



An  
Bord  
Pleanála

**Board Direction**  
**BD-001441-18**  
**ABP-301508-18**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/10/2018.

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

### **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 Galway Bay Complex SAC (00268) and the Inner Galway Bay SPA (004031),
- (e) the policies and objectives of the Clare County Development Plan, 2017-2023,
- (f) the nature and extent of the proposed works as set out in the application for approval which will address flooding on the N67 National Road

- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the revised Natura Impact Statement inclusive of the Feasibility Assessment and Preliminary Design report for the Proposed Mortyclough Flood Relief Scheme,
- (h) the observations received in relation to the proposed development from the Department of Heritage, Culture and the Gaeltacht, 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 the screening assessment and conclusion carried out in the Inspector's report that the Galway Bay Complex SAC (00268) and the Inner Galway Bay SPA (004031), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement (as updated to include details of construction compounds) 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. The Board completed an appropriate assessment of the implications of the proposed development alone and in combination with other affected European Sites, namely the Galway Bay Complex SAC (00268) and the Inner Galway Bay SPA (004031), in view of the sites' conservation objectives. The Board considered that the information before it and as clarified in the revised Natural Impact Statement, was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the screening and the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, 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 Sites, 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 or the community in the vicinity, would not give rise to negative impact on the groundwater, would not be detrimental to the visual or landscape amenities of the area. Furthermore, it is considered that, subject to the implementation of an appropriate maintenance regime that the proposed development would yield positive benefits for the public through the alleviation of serious flooding on the National Secondary Road. 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 and particulars, including the revised Natura Impact Statement (NIS) and other associated documentation, lodged with An Bord Pleanála, except as may otherwise be required in order to comply with the following conditions. For the avoidance of doubt all works for the proposed development will be confined to the areas shown on the drawings included as Appendix 1 in the revised Natura Impact Statement.

**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. The landscaping scheme shown on drwg no. 18276-5002, as submitted to the An Bord Pleanála on the 25th day of April, 2018 shall be carried out within the first planting season following substantial completion of external construction works.

In addition to the proposals in the submitted scheme, the following shall be carried out:

– The species shall be semi- mature comprising of Willow, Hazel, Whitethorn and Beech and any other native species as agreed by the project ecologist

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity

3. The proposed development shall not include the distribution of excavated soil on farmlands upslope or in the immediate vicinity of Ballyveleghan Lough/ Turlough.

**Reason:** To ensure the protection of a Priority Habitat in a European site.

4. A suitably qualified ecologist shall be employed by the county council to oversee the site set-up and construction of the proposed development and adherence to the mitigation measures included in the revised Natura Impact Statement as agreed with the statutory agencies. The ecologist shall be present on site during construction works. Upon completion of works, an ecological report of the site works shall be prepared by the

appointed ecologist and submitted to the Local Authority to be kept on file as part of the public record.

**Reason:** In the interest of nature conservation, to prevent adverse impacts on the European sites and to ensure the protection of the Priority and Annex I Habitats and Annex II Species and their qualifying interest for which the sites were designated.

**Board Member**

**Date:** 25/10/2018

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Maria FitzGerald