



An
Bord
Pleanála

Inspector's Report ABP-311036-21

Development	Proposed upgrade to Nenagh Waste Water Treatment Plant
Location	Lower Birr Road, Nenagh, Co. Tipperary.
Planning Authority	Tipperary County Council
Applicant(s)	Irish Water
Type of Application	SID Pre Application Consultation under S.37B of the Planning and Development Act, 2000
Date of Site Inspection	12 th October, 2021.
Inspector	Stephen Kay

1.0 Pre-Application Consultation

- 1.1. The Board received a request on 4th August, 2021 from Irish Water to enter pre-application consultations under Section 37B of the Planning and Development Act 2000, as amended, in relation to the proposed development at the existing Irish Water wastewater treatment plant at Lower Birr Road, Nenagh, County Tipperary.
- 1.2. The Board's representatives met with the prospective applicant on 7th October 2021 and the record of this meeting is on file. A copy of the slides that accompanied the presentation made by the prospective applicant at this meeting are also on file.
- 1.3. By letter dated the 25th of April, 2022 the prospective applicant formally requested closure of the pre-application consultation process.

2.0 Site Location and Description

- 2.1. The site comprises the existing Nenagh Waste Water treatment works which is located on a c.2.28 ha. site to the north east of the town centre. The site is accessed via the Lower Birr Road and is adjoined to the north east by the Nenagh River.
- 2.2. Nenagh AFC is located immediately to the north of the site and adjoining development to the west and south comprise industrial / commercial uses with residential development beyond that. The site is generally flat and slopes down to the north east in the direction of the river.
- 2.3. The existing development on the site comprises a waste water treatment plant that accepts primarily combined flows and which has a stated existing capacity of 12,000 p.e. The existing layout on the site comprises 2 no. oxidated ditches (1,764 cubic metres), 2 no. settlement tanks (21 metre diameter), picket fence thickener (180 cubic metres), pumping station building with dewatering belt press and pump house / administration building.

3.0 Proposed Development

The development which is the subject of this pre application consultation is indicated on the Concept design Layout Drawing submitted with the pre application consultation request, Drg. No. 10001404-JBB-00-XX-DR-Y-1200 and Slide No.8 of the presentation. The main elements of the proposed development comprise the following: :

- An increase in the capacity of the waste water treatment plant from the current 12,000 pe to 22,042. It is stated by the prospective applicant that the existing organic loading on the treatment plant is 14,142 p.e.
- Upgrading of the inlet PS,
- The construction of 4 no. internal aeration tanks to be located at the southern end of the site fronting the Lower Birr Road. These structures have a stated dimensions of 65 metres by 32 metres.
- New clarifier tank with a radius of 21 metres to be located at the south east corner of the site.
- Repurposing of the existing secondary treatment into storm tanks,
- New odour treatment system,
- 2 no. picket fence thickeners,
- New buffer tank with a diameter of 15 metres.

- 3.1. During the course of the first pre application consultation meeting the prospective applicant made reference to a number of design alterations to the proposal. These included a reduction in the size of the aeration tanks and the omission of the clarifier.
- 3.2. It is stated by the prospective applicant that the site is the subject of a waste water discharge licence and that a review of this licence will be required. It is also stated that the requirement for an EIAR has been screened in and that the potential effects on European sites and the requirement for the submission of an Natura Impact Statement, is under assessment.

- 3.3. The stated justification for the proposed development is that the current plant is overloaded, and upgrades are required in order to meet the requirements of the Urban Wastewater treatment Directive and the discharge licence for the site. The upgrade would also facilitate growth in the settlement.

4.0 Case Made by the Prospective Applicant

The following is a summary of the main issues raised in the case made by the prospective applicant:

- That National Policy Objective 63 of the NPF seeks to ensure the efficient and sustainable use of water resources and National Strategic Outcome 9 seeks increased compliance with the requirements of the Urban Waste water Directive. The NPF also sets regional population growth objectives for the southern region. Submitted that the NPF does not include and prescriptive policies or objectives in relation to Nenagh.
- That there are a number of objectives contained on the RSES for the Southern region that relate to water and waste water facilities, including RPO211, RPO 212 and RPO 214. None of these objectives make specific reference to Nenagh.
- The RSES identifies Nenagh as among 14 no. key towns and is included in a sub category (as per Table 3.2 of the RSES) which comprises '*strategically located urban centres with accessibility and significant influence in a sub-regional context*'.
- That Nenagh is identified in the RSES as a settlement with a sub-regional influence, and this categorisation is consistent with its designation as a sub-regional town in the North Tipperary County Development Plan.
- That the proposed upgrade works are not identified in the RSES as a specific enabler of regional growth.

