt meadows (*Juncetalia maritimi*)

- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation
- Old sessile oak woods with Ilex and Blechnum in the British Isles
- Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae)
- Margaritifera margaritifera (Freshwater Pearl Mussel)
- Austropotamobius pallipes (White-clawed Crayfish)
- Petromyzon marinus (Sea Lamprey)
- Lampetra planeri (Brook Lamprey)
- Lampetra fluviatilis (River Lamprey)
- Alosa fallax fallax (Twaité Shad)
- Salmo salar (Salmon)
- Lutra lutra (Otter)
- Trichomanes speciosum (Killarney Fern)

The Conservation Objectives are to maintain/restore the favourable conservation condition of the Annex I habitats and/or the Annex II species for which this SAC has been selected.

The following is noted:

- This site is almost 8km away from the site of the proposed development.
- There is no hydrological link between the site for the proposed development and this European site.
- There is no other known pathway between the site of the proposed development and this European site.

It can reasonably be determined that the proposed development would not have any direct or indirect effects on the qualifying interests of this European site.

***Carrigeenamronety Hill SAC (Site Code: 002037)***

The Qualifying Interests of this SAC are:

- European dry heaths
- Trichomanes speciosum (Killarney Fern)



The Conservation Objective is to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

The following is noted:

- This site is almost 13km away from the site of the proposed development.
- There is no hydrological link between the site for the proposed development and this European site.
- There is no other known pathway between the site of the proposed development and this European site.

It can reasonably be determined that the proposed development would not have any direct or indirect effects on the qualifying interests of this European site.

***Ballyhoura Mountains SAC (Site Code: 002036)***

The Qualifying Interests of this SAC are:

- Northern Atlantic wet heaths with *Erica tetralix*
- European dry heaths
- Blanket bogs (\* if active bog)
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)

The Conservation Objectives are to restore the favourable conservation condition of the Annex I habitats for which this SAC has been selected.

The following is noted:

- This site is c. 15km away from the site of the proposed development.
- There is no hydrological link between the site for the proposed development and this European site.
- There is no other known pathway between the site of the proposed development and this European site.

It can reasonably be determined that the proposed development would not have any direct or indirect effects on the qualifying interests of this European site.

***Blackwater Callows SPA (Site Code: 004094)***

The Qualifying Interests of this SPA are:

- Whooper Swan (*Cygnus cygnus*)
- Wigeon (*Anas penelope*)
- Teal (*Anas crecca*)
- Black-tailed Godwit (*Limosa limosa*)
- Wetland and Waterbirds

The Conservation Objectives are to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA and to maintain or restore the favourable conservation condition of the wetland habitat at Blackwater Callows SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.

The following is noted:

- This site is almost 14km away from the site of the proposed development.
- The site of the proposed development does not have habitat to support any of the Special Conservation Interests of this Special Protection Area.
- There is no hydrological link between the site for the proposed development and this European site.
- There is no other known pathway between the site of the proposed development and this European site.

It can reasonably be determined that the proposed development would not have any direct or indirect effects on the qualifying interests of this European site.

**7.5.6. *In-combination Effects***

The only project requiring consideration for in-combination effects, in my opinion, is the adjoining above ground gas installation. This established development is not of a

scale, nor is it a development which is known to have any significant environmental effects, which could act cumulatively with the proposed development. Having regard to the proposed development itself having no direct or indirect effects on the conservation objectives of any European site, it is reasonable to conclude that there would be no potential in-combination effects.

#### 7.5.7. *Mitigation Measures*

No measures designed or intended to avoid or reduce any harmful effects of the proposed alterations on a European site have been relied upon in this screening exercise.

#### 7.5.8. *Screening Determination*

The proposed development has been considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European site, in view of their Conservation Objectives, and Appropriate Assessment is not therefore required.

This determination is based on the following:

- There are no known pathways between the site areas associated with the proposed development and any European site, and
- The site for the proposed development does not have habitat to support the Special Conservation Interests of the Special Protection Areas within 15km of the proposed development.

### 7.6. **Traffic Impact**

- 7.6.1. The site of the proposed development has direct frontage onto the N73 National Secondary Road. It is proposed to provide a combined entrance with the established

Gas Networks Ireland above ground installation (AGI) to the west of the site. This entrance would be developed within the 100kph speed limit zone for the N73. The proposed gas injection facility would be reliant upon the delivery of biomethane from anaerobic digestion plants within the region. The deliveries would be made by pressurised road tankers. It is estimated that the volume of traffic would be 25 HGVs per day. The proposed development would include a number of road design elements including a 40/50m widening of the existing road to the left on approach for vehicles travelling from the east. There would be no right turn permitted for vehicles exiting. There would be a “left-in, left-out” turning for vehicles entering and exiting this site.

7.6.2. It is understood that the proposed development would constitute infrastructure which would provide a service for the agricultural community. In my opinion, there must be a balance struck when considering the impact of the proposed development on the national road network. I accept that such a facility is required to be located at an accessible site if it is to be functional to serve HGVs. I further accept that good quality road access is essential. I consider the estimated volume of 25 HGVs per day could not reasonably be viewed as a significant volume of traffic on the national secondary road. It is also noted again that this facility would be sited alongside an established Gas Networks Ireland facility. The site is close to the town of Mitchelstown which is a major base for the agri-food industry. This location has frontage onto a national secondary route which has connectivity in the immediate vicinity with the M8 Motorway at Junction 12. In terms of providing suitable access for a regional service, I submit to the Board that the site achieves this.

