



An
Bord
Pleanála

Board Direction
BD-014939-24
ABP-311149-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 19/12/2023.

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 the following:

- (a) the policies and objectives set out in the National Planning Framework and the Regional and Spatial Economic Strategy for the Southern Regional Assembly
- (b) the policies and objectives set out in the Clare County Development Plan 2023-2029 including Volume 3b relating to the Shannon Municipal District and Volume 5 which sets out the Clare Renewable Energy Strategy 2023-2030
- (c) the provisions of the Climate Action Plan 2023 (Government of Ireland)
- (d) the National Energy Security Framework April 2022 (Government of Ireland)
- (e) the Draft Bioenergy Plan (Department of Communications, Energy and Natural Resources, 2014)
- (f) the National Policy Statement on the Bioeconomy (Government of Ireland, 2018)
- (g) the Waste Action Plan for a Circular Economy – National Waste Policy 2020-2025 (Department of Environment, Climate and Communications)
- (h) the Framework and Principles for the Protection of the Archaeological Heritage (Department of Arts, Heritage, Gaeltacht and the Islands, 1999)

- (i) the nature, scale and design of the proposed development
- (j) the pattern of existing and permitted development in the area
- (k) the planning history of the site and the surrounding area
- (l) the submissions and observations received, and
- (m) the report of the Inspector and addendum to same and memo from the Inspectorate Ecologist.

Appropriate Assessment Screening

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the:

- Lower River Shannon SAC (site code 0002165)
- River Shannon and River Fergus Estuaries SPA (site code 004077)

are the European sites for which there is a possibility of significant effects. The Board noted the decision of the Planning Authority and submissions from third parties and prescribed bodies regarding the potential for significant effects on the other European Sites within an approximately 15km radius of the site but agrees with the conclusion in the Inspector's report that significant effects are not likely on these sites having regard to the absence of surface water and/or groundwater pathways; the separation distance involved; and the nature/sensitivity of their qualifying interests.

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 European Sites in view of the above 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. The Board accepted the Inspector's conclusion that it is not feasible or practical to assess the impacts of biomass supply or waste products over a multiplicity of sources/destinations, particularly under the circumstances when these activities are

already occurring and will be suitably controlled by good forestry practice and legislation, and determined that the cumulative impacts of these activities do not form part of the Appropriate Assessment of this project. In completing the assessment, the Board considered, in particular, the following:

- Site Specific Conservation Objectives for these European Sites,
- Current conservation status, threats and pressures of the qualifying interest features, likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- Submissions from observers, prescribed bodies and the reports of the Planning Authority, and
- 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 potential effects of the proposed development on the aforementioned European Sites and the memo from the Inspectorate Ecologist which examined the sufficiency of the information provided. The Board identified that the main likely impacts arising from the proposed development on the European Sites would arise from water and air quality impacts at construction and operational stages. Having regard to these potential impacts and the avoidance and mitigation measures as set out in the Natura Impact Statement, the Board concluded that the proposed development, subject to the identified mitigation measures, would not adversely affect any of the habitats or species within the relevant European sites. In the overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European sites in view of the site's conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.

Environmental Impact Assessment Screening Determination

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

- (a) the nature, scale and extent of the proposed development, which is under the mandatory threshold in respect of Class 2(a) of Part 1 Schedule 5 – Thermal power

stations or other combustion installation with a heat output of 300 megawatts and of Class 3 (a) of Part 1 Schedule 5 – Industrial installations for the production of electricity, steam, hot water not included in Part 1 of the schedule with a heat output of 300 megawatts or more.

