



An
Bord
Pleanála

Board Direction
BD-008908-21
ABP-309252-21

At a meeting held on 16/08/2021, the Board considered the documents and submissions on file and the report of the Inspector.

The Board decided to approve the proposed development, in line with the Inspector's report, for the following reasons and considerations and subject to the conditions set out below.

Reasons and Considerations

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

- European legislation, including of particular relevance:
 - Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union, and
 - EU Renewable Energy Directive 2009/28/EC which aims to promote the use of renewable energy
- National and regional planning and related policy, including:
 - National Planning Framework, and

- Government Policy Statement on the Strategic Importance of Transmission and Other Energy Infrastructure, July 2012,
- Regional and local level policy, including:
 - the Regional Spatial Economic Strategy for the Eastern and Midland Region
- The local planning policy including:
 - Wicklow County Development Plan 2016-2021, and
 - the Arklow and Environs Local Area Plan 2018
- other relevant guidance documents,
- the nature, scale and design of the proposed development as set out in the planning application and the pattern of development in the vicinity, including the permitted Data Centre within the vicinity of the proposed development site,
- 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 European Sites,
- the submissions made to An Bord Pleanála in connection with the planning application, and
- the report and recommendation of the Inspector, including the examination, analysis and evaluation undertaken in relation to the environmental impact assessment.

Proper Planning and Sustainable Development

It is considered that the proposed development would accord with European, national, regional and local planning and that it is acceptable in respect of its likely effects on the environment and its likely consequences for the proper planning and sustainable development of the area.

Environmental Impact Assessment:

The Board completed an environmental impact assessment of the proposed development taking account of:

- (a) the nature, scale, location and extent of the proposed development on the site,
- (b) the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the application,
- (c) the submissions received from the prescribed bodies and planning authority and,
- (d) the Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's 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 considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- The risk of pollution of ground and surface waters during the construction phase which would be mitigated by the implementation of measures set out in the Environmental Impact Assessment Report (EIAR) and the outline Construction and Environment Management Plan (oCEMP) which include specific provisions relating to groundwater, surface water and drainage.
- Noise, vibration and dust during the construction and/or the operational phases would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report (EIAR) and the outline Construction and Environment Management Plan (oCEMP) which include specific provisions relating to the control of dust and noise.
- The increase in vehicle movements and resulting traffic during the construction and operational phases would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report (EIAR) and the outline Construction and Environment Management Plan (CEMP).
- The impacts on residential amenity during the construction and operational phases would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report (EIAR) and the outline Construction and Environment Management Plan (oCEMP) which include specific provisions relating to the control and management of dust, noise, water quality and traffic movement.

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 and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Screening for Appropriate Assessment:

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. 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 Sites' Conservation Objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any European Sites, in view of the Sites' Conservation Objectives.

Conditions

1. The 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 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. The mitigation measures identified in the EIAR and other plans and particulars submitted with the planning application, shall be implemented in full by the developer, except as may otherwise be required in order to comply with the conditions of this permission.

Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

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

Reason: In the interest of public health and to ensure a proper standard of development.

4. The developer shall comply with the transportation requirements of the planning authority for such works and services as appropriate.

Reason: In the interest of traffic and pedestrian safety.

5. The construction of the development shall be managed in accordance with a Construction and Environment Management Plan and a Demolition Waste Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These plans shall provide details of intended construction practice for the development, including:

a) location of the site and materials compound including area 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 on-site car parking facilities for site workers during the course of construction,

e) 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,

f) measures to obviate queuing of construction traffic on the adjoining road network,

g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,

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) details of on-site re-fuelling arrangements, including use of drip trays,

l) details of how it is proposed to manage excavated soil,

m) means to ensure that surface water run-off is controlled such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses.

A record of daily checks that the works are being undertaken in accordance with the Construction and Environment Management Plan and Demolition

Waste Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of environmental protection, amenities, public health and safety.

6. a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:
- (i) An LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. [The T value shall be one hour.]
 - (ii) An LAeqT value of 45 dB(A) at any other time. [The T value shall be 15 minutes]. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

b) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with respect of Community Response" as amended by ISO Recommendations R 1996 1, 2 or 3 "Description and Measurement of Environmental Noise" as applicable.

Reason: To protect the amenities of property in the vicinity of the site.

7. All new surface water outfalls shall be constructed in a manner which protects riparian habitat and does not result in excessive erosion of such habitat.

Reason: In the interest of habitat protection.

8. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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.

9. a) No additional artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.

b) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the road. Their location within the compound shall be agreed with the Planning Authority prior to commencement of work on site.

(c) All lighting shall be operated in such a manner as to prevent light overspill to areas outside of the compound.

(d) Prior to the commencement of development, the applicant shall submit a detailed lighting plan for the written agreement of the planning authority. The plan shall include the type, duration, colour of light and direction of all external lighting to be installed within the external areas of the development site.

Reason: In the interests of clarity, and of visual and residential amenity and protection of local biodiversity.

10. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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.

11. The delivery of abnormal loads for the construction of the development shall be managed in accordance with a Traffic 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 shall of the road network to be used by construction traffic, including over-sized loads, and detailed arrangements for the protection of bridges, culverts or other structures to be traversed, as may be required. The plan should also contain

details of how the developer intends to engage with and notify the local community in advance of the delivery of oversized loads.

Reason: In the interests of public safety and residential amenity

12. a) The developer shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

b) In the event that invasive plant species are found prior to or during works at the appeal site, the applicant shall submit an Invasive Management Species Action Plan for the written approval of the planning authority which shall include full details of the eradication of such invasive species from the appeal site prior to construction on the site or if discovered during construction as soon as is practicably possible.

Reason: In the interest of nature conservation and mitigating ecological damage associated with the development.

13. Trees to be felled and buildings to be demolished shall be examined prior to felling and demolition to determine the presence of bat roosts. Any works shall be in accordance with the TII Guidelines for the Treatment of Bats during the construction of National Road Schemes.

Reason: In the interest of wildlife protection.

Board Member:


Dave Walsh

Date: 16/08/2021

Appendix

Schedule of Costs

In accordance with the provisions of section 182B of the Planning and Development Act 2000, as amended, the amount due to be reimbursed to the applicant is €84,345.