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| AN BORD PLEANÁLA | |
| LDG- | <u>076620-24</u> |
| ABP- | _____ |
| 06 DEC 2024 | |
| Fee: € | <u>220.00</u> Type: <u>Cheque</u> |
| Time: | <u>9.00</u> By: <u>post</u> |

PETER SWEETMAN

Wild Ireland Defense CLG

15 APPEAL 2460213 LOUTH CONTY COUNCIL

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| REG.NO. | 2460213 |
| DESCRIPTION | <p>Permission for the construction and operation of a new Effluent Balancing and Resource Recovery Plant (EBRRP) on a site of 7.888hectares, which will consist of: (1) Excavation of the site to facilitate the proposed development, and reuse of excavated material as a landscaped spoil heap within the site; (2) Construction of 3no. covered structures containing 12no. process tanks, located within concrete bunds with metal stairwells and platforms for access, and connected to an odour treatment facility. (3) Installation of 5no. covered storage tanks located within concrete bunds with metal stairwells and platforms for access. (4) Installation of a sludge dewatering facility. (5) Construction of a single-storey administration and process building with roof-mounted solar panels and rainwater harvesting tank. (6) Widening of an existing access on the Mullagharlin Road and associated setback of the existing hedgerow, to facilitate a temporary construction access and a permanent operational access for small vehicles. (7) Construction of a fabricated metal access bridge and pipe and cable support structures to link the proposed development with the existing biopharmaceuticals plant. (8) A temporary construction compound, to include double-stacked metal containers/cabins with access stairs, laydown areas, and 50no. parking spaces; temporary internal road; and temporary internal construction haul road (including footpath). (9) All site development works, drainage, ancillary equipment, lighting, retaining walls, fencing, and landscaping works. The application relates to a development which comprises of an activity which holds an Industrial Emissions Discharge (IED) Licence (Licence No. P1122-01). An Environmental Impact Assessment Report (EIAR) has been prepared in respect of the proposed development and will be submitted to the planning authority with the application</p> |
| ADDRESS | Glenreagh Mor, Holycross, Co. Tipperary |

As this development is within 1.3km of the Lower River Suir SAC (002137) Appropriate Assessment is required

The test under the **Habitats Directive** in Ireland is.

- The threshold for screening for Appropriate Assessment is set out in Kelly -v- An Bord Pleanála [2014] IEHC 400 (25 July 2014) which states at 26 26. There is a dispute between the parties as to the precise obligations imposed on the Board in relation to the stage 1 screening by s.1777U but its*

resolution is not strictly necessary in these proceedings. There is agreement on the nature and purpose of the screening process which is well explained by Advocate General Sharpston in Case C-258/11 Sweetman at paras 47-49: "47. It follows that the possibility of there being a significant effect on the site will generate the need for an appropriate assessment for the purposes of Article 6(3). The requirement at this stage that the plan or project be likely to have a significant effect is thus a trigger for the obligation to carry out an appropriate assessment. There is no need to establish such an effect; it is, as Ireland observes, merely necessary to determine that there may be such an effect.

This point is further explained in the CJEU decision In Case C-323/17, People Over Wind and Peter Sweetman v Coillte Teoranta which states;

Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that, in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.

The threshold the any decision to grant permission must pass in this context is explained in paragraph 44 of CJEU Case 258/11

"So far as concerns the assessment carried out under Article 6(3) of the Habitats Directive, it should be pointed out that it cannot have lacunae and must contain complete, precise and definitive findings and conclusions capable of removing all reasonable scientific doubt as to the effects of the works proposed on the protected site concerned."

This is a strict standard and the Planning Authority does not have legal jurisdiction to give permission if it is not met.

Fourthly the development must be assessed for compliance with the requirements of the Water Framework Directive.

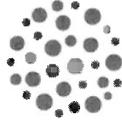
On those grounds, the Court (Second Chamber) hereby rules:

1. Article 6(3) of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora must be interpreted as meaning that the grazing of cattle and the application of fertilisers on the surface of land or below its surface in the vicinity of Natura 2000 sites may be classified as a 'project' within the meaning of that provision, even if those activities, in so far as they are not a physical intervention in the natural surroundings, do not constitute a 'project' within the meaning of Article 1(2)(a) of Directive 2011/92/EU of the European

Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.

A handwritten signature in cursive script, appearing to read "Peter Sweetman".

**Peter Sweetman, Director
Wild Ireland Defense CLG
PO Box 13611 Bantry Co Cork**



THIS IS AN IMPORTANT DOCUMENT

KEEP THIS DOCUMENT SAFELY. YOU WILL BE REQUIRED TO PRODUCE THIS ACKNOWLEDGEMENT TO AN BORD PLEANALA IF YOU WISH TO APPEAL THE DECISION OF THE PLANNING AUTHORITY. IT IS THE ONLY FORM OF EVIDENCE WHICH WILL BE ACCEPTED BY AN BORD PLEANALA THAT A SUBMISSION OR OBSERVATION HAS BEEN MADE TO THE PLANNING AUTHORITY ON THE PLANNING APPLICATION.

Louth County Council

PLANNING APPLICATION REFERENCE No: 2460213

A submission/observation in writing, has been received from PETER SWEETMAN on 26/04/2024 in relation to the above planning application.

The appropriate fee of €20 has been paid. (Fee not applicable to prescribed bodies)

The submission/observation is in accordance with the appropriate provisions of the Planning and Development Regulations 2001 and will be taken into account by the planning authority in its determination of the planning application.

Yours faithfully,
Louth County Council

IS DOICIMÉAD TÁBHACHTACH É SEO

COINNIGH AN DOICIMÉAD SEO SLÁN. BEIDH ORT AN ADMHÁIL SEO A CHUR AR FÁIL DON BHORD PLEANÁLA MÁ S MIAN LEAT ACHOMARC A DHÉANAMH IN AGHAIDH CHINNEADH AN ÚDARÁIS PHLEANÁLA. IS É SEO AN tAON FHIANÁISE AMHÁIN ATÁ ANN A NGLACFAIDH AN BORD PLEANÁLA LEIS GUR CUIREADH AIGHNEACHT FAOI BHRÁID AN ÚDARÁIS PHLEANÁLA MAIDIR LEIS AN IARRATAS.

Louth County Council

UIMHIR THAGARTHA AN IARRATAIS PHLEANÁLA: 2460213

Maidir leis an iarratas pleanála thuasluaite fuarthas aighneacht/tuairim i scríbhinn ó PETER SWEETMAN ar 26/04/2024.

Íocadh an táille chuí de €20. (Ní chaithfidh comhlachtaí forordaithe aon táille a íoc)

Tá an aighneacht/tuairim ag teacht leis na forálacha cúí atá i Rialacháin Phleanála agus Forbartha 2001 agus cuirfidh an tÚdarás Pleanála sin san áireamh agus é ag déanamh cinneadh ar an iarratas pleanála.

Is mise le meas,
Louth County Council

Louth CC, Planning Department - Viewing Purposes Only