- Table 3.5 of the RSES includes dedicated schedules on the designated Key Towns in the RSES which includes a list of infrastructural requirements for these settlements. The completion of the waste water treatment upgrade for Nenagh is identified as one of the infrastructure requirements.
- That the delivery of the proposed development is not supported by a dedicated national or regional policy objective. It is one of nine listed infrastructure requirements for Nenagh which is supported broadly under RPO20 of the RSES but is not considered to contribute substantially to the achievement of the RSES objective. When viewed together with the sub regional role of the settlement it is submitted that it is questionable whether the proposed project can be considered to contribute substantially to the fulfilment of an objective of the RSES.
- That the proposed development is not located close to the functional area of any other Planning authority and would not therefore have a significant effect on the area of more than one planning authority.

5.0 Legislative Provisions

37A.— (1) An application for permission for any development specified in the Seventh Schedule (inserted by the Planning and Development (Strategic Infrastructure) Act 2006) shall, if the following condition is satisfied, be made to the Board under section 37E and not to a planning authority.

(2) That condition is that, following consultations under section 37B, the Board serves on the prospective applicant a notice in writing under that section stating that, in the opinion of the Board, the proposed development would, if carried out, fall within one or more of the following paragraphs, namely—

(a) the development would be of strategic economic or social importance to the State or the region in which it would be situate,

(b) the development would contribute substantially to the fulfilment of any of the objectives in the National Planning Framework or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate,

(c) the development would have a significant effect on the area of more than one planning authority.

The relevant provision in the Seventh Schedule of the Act is Part 3 under the heading of Environmental Infrastructure which states:

‘Development comprising or for the purposes of the following:

A waste water treatment plant with a capacity greater than a population equivalent of 10,000’

6.0 Planning History

The following planning history relates to the subject site:

- Tipperary Co. Co. Ref. 17601274 – Permission granted by Planning Authority for the installation of 35kw of ground mounted solar panels and all associated site works on site of existing Nenagh waste water treatment plant. .

7.0 Assessment

7.1. Seventh Schedule Development

- 7.1.1. As set out in Section 37A of the Planning and Development Act, 2000 (as amended) the first test is whether the form of development proposed meets the classes of development set out in the Seventh Schedule of the Planning and Development Act, 2000 (as amended). In the case of the proposed development the subject of this pre application request, the relevant provision in the Seventh Schedule of the Act is Part 3 under the heading of Environmental Infrastructure which states:

‘Development comprising or for the purposes of the following:

A waste water treatment plant with a capacity greater than a population equivalent of 10,000’

- 7.1.2. The wording of this part of the Seventh Schedule is such that it is open to some interpretation as to whether the 10,000 population equivalent threshold relates to the scale of the proposed development, which is the subject of the pre application request, or whether it relates to the overall final population equivalent post re development. This issue was the subject of some discussion with the prospective applicant during the pre-application meeting and post the meeting among An Bord Pleanála staff. The current interpretation of the Board on the issue in the context of this type of development is that the threshold should be related to the scale of the proposed development, whether initial development or addition or uplift in capacity of an existing plant. In the circumstances of this pre application request the capacity of the existing plant is stated to be 12,000 population equivalent with the additional capacity proposed to be 10,042 population equivalent with the result that the development would breach the threshold irrespective of which way it is interpreted.
- 7.1.3. On the basis of the above, the nature of the proposed development is such that it meets the requirement of the Seventh Schedule and falls to be assessed under the criteria set out in s.37A(2) of the Act.

7.2. Tests Under s.37A(2) of the Planning and Development Act, 2000 (as amended)

(a) Whether the development would be of strategic economic or social importance to the State or the region in which it would be situate.

- 7.2.1. The proposed development would result in an increase in capacity of 10,042 p.e. in the capacity of the existing waste water treatment plant. The stated purpose of the development is that the current plant is overloaded (stated loading of 14,142 p.e. against a design capacity of 12,000 p.e.) and that upgrades are required in order to meet the requirements of the Urban Wastewater Treatment Directive and the discharge licence for the site. The upgrade would also facilitate additional growth in the settlement.

- 7.2.2. The justification for the development in terms of compliance with discharge standards and the requirements under EU Directives, while important, are not in my opinion such as to mean that the development is of strategic economic or social importance to the state or region.
- 7.2.3. In terms of facilitating additional development and additional population within the settlement of Nenagh, as will be elaborated upon in the following section, Nenagh is identified in the Regional Spatial and Economic Strategy as a settlement with a sub-regional influence, and this categorisation is consistent with its designation as a sub-regional town in the North Tipperary County Development Plan.
- 7.2.4. In addition, it is my opinion that the proposed uplift in capacity of the existing treatment plan of 10,000 p.e. has to be seen in the context of a targeted population increase in the region of 340 – 380,000 over the lifetime of the RSES.
- 7.2.5. In terms of both function of the settlement and the population increase that would be facilitated by the proposed development I do not therefore consider that the proposed development can reasonably be considered to be of strategic economic importance to the state or region.