(b) the location of the site on lands which accord with the policies and objectives of the Clare County Development Plan 2023-29, and the results of the strategic environmental assessment of that plan, undertaken in accordance with the SEA Directive (2001/42/EC);

(c) the location of the site north of Shannon Airport and outside a large settlement area and which is proposed to be connected to public infrastructure, and the existing pattern of residential development in the vicinity;

(d) the location of the site outside of any sensitive location specified in article 109(4) (a) of the Planning and Development Regulations 2001 as amended and the absence of any relevant connectivity to any sensitive location;

(e) the schedule 7A and associated documentation submitted with the application, (f) the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003), and;

(g) the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 as amended, and

(h) the inspector's screening report

It is considered that the proposed development would not be likely to have significant effects on the environment, and submission of an environmental impact assessment report is not therefore required.

Conclusions on Proper Planning and Sustainable Development

The Board considered that the proposed development would be in accordance with national, regional and local policy relating to energy and climate action, notwithstanding that the proposal does not include a connection to a district heating network. The Board had particular regard to the policies and objectives set out in the Clare County Development Plan 2023-2029 including Volume 3b relating to the

Shannon Municipal District and Volume 5 which sets out the Clare Renewable Energy Strategy 2023-2030. In this context, the Board considered that, subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location, would not unduly conflict with the preservation of archaeological heritage, would not give rise to environmental pollution, would not seriously injure the residential or visual amenities of the area, and would be acceptable in terms of public health and aviation and road traffic safety. The proposed development 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, as amended by the further information lodged on the 14th day of May, 2021 and further details submitted on the 14th day of September, 2021 by the applicant to the Board in response to the grounds of appeal, 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. (a) This permission shall apply for a period of 20 years from the date of this order. The bio-energy plant and associated infrastructure within the site shall then be removed unless prior to the end of that period, planning permission shall have been granted for their retention for a further period.
(b) The site shall be reinstated on removal of structures and ancillary structures. Details relating to the removal and reinstatement to grassland shall be submitted to and agreed in writing with the planning authority at least six months before the date of expiry of this permission.

Reason: To enable the impact of the development to be re-assessed, having regard to the changes in technology, design and regional energy needs during the specified period.

3. The following limits and requirements shall be complied with in the gasification and methanation process:

- (a) A maximum of 133,000 tonnes per annum of raw (wet) materials shall be processed in the bio-energy plant.
- (b) The biomass supply shall comprise forestry by-products as described in the submitted details and shall be within the parameters of descriptions as defined in S.I. No. 350 of 2022 European Union (Renewable Energy) Regulations (2) 2022. The advanced biofuels and biogas shall be produced from the feedstock as described in the submitted details and within the parameters of definition for such feedstocks listed Part A of Annex IX of the Renewable Energy Directive.
- (c) The biomass suppliers shall be within a 75km distance from the site.

Reason: In the interest of clarity.

4. The development of by-products from the effluents other than bottom ash generated by the gasification and methanation process as referred to in the Technical Report: Main Effluents (as contained in Appendix D) of the Response to the grounds of appeal submitted on the 14th day of September, 2021 shall be omitted in the absence of a prior grant of planning permission or licensing for such processes.

Reason: In the interest of clarity

5. (a) Details including samples of materials colours and textures of all the external finishes to the proposed structures and buildings shall be submitted to an agreed in writing with the planning authority prior to commencement of development.

(b) Details of plans and elevations of the office and control buildings (marked 24 and 25 on the submitted Proposed Site Layout Plan drawing number 6266-JOD-XX-XX-DR-C-200-004 Revision P.01 submitted with the planning application) at the site entrance shall be submitted for written agreement.

Reason: In the interest of visual amenities of the area.

6. The developer shall ensure that all mitigation measures set out in the Environmental Planning Report and Natura Impact Statement submitted with the application and as amended in further submissions, shall be implemented in full, except as may otherwise be required in order to comply with the following conditions.

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

7. Details of aeronautical requirements including height and design of flu stack and other high plant such as cranes, shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. Subsequently the developer shall inform the planning authority, Shannon Airport Authority and the Irish Aviation Authority of the co-ordinates of the 'as constructed' positions of the flu stacks and details as required of flare times and use of cranes or other non-stationary tall plant/equipment.

