

Client: Heneghan Print
Source: The Business Post
Date: 04/07/2021
Page: 4
Reach: 29619
Value: 3542.3500

Judge wants review of 'systemic' delays in planning challenges

BY LORCAN ALLEN

A High Court judge has called for an overhaul of the judicial review system to address what he termed "systemic" delays in resolving legal challenges against planning decisions.

In his ruling on An Taisce's application to appeal the result of a judicial review against An Bord Pleanála's decision to grant planning permission for a large cheese plant, Mr Justice Richard Humphreys said the current system did not deliver the "urgency" required to expedite planning challenges through the courts.

"The problem of delay is primarily systemic in nature. From time to time various ideas are suggested as to how such cases can be speeded up, but experience suggests that some of these ideas can in practice have the opposite effect to that intended," Judge Humphreys said in his ruling.

The High Court judge made the comments after he dismissed an application by An Taisce, the heritage body, seeking to appeal the result of a recent judicial review taken against the decision to award planning to Glanbia Ireland for a €150 million continental cheese plant in Belview, Co Kilkenny.

Glanbia Ireland was first awarded planning permission by Kilkenny County Council for the Belview cheese plant in November 2019. An Taisce lodged an appeal against that decision with An Bord Pleanála the following month.

The planning authority granted planning permission for the cheese plant in June 2020, after which An Taisce then lodged papers for a judicial review into the decision.

The judicial review was

heard in March this year, with Judge Humphreys handing down his decision to uphold An Bord Pleanála's decision to award planning in April.

As part of that decision, Judge Humphreys said An Taisce's real grievance was with government policy on climate change and the environment and not with the planning code. However, the environmental NGO then sought leave to appeal this decision, which Judge Humphreys dismissed on Friday.

An Taisce now has 21 days to decide if it will go to the Supreme Court to bring a final challenge to the planning decision.

The group opposes the decision to award planning for the cheese plant on the grounds that An Bord Pleanála had failed to take into account the full environmental and climate impact of the proposed new plant.

The Belview cheese plant is a joint venture between Glanbia Ireland, a farmer-owned dairy processor, and Royal A-ware, a privately owned Dutch dairy company, which will manufacture a range of continental-style cheeses such as Gouda and Edam and will have capacity to process 450 million litres of milk per annum.

While the facility is needed to process the increased milk supply from Glanbia farmers since the end of EU milk quotas in 2015, it is also intended as a Brexit mitigation project as it will allow Glanbia Ireland to make cheeses other than cheddar, which is not widely consumed in European markets.

"We are committed to bringing this project to frui-

tion with our partners, Royal A-ware. This project, which is line with government policy, is critical to our market diversification post-Brexit, will support rural Ireland's post-Covid recovery and is of huge importance to the 4,500 farm families supplying milk to Glanbia Ireland," Jim Berghin, chief executive of Glanbia Ireland, said.

Dr Conor Norton, president of the [Irish Planning Institute](#) and a lecturer on planning at Technological University Dublin, welcomed Judge Humphreys' comments on planning reforms.

"[Judge Humphreys's] comments on Friday are welcome in the sense that the planning profession has been calling for dialogue on the current judicial process for a long time. We're also supportive of the recent confirmation that the Attorney General will undertake a review of the planning process," Norton said.

"Judicial review is an important part of our justice system. But it's not meant to be part of our planning system. Nobody is suggesting judicial reviews should be stopped, but alarm bells have been ringing since the number of judicial reviews lodged in the courts surged 70 per cent in 2017 and 2018.

"The fast-track system for strategic housing developments expires in 2022 and I think that will also help take

a lot of the pressure off the judicial review process."

Figures obtained by the *Business Post* show that a total of 283 judicial review challenges listing An Bord Pleanála as a notice par-



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ty were brought before the High Court between 2016 and 2020.

The number of such challenges against decisions made by the planning board has doubled in recent years, with almost 100 judicial review challenges brought before the High Court last year alone. So far in 2021, 47 challenges have been taken. Many of these relate to strategic infrastructure developments, wind farms, transport, strategic housing developments and key utility infrastructure.

Jim Bergin, chief executive of Glanbia Ireland

