

An
Bord
Pleanála

Board Direction
BD-010790-22
ABP-308004-20

The submissions on this file (including the responses to the Board's section 132 and 131 notices) and the Inspector's report and addendum report were considered at a further Board meeting held on 25/05/2022.

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

Proper Planning and Sustainable Development

Having regard to:

- (a) the *Climate Action Plan, 2021* and the provisions of the *Climate Action and Low Carbon Development (Amendment) Act, 2021*,
- (b) the provisions of *Project Ireland 2040, the National Planning Framework* and specifically National Policy Objectives 15 and 23 relating to the development of rural area and the rural economy,
- (c) the policies set out in the *Regional Spatial and Economic Strategy for the Eastern and Midlands Region, 2019-2031*
- (d) the policies of the planning authority as set out in the *Offaly County Development Plan 2021-2027*,
- (e) the nature, design and scale of the proposed development and the contents of the Environmental Impact Assessment Report, Appropriate

Assessment – Natura Impact Statement and further information submitted by the applicant,

- (f) the range of mitigation measures set out in the documentation received, including the Environmental Impact Assessment Report and Natura Impact Statement and further submissions made by Applicant in the course of the appeal,
- (g) the distances of the proposed development to dwellings or other sensitive receptors,
- (h) the separation distance from the site of the proposed development to sites designated as part of the Natura 2000 network and the nature of the connections between them,
- (i) the topography and character of the landscape of the area in which the development is proposed,
- (j) the planning history of the site and the pattern of existing and permitted development in the area, and
- (k) the submissions made in the course of the planning application and appeal, and
- (l) the report and addendum report of the Inspector

it is considered that, subject to compliance with the conditions set out below, that the proposed development:

- would be in accordance with national and regional policy on development in rural areas and the promotion of the agricultural sector and the local economy,
- would, pending the adoption of sectoral emissions plans, not be such as to be contrary to the provisions of the *Climate Action Plan, 2021* and the provisions of the *Climate Action and Low Carbon Development (Amendment) Act, 2021*,
- would be in accordance with the provisions of the *Offaly County Development Plan, 2021-2027*, including the policies relating to economic development, protection of the environment and the protection of landscapes and scenic amenity,

- would not seriously injure the visual amenities of the area or have a significant negative impact on the landscape,
- would not seriously injure the amenities or depreciate the value of properties in the vicinity of the site,
- would not have an adverse effect on the integrity of any European site or be such as to have a significant negative impact on biodiversity,
- would not give rise to a risk of pollution,
- would not detract from archaeological features or from architectural heritage,
- would be acceptable in terms of traffic safety and convenience and
- would not be prejudicial to public health.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that River Shannon Callows SAC (site code 000216), All Saints Bog and Esker SAC (site code 000566), All Saints Bog SPA (site code 004103), and Middle Shannon Callows SPA (site code 004096) are European Sites for which there is a possibility of significant effects and must therefore be subject to Appropriate Assessment.

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 these European Sites in view of the sites' Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using the best available scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following

- (i) Site Specific Conservation Objectives for these European Sites,

- (ii) Current conservation status, threats and pressures of the qualifying interest features
- (iii) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and
- (iv) mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the implications of the proposed development on the integrity of the aforementioned European Sites, having regard to the sites' Conservation Objectives. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European Sites in view of the sites' Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

Environmental Impact Assessment

In compliance with s.172 of the Planning and Development Act 2000, the Board completed an environmental impact assessment of the proposed development, taking into account:

- the nature, scale, location, and extent of the proposed development,
- the Environmental Impact Assessment Report and associated documentation submitted with the application,
- submissions from the applicant, the appellants and the planning authority, and
- the Planning Inspector's report and addendum report.