Reason: In the interest of air traffic safety.

8. Permission is hereby granted on the basis that the maximum quantity of biogas and/or other fuels or chemicals present on the site at one time can never exceed the relevant lower tier thresholds under the Seveso Directive. Prior to the commencement of development, the developer shall submit details for the written agreement of the Planning Authority that clearly demonstrate compliance with these limits, including details of operational controls to limit the quantities, such as, but not limited to, the monitoring of

liquid levels in tanks, monitoring biogas concentrations in the vapour spaces of the tanks, and the use of flaring to manage inventory.

Reason: In the interests of clarity and to prevent the facility from becoming an establishment for the purposes of the Seveso III Regulations.

9. The atmospheric emission values shall be in accordance with the expected levels set out in Appendix O Equetect Technical Reports of the further information submitted the planning authority on the 14th day of May 2021, unless otherwise agreed in writing with the planning authority prior to commission of operations.

Reason: To control air pollution and in the interest of public health.

10. At least one month before final commissioning, the operator shall submit a Syngas Monitoring Methodology for written agreement with the planning authority detailing how representative sampling and analysis if syngas will occur, to demonstrate that it meets the limits specified in the submitted documentation (Table 1 of Technical Report: Emission form EQTEC Gasification Plants – Appendix O of further information submitted to the planning authority). The methodology shall include but not be limited to:
- (a) Sample point location and evidence of homogenous sample collections,
 - (b) Details of sampling methods, including duration, for representative sampling across different operating loads and biomass feedstock.
 - (c) Sample analysis methods, limits of detection and availability of laboratory accreditation methods,

Reason: To control air pollution and in the interest of public health.

11. (a) The noise levels generated during the operation of the development shall not exceed the following limits; 55 dB(A) during daytime, 50 dB(A) during evening time and 45dB(A) during night-time when measured at the nearest occupied house. When measuring the specific noise the time shall be any one-hour period.

(b)The developer shall implement all noise mitigation measures as set out in the Planning and Environmental Report and as amended by the further Information,

(c)During the night-time period no tonal or impulsive noise from the facility should be clearly audible or measurable at any dwelling.

(d)The noise from the facility shall not be so loud, continuous, repeated or of a duration or pitch so as to give reasonable grounds for annoyance.

(e)The applicant shall carry out an annual noise survey at of the nearest sensitive location and submit results to the planning authority.

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

12. An annual report on the operation of the facility hereby permitted shall be submitted to the Planning Authority. The content of this report shall be as agreed in writing with the Planning Authority and shall include inter alia the following:

(a) Details of the source of all biomass feedstock and final disposal areas of residual matter,

(b) The volumes of raw/wet materials treated in the plant in the previous 12 months,

(c) The volume and weight of dry materials processed and stored in the previous 12 months, and

(d) The volume and weight of fuel produced/stored on site in the previous 12 months.

(e) A statement of compliance with sustainability criteria and green house gas savings in accordance with best available technology/best practice.

Reason: In the interest of orderly development and to ensure compliance with the parameters set out in the application.

13. Prior to the commencement of development, the developer shall submit for the written agreement of the Planning Authority a breakdown of supply sources, which shall be within a 75km catchment, to the development with

associated calculations that confirm the capacity to meet the requirements for energy and heat output per annum as outlined in the submitted documentation.

