



**An  
Bord  
Pleanála**

**Board Direction  
BD-015438-24  
ABP-312969-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/02/2024.

The Board decided to grant substitute consent generally in accordance with the Inspector's recommendation and the following Draft Board Order.

#### **Draft Board Order**

The Board, in accordance with section 177K of the Planning and Development Act 2000, as amended, and having considered the totality of information contained in the submissions, and based on the Reasons and Considerations set out below, decided to GRANT substitute consent in accordance with the conditions set out below.

#### **Reasons and Considerations**

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

- (a) the provisions of the Planning and Development Act, 2000, as amended, and in particular Part XA and the provisions of the Planning and Development Regulations, 2001, as amended;
- (b) the applicable national, regional and local planning policy including in particular, the provisions of the Clare County Development Plan 2023-2029
- (c) the remedial Natura Impact Statement and supporting documentation submitted with the application;
- (d) the report and the opinion of the planning authority under section 177I of the Planning and Development Act 2000, as amended, and the applicant's response to the report;

- (e) the submissions received from prescribed bodies;
- (f) the observer submissions received;
- (g) the planning history of the subject site and adjoining lands;
- (h) the nature, scale, characteristics and location of the historic development; and
- (i) the assessment of the Board's Inspector as set out in the Inspector's Report;

### **Environmental Impact Assessment**

Screening for EIA was carried out under the Leave to Apply for Substitute Consent ABP-307172-20, BD-009118-21 (Board Direction) as reflected in the Board Order signed on the 22<sup>nd</sup> day of September 2021 and states in the Reasons and Considerations that the Board determined that "the development is one where an Environmental Impact Assessment or a determination as to whether an Environmental Impact Assessment is not required".

### **Appropriate Assessment**

#### **Stage 1 (Screening)**

The Board agreed with the Screening Assessment carried out by the Inspector which concluded that the following European Sites were those for which a Stage 2 Appropriate Assessment was required, and that significant effects on any other European Sites can be ruled out:

- Lower River Shannon Special Area of Conservation (002165); and
- River Shannon and River Fergus Estuaries Special Protection Area (004077).

#### **Stage 2 (Appropriate Assessment)**

The Board considered the remedial Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for the Lower River Shannon SAC (002165) and River Shannon and River Fergus Estuaries SPA (004077) 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 assessment, the Board considered the likely direct and indirect impacts arising from the historic development, both individually or in combination with other plans or projects, the

remediation and monitoring measures set out in the remedial Natura Impact Statement and the conservation objectives for the European Site.

The Board is satisfied that, subject to the implementation of the identified remediation and monitoring measures and on the basis of the information available, the development, either individually or in combination with other plans or projects, did not adversely affect the integrity of this European site or any other such European designated site, in view of the conservation objectives of any such site.

### **Proper Planning and Sustainable Development**

Having regard to the nature, scale and extent of the development and to the acceptability of the environmental effects and noting that the integrity of European Sites were not adversely affected, in view of the relevant sites' conservation objectives, as set out above, and subject to compliance with the conditions set out below, the Board is satisfied that to grant substitute consent to the development accords with the proper planning and sustainable development of the area.

### **Conditions**

1.	<p>(a) This grant of substitute consent shall be in accordance with the plans and particulars submitted to An Bord Pleanála with the application on the 9<sup>th</sup> day of March 2022, except as may otherwise be required in order to comply with the following conditions.</p> <p>(b) This grant of substitute consent relates only to development undertaken, as described in the application, and does not authorise any future development on the subject site.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The applicant shall maintain at least a 2 metre high soft landscaping boundary along the length of the boundary with number 5 Knockanoura, Tulla Road, Ennis, Co. Clare.</p>

	<b>Reason:</b> In the interest of residential amenity.
3.	<p>The applicant shall comply with the remediation and monitoring measures outlined in the plans and particulars submitted with the application, including the remedial Natural Impact Statement (February 2022), shall be carried out in full except as may otherwise be required in order to comply with other conditions.</p> <p><b>Reason:</b> In the interest of clarity and the proper planning and sustainable development and to ensure the protection of a European site.</p>

Board Member

*Eamonn James Kelly*

Date: 15/02/2024

Eamonn James Kelly