(b) Whether the development would contribute substantially to the fulfilment of any of the objectives in the National Planning Framework or in any regional spatial and economic strategy in force in respect of the area or areas in which it would be situate,

National Planning Framework

- 7.2.6. The form of development proposed comprising the upgrading / increase in capacity of existing waste water treatment infrastructure is referenced in a general way in a number of objectives and outcomes cited in both the National Planning Framework (NPF) and the Regional Spatial and Economic Strategy (RSES). Specifically, National Policy Objective 63 of the NPF seeks to ensure the efficient and sustainable use of water resources and National Strategic Outcome 9 seeks increased compliance with the requirements of the Urban Waste Water Directive. As noted above, one of the justifications for the proposed development is that it would facilitate compliance with discharge standards and the requirements under EU Directives and

in this regard the proposal can be seen to be consistent with NPO 63 or NSO 9 of the NPF. The wording of these objectives are however general in nature and I note that there is no specific reference to Nenagh in either NPO63 or NSO9.

- 7.2.7. With regard to objectives relating to population and settlement the NPF does identify population growth figures for the Southern Region and sets out the percentage of this additional population that should be accommodated within existing settlements. No specific population figures for Nenagh are however cited in the NPF and I do not therefore consider that the proposed development can reasonably be considered to be such as to contribute substantially to the fulfilment of the objectives set out in the NPF as they relate to population and settlement.
- 7.2.8. Having regard to the above, I do not consider that the location and form of development proposed is such that it can reasonably be considered to contribute substantially to the fulfilment of the objectives of the National Spatial Strategy.

Regional Spatial and Economic Strategy for the Southern Region

- 7.2.9. There are a number of objectives contained on the RSES for the Southern Region that relate to water and waste water facilities, including RPO211, RPO 212 and RPO 214. None of these objectives make specific reference to Nenagh. Table 3.5 of the RSES includes dedicated schedules on the designated Key Towns in the RSES which includes a list of infrastructural requirements for these settlements. The completion of the waste water treatment upgrade for Nenagh is identified as one of the 9 no. identified infrastructure requirements.
- 7.2.10. With regard to settlement policy and population, Table 3.2 of the RSES identifies Nenagh as one of 14 no. key towns where, as per RPO11 it is an objective '*to plan increasing population growth in all key towns on a phased basis in collaboration with Irish Water, the local authority and other stakeholders.*'. The key towns identified in Table 3.2 are sub divided into two categories, the first being large scale population centres and regional drivers, and the second, including Nenagh, being '*strategically located urban centres with accessibility and significant influence in a sub-regional context*'. As highlighted in the case made by the prospective applicant, the identification of Nenagh in the RSES as a settlement with a sub-regional influence is

consistent with its designation as a sub-regional town in the North Tipperary County Development Plan.

- 7.2.11. Overall, it is my opinion that the proposed development is not supported by a dedicated regional policy objective. While it is recognised that the upgrading of Nenagh WWTP is one of the specific measures relating to the development of Nenagh identified under RPO20 of the RSES, it has to be recognised that it is one of nine such measures and therefore such that I do not consider it contributes substantially to the achievement of the RSES objective. On balance therefore, I agree with the case made by the prospective applicant that when viewed together with the sub regional role of the settlement the proposed project does not clearly contribute in a substantial way to the fulfilment of an objective of the RSES. In reaching this conclusion, I also consider that some regard should be had to the degree to which the proposed development meets the categories of development set out in the Seventh Schedule, and in this specific case the very limited degree to which the 10,000 population equivalent specified would be exceeded.

(c) Whether the development would have a significant effect on the area of more than one planning authority.

- 7.2.12. The site of the proposed development is located such that it is not located close to the boundary with any other planning authority. The closest such boundary is located approximately 10km from the site and neither the existing nor proposed development on the site would serve lands outside of the administrative area of Tipperary County Council.
- 7.2.13. On this basis, I do not consider that the proposed development would have a significant effect on the area of more than one Planning Authority.

8.0 Recommendation

I recommend that Irish Water be informed that the proposed development consisting of the proposed upgrade to the Nenagh Wastewater Treatment Plant as set out in the plans and particular received by An Bord Pleanala on the 4th day of August, 2021, as amended and added to by the plans and particulars received by the Board on 7th day of October, 2021, does not fall within the scope of s.37A of the Planning and Development Act, 2000 (as amended), and that a planning application should therefore be made to the Planning Authority (Tipperary County Council) in the first instance. .

Stephen Kay
Inspectorate

26th April, 2022