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

14. 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. In this regard the following shall apply:
- (a) Prior to commencement of development the developer shall enter into a Connection Agreement with Irish Water to provide for a service connection to the public water main.
 - (b) A breakdown of water supply needs shall be provided.
 - (c) All water infrastructure shall be constructed in accordance with the Irish Water's Standard Details and Code of Practice.
 - (d) The tankering of foul water from the site is not permitted. In this regard foul waste water disposal shall be via an approved connection to the public foul sewer.
 - (e) All surface water drainage infrastructure including works associated with culverting the stream on site, attenuation facilities, silt traps and hydrocarbon interceptors shall be provided on site in accordance with revised details lodged to the planning authority on the 14th day of May 2021 (Civil Works report)
 - (f) All process wastewater generated on site shall be tankered off site to a licensed facility using a permitted contractor. Records shall be retained on site of all wastewater removed off-site.
 - (g) To prevent/minimise nuisance odour at the facility appropriate measures and infrastructure shall be implemented to manage and contain wastewaters, including purge and sludge. Temporary storage of process waters and sludges shall only be in sealed and appropriate tankers.
 - (h) Prompt and frequent removal of wastewater/sludge shall be undertaken to avoid odour nuisance.

Prior to commencement of operation, a report detailing the following should be submitted for the written agreement of the planning authority and shall contain:

- (i) Quantities of wastewater/sludges to be generated.
- (ii) Details of waste storage on site (sealed tanker or otherwise) and frequency of its removal off site for disposal.
- (iii) Details of the facility to which such wastewater/sludges will be directed.
- (i) All hazardous chemicals including oil shall be stored in appropriately sized bunded areas indoors.
- (j) In the event of accidental spillage, the emergency response plan shall be implemented and the local authority and Inland fisheries shall be promptly notified.

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

15. The development shall be operated and managed in accordance with an Environmental Management System (EMS) which shall be submitted by the developer and agreed in writing with the planning authority prior to commencement of development. This shall include the following:

- (a) Proposal for the suppression of on-site noise and monitoring at sensitive receptors.
- (b) Proposal for the suppression of dust on site and on the surrounding roads.
- (c) Proposal for the bunding of fuel, lubrication storage areas and any other substance as required by the planning authority and details of emergency action including warning sign in the event of accidental spillage/leakage.
- (d) Details of safety measures for the fencing.
- (e) Specification of limits in relation to the following parameters, NO_x, SO₂, CO and PM₁₀ particulate matter.
- (f) Monitoring of ground and surface water quality, levels and discharges.
- (g) Details of Site Manager and public information signs at entrance.

Reason: In order to safeguard the environment and local amenities.

16. The developer, as part of risk management of the site operations, shall
- (a) appoint a Project Supervisor for the Design Process (PSDP) and Project Supervisor for the Construction Stage (PSCS) to design and manage risk assessment until construction is completed and to ensure the management structure is in place to facilitate appropriate compliances.
 - (b) implement a Supervisory Control and Data Acquisition (SCADA) system at operation stage, to monitor the plant performance and operators to prevent emergency situations.

Details of these measures shall be submitted to the planning authority for written agreement prior to the commencement of development.

Reason: In the interests of public health and safety.

17. The developer shall implement measures to reduce environmental risks associated with re-fuelling, greasing and other activities within the site. Such measures may include the use of spillage mats and catch trays. Such measures shall subject to written agreement of the planning authority prior to commission of use.

Reason: In order to protect groundwater and surface water.

18. The invasive species (Japanese Knotweed) located on the site shall be contained and eradicated in accordance with the details submitted in the Appendix J of the of the Further Information submitted to the planning authority on the 14th day of May 2021.

Reason: To prevent the spread of invasive species in the interest of ecology of the area.

19. Within six months from the date of this order the developer shall establish a local consultative group including representative of the developer and members and representatives of the local community. This group shall

constitute a forum to address operational issues of the plant which are considered to impact on the local community.

Reason: In the interest of protection of amenity and planning control.

20. (a) Prior to the commencement of development, and on an annual basis post operation, the developer shall submit a mobility plan setting out the haul routes to and from the site for the agreement of the Planning Authority. The plan shall indicate the main biomass suppliers and waste locations and demonstrate as far as is practicable how routes to and from the site to these locations are restricted to the primary routes and avoid residential areas.

(b) All deliveries to and from the site shall be via Heavy Goods Vehicles and hauliers shall be contractually obliged to adhere to the haul routes agreed in this condition.

