

ECJ: Ireland in breach of environmental rules

By Kieron Wood

Ireland is in breach of European directives in relation to the effects of environmental projects, the advocate general of the European Court of Justice (ECJ) has said.

The decision follows a complaint to the European Commission about a proposed €100 million development of the Curragh racecourse in Co Kildare.

The redevelopment was finally approved by An Bord Pleanála a year ago, more than two years after the Irish Turf Club first sought planning permission.

Kildare County Council originally granted permission for the development in October 2006, but local farmer Percy Podger appealed to An Bord Pleanála on behalf of Friends of the Curragh Environment. Podger claimed that the planning application was invalid and the environmental impact statement was inadequate.

He also complained to the European Commission about

breaches of EU directives.

The commission brought an action against the government in September 2007 for failing to transpose parts of several directives into Irish law, and for not informing the commission about subsequent changes to the law. Ireland said the court should dismiss the action.

However, ECJ advocate general Juliane Kokott, in her opinion delivered last Thursday, said Ireland had failed to ensure adequately that road construction projects likely to have significant effects on the environment were subject to development consent and an assessment about their effects before consent was given.

She also said that Ireland had failed to ensure public participation in drawing up programmes relating to the environment.

It had also not made practical information on administrative and judicial review procedures available to the public, and had failed to inform the commission of High Court judgments concerning the Friends of the Curragh Environment, she said.

The commission also said that legal costs could be very high in Ireland, running into hundreds of thousands of euro.

The Irish government said that legal aid was available and potential applicants could also use the Ombudsman's free complaints procedure, but Kokott said these arguments were "hardly compelling", as the legal aid scheme did not apply to procedures covered by the directive and the Ombudsman could not make binding decisions.

She said access to justice under Irish planning law was the focal point of the action, and anyone exercising their rights to bring court proceedings should "not be penalised, persecuted or harassed in any way for their involvement". Member states had to provide practical information about access to justice; just publishing legislation was not sufficient.

Kokott ordered that Ireland and the commission should each meet their own costs. Her opinion will now be considered by the court, which will give its ruling shortly.