

Dorota Richards

obj. No 1

From: Licensing Staff
Sent: 15 April 2015 09:37
To: Dorota Richards
Subject: FW: New Third Party objection entered for Reg no: P0966-01. (Reference Number: P0966-01-150415071357)
Attachments: P0966-01 APPEAL.pdf
Importance: High

From: Peter Sweetman [<mailto:sweetmanplanning@gmail.com>]
Sent: 15 April 2015 07:14
To: Licensing Staff
Subject: New Third Party objection entered for Reg no: P0966-01. (Reference Number: P0966-01-150415071357)
Importance: High

Objection submitted on: 15/04/2015 07:13

Title: Mr

First Name: Peter

SurName: Sweetman

Organisation Name:

Address Line 1: ROSSPORT SOUTH

Address Line 2:

Address Line 3:

County: Mayo

Post Code: 0000

Email: sweetmanplanning@gmail.com

Objector Type: Third Party

Oral Hearing: No

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PETER SWEETMAN & ASSOCIATES
ROSSPORT SOUTH
BALLINA
COUNTY MAYO
sweetmanplanning@gmail.com

Environmental Protection Agency
Johnstown Castle
Wexford

2015-04-15

RE: Appeal against the Environmental Protection Agency decision in.

P0966-01	Kiernan Breeding Stock	Ardagullion, Granard, County Longford.
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Dear Sir/Madam

We wish to appeal the above Proposed Determination

No Environmental Impact Assessment has been performed on this development.

No Appropriate Assessment has been carried out for this development.

In Case C-50/09, the CJEU found;

"development consent" means:

the decision of the competent authority or authorities which entitles the developer to proceed with the project.

76 Article 2(1) of Directive 85/337 thus states that the environmental impact assessment must take place „before the giving of consent“. That entails that the examination of a project's direct and indirect effects on the factors referred to in Article 3 of that directive and on the interaction between those factors be fully carried out before consent is given.

Logically this must be interpreted as to mean;

76 Article 2(1) of Directive 85/337 thus states that the environmental impact assessment must take place „before the giving of consent“. That entails that the examination of a project's direct and indirect effects on the factors referred to in Article 3 of that directive and on the interaction between those factors be fully carried out before the decision of the competent authority or authorities which entitles the developer to proceed with the project is given.

Also it states at ;

60 Replying to the Commission's argument that it is possible for a licence application to be made to the Agency before an application for planning permission has been made to the planning authority, and thus before an environmental impact assessment has been carried out, Ireland contends that under Irish law „development consent“ requires both planning permission from the competent planning authority and a licence from the Agency. In those circumstances, there is no practical benefit in the developer applying for a licence from the Agency without making a contemporaneous application to the planning authority; such separate applications do not therefore occur in practice.

In this case a final consent has been given without a full Environmental Impact Assessment being carried out.

We attach the following quotes from the inspectors report to substantiate our argument.

CUMULATIVE IMPACTS

The land-spreading of the resulting pig slurry may lead to cumulative impacts on watercourses and water dependant habitats if the recommended mitigation measures are Not followed.

Pig slurry/manure generated on-site is used as fertiliser on land of farmers in the area. The applicant has identified approximately 30 farmers who are available / seeking to accept approximately 11,649m³ of slurry/manure from the installation as fertiliser for their farms in the surrounding area (counties Longford and Westmeath). The applicant has calculated that these farms have a capacity for up to 102% of the pig manure produced on site per annum. The applicant has stated that there will be no significant increase in slurry production once all of proposed pig houses have been constructed.

The application of all fertilisers to land, including organic fertiliser, is controlled by S.I. 31 of 2014 and the competent authorities are the Department of Agriculture, Food and the Marine and the Local Authorities. The RD requires that pig slurry / manure is managed in accordance with the

requirements set out in S.I. 31 of 2014 and the Conditions of the RD (Condition 8). All movements of slurry / manure shall be recorded in an 'organic fertiliser register' and the record of all movements shall be submitted to the Department of Agriculture, Food and the Marine annually, in accordance with S.I. 31 of 2014, and maintained on site

S.I. No. 31 of 2014 EUROPEAN UNION (GOOD AGRICULTURAL PRACTICE FOR PROTECTION OF WATERS) REGULATIONS 2014 Purpose of Regulations 2.

