



Board Direction

Ref: PL04.245644

The submissions on this file and the Inspector's report were considered at a Board meeting held on March 2nd 2016.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons, considerations and conditions.

Appropriate Assessment

The Board noted the Appropriate Assessment Screening report and Natura Impact Statement submitted with the application, together with the additional documentation submitted in response to the further information request of the planning authority (including the addendum to the Natura Impact Statement), and the submissions on file generally (including the submissions of the Department of Arts, Heritage and the Gaeltacht). The Board also noted the Appropriate Assessment report carried out by planning authority's ecologist and the reports of the authority's planners. The Board noted the Appropriate Assessment carried out by its Planning Inspector. The Board was satisfied that the information before it was adequate to undertake an appropriate assessment in respect of the subject development.

Having regard to the nature, scale and location of the subject development, and the planning history of the site (including the grant of planning permission for a windfarm development on this site under planning authority register reference no. 08/10248 (An Bord Pleanála reference PL04.235930)), the Board undertook an Appropriate Assessment in relation to the effects of the subject development on the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Bog Special Protection Area (site code 004161), on the Lower River Shannon Special Area of Conservation (site code 002165) and the Blackwater River (Cork / Waterford) Special Area of Conservation (site code 002170). The Board adopted the report of the Inspector in this respect, and concluded that, subject to compliance with the mitigation measures proposed as part of the application, the proposed development, by itself, and in combination with other plans or projects, would not be likely to have significantly effects on

the Hen Harrier, which is a qualifying interest for the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Bog Special Protection Area, and would not adversely affect the integrity of the Lower River Shannon Special Area of Conservation and the Blackwater River (Cork / Waterford) Special Area of Conservation or any other European Sites, in the light of their conservation objectives.

Environmental Impact Assessment

The Board noted the Environmental Impact Statement, together with the additional documentation submitted in response to the further information request of the planning authority (including the addendum to the Environmental Impact Statement), the documentation submitted with the application generally, the planning history of the site (including the grant of planning permission for a windfarm development on this site under planning authority register reference no. 08/10248 (An Bord Pleanála reference PL04.235930)), and the submissions on file generally. The Board also noted the Environmental Impact Assessment carried out by planning authority's planner. The Board noted the Environmental Impact Assessment carried out by its Planning Inspector.

Having regard to the nature, scale and location of the subject development, it is considered that the Environmental Impact Statement, including the Addendum, identifies and describes adequately the direct and indirect effects on the environment of the proposed development. The Board adopted the environmental impact assessment carried out by its Planning Inspector and concurred with his conclusions. Having regard to the mitigation measures proposed for implementation in the Environmental Impact Statement, the Board was therefore satisfied that the proposed development, by itself and cumulatively with other development in the vicinity, would not be likely to have significant effects on the environment.

Reasons and Considerations

Having regard to the nature and scale of the proposed development, to the planning history of the site and to the location of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area, would be acceptable in terms of traffic safety and convenience, and would not have an adverse impact on the environment. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans, documents and particulars lodged with the application,

as amended by further documentation submitted on the 30th day of July 2015, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All of the mitigation measures set out in the submitted documentation shall be implemented in full.

Reason: In the interest of environmental protection and to protect the amenities of the area.

3. As per PA condition no. 3 (with reason).

Reason: In the interest of environmental protection and to protect the amenities of the area.

4. A revised soil stability management plan shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The plan shall take account of the construction and operational phase of the development.

Reason: In the interest of protecting the environment.

5. Monitoring of the construction phase shall be carried out by a suitably qualified environmental scientist / engineer to ensure that all Environmental mitigation measures contained in the EIS and the draft CEMP are implemented. In implementing the CEMP the scientist / engineer shall audit the construction process in accordance with the audit protocols outlined in the CEMP on a monthly basis during the earthworks programme and quarterly thereafter. Within three months of the completion of construction report containing the results of monitoring shall be submitted to the Planning Authority.

Reason: To ensure full implementation of mitigation measures.

6. As per PA condition no. 7 (with reason) (amend NPWS to read “the Department of Arts, Heritage and the Gaeltacht”)
7. As per PA condition no. 8 (with reason)
8. As per PA condition no. 9 (with reason)

9. As per PA condition no. 11 (with reason)
10. Archaeological Monitoring shall consist of the following;
- (a) The developer shall engage the services of a suitably qualified Archaeologist to monitor all clear felling of forestry, and of all ground works associated with the development.
- (b) Should archaeological material be found during the course of monitoring, the Archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Local Authority with regard to any necessary mitigating action (e.g. preservation *in situ*, and/or excavation). The developer shall facilitate the archaeologist in recording any material found.
- (c) The Planning Authority shall be furnished with a report describing the results of the monitoring.

Reason: To ensure the continued preservation (either *in situ* or by record) of places, caves, sites, features or other objects of archaeological interest.

11. All drainage arrangements, including the disposal of surface water, and all provisions to prevent the release of silt and other contaminants, shall comply with the detailed requirements of the planning authority.

Reason: In the interests of protecting the environment, and of traffic safety

Costs

The Board noted the request of the appellant for an award of costs to refund the costs of the appeal, on the basis that the decision of the planning authority was *ultra vires*.

The Board considered this request and decided that it would not be appropriate to direct the payment of costs incurred by the appellant in relation to this appeal, having regard to the eventual outcome of the appeal, as outlined above.

Board Member: _____ Date: 8th March 2016
Philip Jones