

An
Bord
Pleanála

Board Direction
BD-010427-22
ABP-309686-21

The submissions on this file and the Inspector's report were considered at Board meetings held on 13/07/2021 and 04/04/2022.

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

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

- (a) the nature, scale and extent of the proposed development,
- (b) the characteristics of the site and of the general vicinity,
- (c) the national targets for renewable energy contribution,
- (d) national, regional and local policy support for developing renewable energy, in particular:
 - Government's Strategy for Renewable Energy, 2012-2020,
 - National Planning Framework, 2018,
 - Delivering a Sustainable Energy Future for Ireland - the Energy Policy Framework, 2007-2020,
 - Government Policy Statement on the Strategic Importance of Transmission and Other Energy Infrastructure 2012,
 - Climate Action Plan, 2021,

- Regional Spatial and Economic Strategy for the Eastern and Midlands Region
 - Offaly County Development Plan, 2021-2027,
- (e) the location of the proposed development within an area identified in the Development Plan as a 'low sensitivity area' with the capacity to absorb a range of new development,
 - (f) the distance to dwellings or other sensitive receptors from the proposed development,
 - (g) the planning history of the immediate area including existing and permitted power station, wind farms, substations and 110kV overhead power lines,
 - (h) the submissions on file including those from prescribed bodies and the Planning Authority,
 - (i) the Environmental Impact Assessment Report submitted,
 - (j) the Natura impact statement submitted,
 - (k) the report of the Inspector.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development taking into account

- (i) the nature, scale and extent of the proposed development,
- (ii) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (iii) the submissions made in the course of the application; and
- (iv) 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, and agreed with the Inspectors reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are as follows:

- **Population and Human Health:** Potential air quality, dust and noise impacts on human health will be mitigated through compliance with a Construction Environmental Management Plan, best practice construction methods and distance to sensitive receptors.
- **Biodiversity:** Potential significant effects on bats, badgers and white-clawed crayfish during construction phase due, primarily, to disturbance, loss of habitats/roosts, or introduction of disease. These potential effects will be mitigated through standard good practice construction measures, timing of vegetation removal, water pollution prevention measures, provision of bat boxes, biosecurity measures and the implementation of a Construction Environmental Management Plan. Further pre-commencement badger and bat surveys are also proposed.
- **Land, Soils, Water, Air and Climate:** Potential significant effects on hydrology, hydrogeology and soils are identified, due to construction phase erosion, stockpiling of materials, sedimentation of the River Figile and potential contamination of hydrology and soils with hydrocarbons. These effects will be mitigated by a series of best practice construction management and pollution prevention measures and other specific measures outlined in the EIAR and Outline Construction Environmental Management Plan.
- **Material Assets, Cultural Heritage and the Landscape:** The location of the proposed development is of medium to high potential for unknown archaeological remains, due to the substantial number of recorded archaeological sites in Ballykilleen townland, within the study area. This will be mitigated through archaeological testing and monitoring during the construction phase.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Appropriate Assessment - Stage 1

The Board considered the Natura Impact Statement and all the other relevant submissions and carried out both an Appropriate Assessment screening exercise and an Appropriate Assessment in relation to the potential effects of the proposed development on designated European Sites. The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the only European site in respect of which the proposed development has the potential to have a significant effect is the River Barrow and River Nore SAC (Site Code 002162).

Appropriate Assessment – Stage 2

The Board considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions on file, and the Inspector's assessment. The Board completed an Appropriate Assessment of the implications of the proposed development for the European Site, namely, the River Barrow and River Nore SAC (Site Code 002162), in view of the site's 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 Site.

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, 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 Site, in view of the site's Conservation Objectives.

Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would accord with European, national, regional and local planning and related policy, would not have an unacceptable impact on the landscape or biodiversity of the area, would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 proposed development shall be carried out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All of the environmental, construction and ecological mitigation and monitoring measures set out in the Environmental Impact Assessment Report, the Natura Impact Statement and other particulars submitted with the application shall be

implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.

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

3. The period during which the development hereby permitted may be carried out shall be ten years from the date of this Order.

Reason: In the interest of clarity.

4. 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 in respect of both the construction and operation phases of the proposed development.

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

5. Prior to commencement of development, a detailed Construction Environmental Management Plan (CEMP) for the construction phase shall be submitted to and agreed in writing with the planning authority, generally in accordance with the draft CEMP submitted with the application. The CEMP shall incorporate the following:

- (a) a detailed plan for the construction phase incorporating, inter alia, construction programme, supervisory measures, noise, dust and surface water management measures including appointment of a site liaison officer, construction hours and the management, transport and disposal of construction waste;
- (b) a comprehensive programme for the implementation of all monitoring commitments made in the application and supporting documentation during the construction period;
- (c) traffic management and road safety procedures and measures for the duration of underground cabling works under public roads,
- (d) an emergency response plan; and
- (e) proposals in relation to public information and communication.

A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of environmental protection and orderly development.

6. 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.

7. 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 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 amenities of property in the vicinity.

8. The site development and construction works shall be carried out such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

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

9. A Traffic Management Plan, 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 any over-sized loads, detailed arrangements for the protection of carriageways, bridges, culverts or other structures to be traversed, as may be required and details of cable installation as necessary within carriageways/verges. 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.

10. 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.

11. 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 planning 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.

12. 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 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.

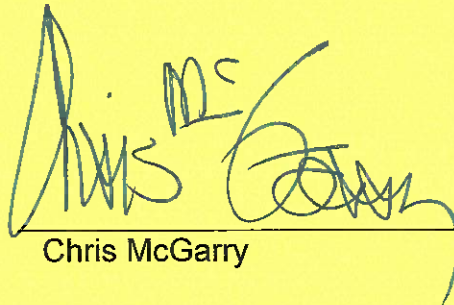
Reason: To ensure the satisfactory completion of the development.

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,

EURO 73,212.

Board Member



Chris McGarry

Date: 04/04/2022