The purpose of these Regulations is to give effect to Ireland's Nitrates Action Programme for the protection of waters against pollution caused by agricultural sources. The set of measures in these regulations provide a basic level of protection against possible adverse impacts to waters arising from the proposed agricultural expansion under Food Harvest 2020.

11.2 Environmental Impact Assessment Directive (85/337/EEC) An Environmental Impact Statement (EIS) was not submitted with the application. The Agency has considered the application and has determined that the licence application should be made subject to an EIA as respects the matters that come within the functions of the Agency. The applicant was requested to submit an EIS to the Agency accordingly and this EIS was received on 15 April 2013.

EIA

I have considered and examined the content of the EIS and other material (information submitted in the licence application, the planning permission, planning inspectors' reports; correspondence between the Agency and the Planning Authorities carried out under Section 87 of the EPA Acts, and submissions made by 3 third parties in relation to the EIS). I consider that having examined the relevant documents and with the addition of this Inspector's Report, that the likely significant direct and indirect effects of the activity have been identified, described and assessed in an appropriate manner, as required in Article 3 and in accordance with Articles 4 to 11 of the EIA Directive as respects the matters that come within the functions of the Agency. I consider that the EIS also complies with the EPA (Industrial Emissions) (Licensing) Regulations 2013.

The Planning Authority raised the following points in relation to the licence application and EIS:

- The application documentation does not contain sufficient information regarding landspreading of slurry produced at the installation. More information should be required about the location and capacity of each farm for receipt of slurry to be land spread.*
- Planning permission 12/208 was granted on the basis that the applicant was operating an integrated pig unit at a sow capacity of 500 +/- 10%, with all pigs reared on the farm until they reach slaughter weight.*
- Planning permission PL13/111 was for retention of structures, and was not for an increase in stock numbers. It included clarification in relation to sow numbers permitted at the*

site, having regard to the CJEU definition of a sow (i.e. total of 800 sows permitted when served gilts are included). • Neither of the above planning applications included information about boars or weaners.

The following is noted in relation to the concerns raised by the planning authority in their submission: • The Industrial Emissions licence relates to the site of the activity for which the licence application is made and does not extend to the lands on which organic fertiliser may be used as fertiliser. Manure may be allocated to customer farmers and applied as an organic fertiliser in accordance with S.I. 31 of 2014. The competent authorities are the Department of Agriculture, Food and the Marine (DAFM) and Local Authorities. The RD requires details of all movement of organic fertiliser off-site to be maintained and submitted to the DAFM annually in accordance with S.I. 31 of 2014. The DAFM can use the record to establish if receiving farmers are in compliance with S.I. 31 of 2014. • The planning history of the site has been noted. • As discussed in Section 1 above, the CJEU definition of a sow for licensing purposes includes served gilts. This definition was not considered in the planning applications and permissions granted. Thus, the 800 sows specified in the licence application for the purposes of IE licensing equates to the 550 sows (500 +/- 10%) plus 250 served gilts. It is noted that the planning authority have acknowledged the definition of a sow for licensing purposes.

S.I. 31 of 2014 is not an Appropriate Assessment under the Habitats directive.

No Environmental Impact Assessment has been performed on this development.

No Appropriate Assessment has been carried out for this development.

The CJEU judgement declared;

107 Accordingly, it must be declared that:

by failing to ensure that, where planning authorities and the Agency both have decision-making powers concerning a project, there will be complete fulfilment of the requirements of Articles 2 to 4 of that directive;

Ireland has failed to fulfil its obligations under that directive.

The proposed determination in P0966-01 shows that Ireland is still failing to ensure that, where planning authorities and the Agency both have decision-making powers concerning a project, there will be complete fulfilment of the requirements of Articles 2 to 4 of that directive

Yours faithfully

A handwritten signature in black ink that reads "Peter Sweetman". The signature is fluid and cursive, with a horizontal line underlining the name.

Peter Sweetman

Please respond by email only to sweetmanplanning@gmail.com

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