Reason: In the interest of traffic safety and to safeguard the amenities of the area.

21. Biomass Supply deliveries to the site and transport waste and fuels/biogases from the site shall be confined to between the hours of 0700 to 1900 Monday to Friday and between the hours of 0900 to 1500 on Saturday and Sunday.

Reason: In the interest of orderly development and the residential amenity of surrounding dwellings.

22. Prior to the commencement of development, the developer shall prepare a Stage II Road Safety Audit in accordance with current TII standards submit details for the written agreement of the planning authority of the proposed entrance arrangements and compliance with the recommendations of the Road Safety Audit, including details of loading bays, turning, signage, lighting and road markings.

Reason: In the interest of traffic safety.

23. Parking (car and bicycle) shall be provided in accordance with a detailed layout which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. One car space shall be reserved for persons with impaired mobility.

Reason: To ensure satisfactory parking layout in the interest of pedestrian and traffic safety and of visual amenity.

24. Following further ground investigations and prior to the commencement of development on site, the developer shall submit for the written agreement of the planning authority details of the proposed foundation and bund design. Proposals shall clearly demonstrate that mitigation measures relating to the protection of the watercourse, soil, geology, hydrogeology and groundwater have been appropriately incorporated into the design.

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

25. Landscaping of the site shall be carried out in accordance with a landscaping scheme which shall include planting of deciduous trees and retention of hedgerows along the site boundaries, all of which shall be protected from damage, and enhanced in such a manner as to ensure that their value as a commuting and foraging habitat is protected. A Landscape Plan clearly detailing proposals in this regard, including the precise extent of existing hedgerow to be retained, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To ensure the protection of the hedgerow habitat and in the interest of visual amenity.

26. The developer shall facilitate the planning authority in preserving, recording, or otherwise protecting 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 satisfactory arrangements for the recording and removal of any archaeological material which may be considered appropriate to remove.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation of any remains which may exist within the site

27. Site development and building works shall be carried out only between the hours of 0730 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 permitted 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.

28. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall incorporate all the construction stage mitigation measures outlined in the Natura Impact Statement, and shall provide details of intended construction practice for the development, including and not limited to:

- (a) location of the site and materials compound(s) including area(s) 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 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 if required,
- (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) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,
- (i) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (j) 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,
- (k) details of construction lighting,
- (l) details of key construction management personnel to be employed in the development, and
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (n) invasive species management.

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

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

29. Monitoring of the construction phase shall be carried out by a suitably qualified and competent person to ensure that all mitigation measures outlined in the Natura Impact Statement are fully implemented. In addition, the designated member of the company's staff shall interface with the planning authority and members of the public in the event of complaints or queries in relation to environmental emissions. Details of the name and contact details,

and the relationship to the operator of this person shall be available at all times to the planning authority on request whether requested in writing or by a member of staff of the planning authority at the site.

Reason: To safeguard the amenities of the area.

30. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

31. All solid wastes arising on the site shall be recycled as far as possible. Materials exported from the site for recovery, recycling or disposal shall be managed at an approved facility and in such a manner as is agreed with the Planning Authority. In any case no such wastes shall be stored on the site except within the confines of the buildings on site. Adequate on-site arrangements for the storage of recyclable materials prior to collection shall be made to the satisfaction of the Planning Authority.

Reason: To safeguard the amenities of the area.

32. Lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with the planning authority prior to

commencement of development. The scheme shall minimise obtrusive light outside the boundaries of the development at all times and shall comply with the requirement of Shannon Airport Authority.

Reason: In the interest of public safety and amenity.

33. An odour management plan, which shall include a monitoring programme, shall be put in place by the developer in respect of the operation phase of the development. The nature and extent of the plan and the monitoring sites shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The results of the programme shall be submitted to the planning authority on a monthly basis for the first year after commissioning and on 6-month basis thereafter.

Reason: To protect the amenities of the area.

34. 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



Date: 02/01/2024

Una Crosse