The Board considered that the Environmental Impact Assessment Report, supported by the information submitted by the applicant, identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the EIAR complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Inspector's report and addendum report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application. The Board is satisfied that the Inspector's reports set out how these were addressed in the assessment and recommendation (including environmental conditions) and are incorporated into the Board's decision.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed, as set out in the EIAR, and subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the reports and conclusions of the reporting Inspector.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- The proposed development would have a positive impact on the local and wider economy and population with a significant positive local impact during construction and moderate impact at operational phase of the project.
- The development would have potentially significant negative impacts on landscape and views in the vicinity of the site that would be mitigated by the design and siting of the proposed development and by planting and reinforcement of site boundaries,
- The development would have potentially significant negative impacts on surface water quality that would be mitigated by the installation, design, and maintenance of the proposed on-site waste water treatment system including integrated constructed wetland,
- The development would have some potential negative indirect impacts on water arising from the disposal of by products generated by the activity on

site. These potential impacts arise specifically for the potential use of land spreading as a potential disposal method and would likely be successfully mitigated by adherence to relevant Nutrient Management Plans and regulations. These potential impacts can be further mitigated by condition restricting the method of by product disposal within the options provided in the EIAR.

- Indirect downstream impacts on water quality arising from the land spreading of waste / by product materials from the development, which are not possible to quantify on the basis of the information presented, but which can be avoided by means of condition prohibiting land spreading without a further grant of permission.

The Board is satisfied that this reasoned conclusion is up to date at the time of taking this decision

DECISION QUASHED

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 13th day of December 2019, the 7th day of January 2020, the 23rd day of January, 2020 and the 30th day June, 2020 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 mitigation measures contained in the Environmental Impact Assessment Report and Natura Impact Statement and related documents submitted with the application shall be implemented in full in the development except as may be required in order to comply with conditions attached to this order,

Reason: To ensure the protection of the environment.

3. None of the by-product materials identified at Table 16.7 of the EIAR Main Volume shall be disposed of by way of land spreading without a further grant of permission. Prior to the commencement of operations at the permitted facility, the developer shall submit a revised Table 16.7 setting out waste / by product streams that will be generated by the facility, associated tonnages / volumes and proposed disposal methods that takes account of this requirement.

Reason: To minimise the potential for indirect effects on water quality and to ensure that the development would not have any adverse effects on the integrity of European Sites located at a remove from the development site arising from the land spreading of by product materials.

4. Activity at the site shall be restricted to a maximum slaughter rate of 140 no. animals per day, as averaged over a 4-week period. Prior to the commencement of activity at the site, details for monitoring and ensuring compliance with this condition shall be agreed in writing with the Planning Authority.

Reason: To clarify the extent of the permission and to ensure that the permitted development reflects the description of development and analysis of environmental impacts presented in the EIAR submitted with the application.

5. The permitted development shall operate solely between 07.00 hours and 18.00 hours daily and deliveries shall be restricted to the same hours.

Reason: In the interests of the amenity of properties in the vicinity and along the routes to and from the site.

6. Prior to the commencement of operations at the permitted facility, a licence shall be obtained from the Environmental Protection Agency and the facility shall operate in accordance with the terms of any licence issued.

Reason: In recognition of the licensable nature of the proposed facility and to ensure that all emissions from the facility are monitored and within the limits specified by the Environmental Protection Agency.

7. Site development and building works shall be carried out only between the hours of 07.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and 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.

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

Reason: In the interest of public health.

9. Construction and demolition waste shall be managed in accordance with a construction and demolition waste management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery, and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

10. 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, including construction traffic, noise and dust management measures and off-site disposal of construction/demolition waste.

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

11. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development.

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

12. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than [1:500] showing –

(i) Existing trees, hedgerows, specifying which are proposed for retention as features of the site landscaping

(ii) The measures to be put in place for the protection of these landscape features during the construction period

(iii) The species, variety, number, size and locations of all proposed trees and shrubs

(iv) Details of screen planting

(v) Details of all roadside/boundary planting which shall not include prunus species

(vi) Hard landscaping works,

(b) Specifications for mounding, levelling, cultivation, and other operations associated with plant and grass establishment

(c) A timescale for implementation [including details of phasing]

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.

13. All internal areas including roads, junctions and parking areas shall be constructed in accordance with the detailed requirements of the Planning Authority.

Reason: In the interests of orderly development.

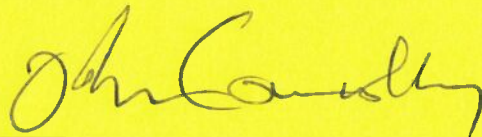
14. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of the proposed works to the R.438 received by the Planning Authority on 30th June, 2020 including a lowering of the road surface. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme, and which will benefit the proposed development.

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.

Board Member



John Connolly

Date: 26/05/2022

DECISION QUASHED