



An  
Bord  
Pleanála

## Board Order ABP-305521-19

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### Planning and Development Acts, 2000 to 2019

#### Planning Authority: Tipperary County Council

**Application** by Tipperary County Council for approval under section 177AE of the Planning and Development Act 2000, as amended, in accordance with plans and particulars, including a Natura Impact Statement, lodged with An Bord Pleanála on the 25<sup>th</sup> September, 2019.

**Proposed Development:** Installation of Phase 2 of a surface water drainage network including:

- (a) Storm sewer infrastructure ranging from 600 millimetres diameter to 750 millimetres diameter.
- (b) A petrol interceptor with oil alarm.
- (c) Reconstruction of an existing headwall to suit the upgraded infrastructure along with associated wing walls/non-return valve.
- (d) Decommissioning and removal of existing under capacity surface water infrastructure in the works area.

The proposed drainage network will replace the existing under capacity drainage network which out-falls to the Nenagh River. The Nenagh river discharges to a Special Area of Conservation, Lower River Shannon SAC (site code: 002165).

All at R445 Dublin Road, Nenagh, County Tipperary.

## **Decision**

**Approve the above proposed development based on the reasons and considerations under and subject to the conditions set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (d) the Conservation Objectives, qualifying interests and special conservation interests for the Lough Derg (Shannon) Special Protection Area (site code: 004058),
- (e) the policies and objectives of the North Tipperary Development Plan, 2010 (as varied) and the Nenagh Town & Environs Development Plan, 2013-2019 (as varied),

- (f) the nature and extent of the proposed works as set out in the application for approval,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (h) the submissions and observations received in relation to the proposed development, and
- (i) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

**Appropriate Assessment:**

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Lough Derg (Shannon) Special Protection Area (site code:004058) is the only European Site in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European Site, having regard to the site's Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site, in view of the site's Conservation Objectives.

## **Proper Planning and Sustainable Development/Likely effects on the environment:**

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment in the vicinity, would not give rise to a risk of pollution, would not adversely impact on the cultural, archaeological and built heritage of the area, would not interfere with the existing land uses in the area and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

**Reason:** In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. Prior to commencement of development, the local authority shall engage with Irish Water to ensure that adequate protection and access to existing infrastructure is maintained at all times.

**Reason:** In the interest of public health.

3. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development, including those set out in the Natura Impact Statement and Construction Environmental Management Plan (CEMP), shall be implemented in full or as may be required in order to comply with the following conditions. Prior to commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

**Reason:** In the interest of protecting the environment, the protection of European Sites and in the interest of public health.

4. Prior to commencement of development, the local authority, or any agent acting on its behalf, shall prepare/update in consultation with the relevant statutory agencies, the Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and demonstration of proposals to adhere to best practice and protocols.

**Reason:** In the interest of protecting the environment, the landscape, European Sites, sensitive receptors and in the interest of public health.

5. Prior to commencement of development, details of measures to protect fisheries and water quality of the river systems shall be outlined and placed on file. In-channel works shall adhere to the timing restrictions to avoid damage to spawning and juvenile fish. Full regard shall be had to Inland Fisheries Ireland's published guidelines for construction works near waterways (Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters, 2016). A programme of water quality monitoring shall be prepared in consultation with the contractor, the local authority and relevant statutory agencies and the programme shall be implemented thereafter.

**Reason:** In the interest of the protection of receiving water quality, fisheries and aquatic habitats.

6. The local authority, or any agent acting on its behalf, shall ensure that all plant and machinery used during the works shall be thoroughly cleaned and washed before delivery to the site and upon removal from the site to prevent the spread of hazardous invasive species and pathogens.

**Reason:** In the interest of the proper planning and sustainable development of the area and to ensure the protection of European Sites.

7. A suitably qualified ecologist shall be retained by the local authority to oversee the site set-up and construction of the proposed development and implementation of mitigation measures relating to ecology set out in the Natura Impact Statement, the Ecology Impact Assessment and the CEMP. The ecologist shall be present during site construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

**Reason:** In the interest of nature conservation and the protection of biodiversity.

8. The local authority, or any agent acting on its behalf, shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. This shall include a terrestrial, riverbank and intra-riverine assessment. A suitably qualified archaeologist shall be appointed by the local authority to oversee the site set-up and construction of the proposed development and the archaeologist shall be present on-site during construction works.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

9. The construction of the proposed development shall be managed in accordance with a Construction and Traffic Management Plan, which shall be placed on file and retained as part of the public record. This plan shall provide details of intended construction practice for the proposed development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
- (b) Location of areas for construction site offices and staff facilities.
- (c) Details of site security fencing and hoardings.
- (d) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- (e) Measures to obviate queuing of construction traffic on the adjoining road network.
- (f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- (g) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.
- (h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

