



An
Bord
Pleanála

Board Direction
BD-002882-19
ABP-302828-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 29/04/2019.

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

Having regard to:

- the residential zoning objective for the site in the varied North Tipperary County Development Plan,
- the planning history of the site,
- the scale, design, and layout of the proposed development,
- the mitigation measures set out in the Natura Impact Statement,

and subject to compliance with the conditions set out below, it is considered the proposed development would not adversely affect the character and setting of the adjoining National Monument, would not seriously injure the residential amenities of adjoining properties or give rise to water pollution, and would be in accordance with the proper planning and sustainable development of the area.

Stage 1 Screening

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives.

The Board considered that having regard to the nature and scale of the proposed development, and the separation distance of the application site from a European site, the close proximity to a tributary that is directly connected to the European site, and given the information presented in the application, that the proposed development has the potential to affect the Lower River Shannon SAC (002165) and that a Stage 2 Appropriate Assessment (NIS) is required.

Stage 2 Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Lower River Shannon Special Area of Conservation Site Code (002165) is the European site for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for the Lower River Shannon Special Area of Conservation.

The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered, in particular, the

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

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 aforementioned European Site, In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the Lower River Shannon Special Area of Conservation Site Code (002165) in view of the site's conservation objectives

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 6th of July 2018 and to the Board on 24th of October 2018, 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. No development of the proposed dwelling houses shall commence until the upgrading works at the Ballina Wastewater Treatment Plant to facilitate the development are completed, and the developer has obtained a Connection Agreement from Irish Water to connect into the upgraded Waste Water Treatment Plant.

Reason: To ensure there are no adverse effects on the integrity of the Lower River Shannon SAC.

3. The dwelling houses shall be constructed and completed using the same palette of materials, colours and textiles as the existing adjoining dwellings within the housing scheme unless otherwise agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

1. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. All rear gardens shall be bounded by block walls, 1.8 metres in height, capped, and rendered, on both sides, to the written satisfaction of the planning authority.

Reason: In the interest of residential and visual amenity.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

8. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800

and 1400 hours on Saturdays and not at all on Sundays, Bank or Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

9. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

10. Notwithstanding the provisions of Article 10(4) of the Planning and Development Regulations, 2001–2013, or any statutory provision modifying or replacing them, no room in the proposed houses shall be used for the purpose of providing overnight paying guest accommodation without a prior grant of planning permission.

Reason: In order to prevent overdevelopment of the site in the interest of residential amenity and traffic safety and convenience.

11. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion of roads, sewers, water mains, drains, car parks, open spaces and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The security amount to be lodged shall be agreed with the planning authority in writing prior to the commencement of the proposed development. security as may be accepted in writing by the planning authority.

Reason: To ensure the satisfactory completion of the development.

12. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals for this shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

13. The open space area to the west and south of the propose development shall be provided in accordance with the plans and particulars submitted as part of the further information submitted on 6th of July 2018. The open space area and play area shall be provided within twelve months of the completion of the proposed development.

Reason: In the interests of clarity.

14. The applicant is required to engage the services of a suitability qualified, licenced archaeologist to carry out a programme for Archaeological Test Excavation as a condition of the planning permission. Archaeological testing

shall be carried out in advance of the construction works commencing on-site, and the applicant shall allow an adequate timeframe for the completion of same in the absence of the works commencing. No sub-surface work shall be undertaken in the absence of the of the archaeologist without his/her express consent. Please allow 5-6 weeks to facilitate the processing of archaeological licence. This assessment shall include:

- (a) The archaeologist shall then inspect the proposed development site (PDS) and detail the historical and archaeological background of the site, and review all cartographic sources and aerial photographs for the area;
- (b) The archaeologist shall then excavate the test trenches at locations chosen by the archaeologist, having consulted the site plans in liaison with the Licencing Section of the department. Excavation is to take place to the uppermost archaeological horizons only, where they survive. Where archaeologist material is shown to be present, the archaeologist shall stop works pending further advise from the department. Please note tat all features/ archaeological surfaces within the test trenches are to be hand cleaned and clearly visible for photographic use.
- (c) Having completed the work, the archaeologist shall advise on and establish an appropriate buffer zone around TN025-015 – Castle minimum 25m buffer area and shall then submit a written report to the Local authority and to the department outlining the results of the test excavations. The report shall comment on the degree to which the extent, location and levels of all proposed foundations, service trenches and other sub-surface works required for the development will affect the archaeological remains. This should be illustrated with appropriate plans and sections, etc.
- (d) Where archaeological material is shown to be present, further mitigatory measures will be required, theses may include redesign to allow for

preservation in situ, excavation and/or monitoring. The Department will advise the Local Authority with regard to these matters.

(e) In addition, the applicant shall submit for agreement, proposals for the protection, conservation and presentation of the TN025-015 within the overall development proposals to the department and the Local Authority, with particular reference to the use of the area around the monument as a designated green area and potential playground. Clarification in relation to same shall be submitted for review in advance of construction works commencing on site.

Reason: To ensure the continued preservation of places, caves, sites, features or other objects of arkeological interest.

15. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

16. The developer shall pay to Irish Water a financial contribution in respect of the necessary works required to upgrade the Ballina Waste Water Treatment Plant in order to facilitate the proposed development. The contribution shall be paid prior to commencement of development or in such phased payments as the Irish Water may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the amount payable shall be agreed between Irish Water and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine an equitable sum payable for the required works.

Reason: To ensure an equitable contribution is paid by the developer towards public infrastructure serving the proposed development.

Board Member

Date: 29/04/2019

Paul Hyde