7.6.3. I note the submissions to the planning authority from Transport Infrastructure Ireland. The initial report considered the proposal to be at variance with official policy in relation to control of development on/affecting national roads. However, it was clarified that it was considered that insufficient data was provided to demonstrate that the proposal would not have a detrimental impact on the capacity, safety or operational efficiency of the national road network and it was then recommended that a road safety audit should be carried out. This road safety audit was carried out and the follow-up report from TII then submitted that TII had no observations to make. It is assumed that the applicant’s road safety audit addressed the concerns

raised by TII and that the proposal is not seen as being contrary to official policy in relation to control of development on/affecting national roads.

7.6.4. I note the objectives set out in Cork County Development Plan as they relate to transportation. Objective TM 3-1 seeks the prevention of the undermining of the strategic transport function of national roads and the protection of the capacity of the interchanges in the County from locally generated traffic. The proposed development is inherently a facility which would be a service to agricultural development and which would be appropriately sited within a rural area. As a regional service provider, the utilisation of the road network could reasonably be understood to be maintaining the provision of a strategic transport function. I do not consider the proposed development to be at variance with transportation provisions of the Cork County Development Plan.

#### 7.7. **Development within Mitchelstown Greenbelt**

7.7.1. The proposed development would be located within the greenbelt associated with the town of Mitchelstown. I note the provisions of Cork County Development Plan that relate to this location. The specific objective applicable to this location is Objective RCI 5-8. I note that the planning authority has made reference to Objectives RCI 5-6 and RCI 5-7 in its considerations on the proposed development. Reliance on these objective is misplaced as they expressly apply to the Metropolitan Cork Greenbelt only according to the Cork County Development Plan. They do not extend to Mitchelstown or to any other settlement remote from Metropolitan Cork.

7.2.2 The proposed development is, thus, required to be assessed against the provisions of Objective RCI 5-8 to determine how it complies with the requirements applying to the Mitchelstown Greenbelt. There are four provisions relating to this objective generally referring to the prevention of sprawl, reservation for agricultural use, preventing linear road frontage development, and local area plans being required to

define the extent of individual greenbelts around towns. My considerations on these are as follows:

- It is acknowledged that the nature of the proposed development is one that does not introduce development which could be considered sprawl or one that blurs the distinction between the built up area of Mitchelstown and the open countryside surrounding it.
- While the site will not be retained for agriculture, open space or recreational uses, it is reasonable to ascertain that the development would comprise infrastructure that facilitates activities occurring as part of farm practices, namely anaerobic digestion, and forms a key outlet for biomethane produced.
- The nature and extent of the development would not impact on linear roadside frontage development on the N73 national route leading to Mitchelstown in the widely held understanding of linear development relating to one-off housing.
- I note that Mitchelstown is defined as a 'Main Town' in the Fermoy Municipal District Local Area Plan. The role of food-related industry for the town is highlighted. The site for the proposed development lies within the greenbelt for the town and it is clearly beyond the settlement boundary for the town as set out in the LAP. The objectives set out in the LAP for Mitchelstown relating to agriculture, open space and recreation are focused on areas within the settlement boundary.

Overall, I submit that the nature of the proposed development is one in principle which is distinctly related to agricultural uses and is one best accommodated in a rural location. I do not consider that there is any material conflict with the 'Greenbelt' provisions of Cork County Development Plan. Finally, I must also acknowledge the existence of the established Gas Networks Ireland above ground installation on the lands to the west of the site and the compatibility of the proposed development with this established use.

## 8.0 Recommendation

- 8.1. I recommend that permission is granted in accordance with the following reasons, considerations and conditions.

## 9.0 Reasons and Considerations

Having regard to the form, nature, scale and layout of the proposed development, to the independence of the proposed development from anaerobic digestion facilities in the region, and to the provisions of:

- (a) Renewable Energy Directive (2018/2001) (RED II),
- (b) National Energy and Climate Plan 2021-2030,
- (c) Climate Action Plan 2019,
- (d) Climate Action and Low Carbon Development Act, 2015,
- (e) Project Ireland 2040 - National Planning Framework,
- (f) National Development Plan 2018-2027,
- (g) Regional Spatial and Economic Strategy for the Southern Region, and
- (h) Cork County Development Plan 2014,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the EU, national, regional and local policy, would be acceptable in terms of traffic safety, would not have an unacceptable impact on the amenities of the area, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 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 submitted on the 6<sup>th</sup> December 2019 and the 14<sup>th</sup> April 2020, 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 in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The mitigation measures identified in the Environmental Report and other particulars submitted with the application, shall be implemented in full by the developer, except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interests of clarity and environmental protection.

3. During the operational phase of the proposed development, deliveries shall only take place between the hours of 08.00 and 20.00 Mondays to Sundays inclusive. Deviation from these times will only be permitted in exceptional circumstances where prior written approval has been given by the planning authority.

**Reason:** In the interest of residential amenity.

4. All external finishes to the proposed buildings and above ground structures shall be agreed with the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

5. 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 in respect of both the construction and operation phases of the proposed development.

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



6. The developer shall enter into a water connection agreement with Irish Water prior to the commencement of development.

**Reason:** In the interest of public health.

7. Details of road signage required on the approaches to the entrance to the site shall be agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interest of public safety.

8. The construction of the proposed development shall be managed in accordance with a Construction and Environmental Management Plan and Traffic Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the proposed development, including noise and dust management measures, surface water management proposals, control and management of accidental spillages, detailed design of watercourse crossings, the management of construction traffic, the means to protect the public road and off-site disposal of construction waste.

**Reason:** In the interests of public safety, the protection of ecology and residential amenity.

9. 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 0800 to 1400 on Saturdays and not at all on Sundays or 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 amenities of property in the vicinity.

10. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of works proposed to be carried out for the provision of improved road markings on the N73 national secondary road in the vicinity of the site. 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 the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

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

11. 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 the 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.

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Kevin Moore  
Senior Planning Inspector

16<sup>th</sup> December 2020