

An
Bord
Pleanála

Board Direction
BD-009114-21
ABP-309360-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/09/2021.

The Board decided to approve the proposed development, 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 Lower River Shannon SAC (Site code 002165) and the River Fergus and River Shannon Estuaries SPA (Site code 004077)

(e) the policies and objectives of the Limerick City & County Development Plans 2010-2016 (as extended),

(f) the nature and extent of the proposed works as set out in the application for approval,

(g) the information submitted in relation to the potential impacts on habitats and species, including the Natura Impact Statement,

(h) the submissions and observations received in relation to the proposed development,

(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 and adopted the screening assessment and conclusion carried out in the Inspector's report that the Lower River Shannon SAC (Site code: 002165) and the River Shannon and River Fergus Estuaries SPA (Site code: 004077) 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 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 for the affected European Sites, namely the Lower River Shannon SAC (Site code: 002165) and the River Shannon and River Fergus SPA (Site code: 004077), in view of the Sites' conservation objectives. The Board considered that the information before it 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 appropriate assessment carried out in the Inspector's report in respect of the potential effects 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, 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 pose a risk to water quality, would not be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would constitute a significant improvement in pedestrian, cyclist and vehicular movement and safety across, and in the vicinity of, Park Canal and 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 lodged with the application and the information contained in the Natura Impact Statement (NIS), except as may otherwise be required in order to comply with the following conditions. Where any

mitigation measures or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

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 mitigation and monitoring measures set out in NIS and the Construction Environmental Management Plan shall be implemented in full. Prior to the commencement of development, details of implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

Reason: In the interest of protecting the environment, the protection of European Sites and in the interest of public health.

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with Inland Fisheries Ireland (IFI), a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include:
 - a. method statements for each phase of the work including sequencing and timing,
 - b. the location of the site construction compound including the area for storage of waste,
 - c. details of surface water management from the works to prevent ingress into the canal,
 - d. containment of all construction related fuel and oil within a specifically constructed bund to ensure that fuel/oil spillages are fully contained,
 - e. details of how it is proposed to manage excavated materials,
 - f. details of appropriate mitigation measures for noise, dust and vibration,
 - g. details of alternative arrangements to be put in place in the event of the closure of the public road or pedestrian/cycle path during construction,

- h. specific proposals to prevent the spread of invasive species, and
- i. specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness.

A record of daily checks that the works are being undertaken in accordance with the CEMP shall be maintained on file as part of the public record

Reason: In the interest of protecting the environment, the amenities of the area and public health.

- 4. Prior to the commencement of development, details of measures to protect fisheries and water quality of the river systems shall be outlined and placed on file. Full regard shall be had to Inland Fisheries Ireland's published guidelines for construction works near waterways, Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters, 2016. A programme of water quality monitoring shall be prepared in consultation with the contractor, the local authority and relevant statutory agencies and the programme shall be implemented thereafter. Details of such monitoring shall be maintained on file as part of the public record.

Reason: In the interest of the protecting of receiving water quality, fisheries and aquatic habitats.

- 5. The local authority, or any agent acting on its behalf, shall conduct pre-construction otter surveys. Should evidence of such species be encountered, no work shall commence on the site until the advice of the National Parks and Wildlife Service has been obtained on how best to deal with the species.

Reason: To reduce potential impacts on protected species that may be present on the site.

- 6. Prior to commencement of the local authority, or any agent acting on its behalf, shall consult with the National Parks and Wildlife Service regarding the provision of artificial bat roost(s) into the underside of the bridge structures.

Reason: To reduce potential impacts and encourage the continued use of the canal area by bat populations.

7. Prior to commencement of the development the local authority, or any agent acting on its behalf, shall consult with Iarnród Éireann regarding its requirements in respect of works arising in proximity to the railway line and railway bridge.

Reason: In the interests of the safe operation of the railway line.

8. The local authority, and any agent acting on its behalf, shall ensure that all plant and machinery used during the works shall be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European sites.

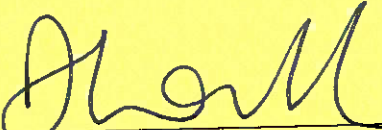
9. All artificial lighting sources relating to the proposed development shall be suitable cowled and designed to reduce spill to the canal.

Reason: In order to protect the ecology of the area.

10. Site development and building works shall be carried out between 0700 to 1800 hours Monday to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

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

Board Member



Dave Walsh

Date: 20/09/2021