

An  
Bord  
Pleanála

**Board Direction**  
**BD-012673-23**  
**ABP-313140-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 29/06/2023.

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 EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011 as amended,
- (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 Lough Derg (Shannon) SPA (site code:004058)
- (e) the policies and objectives of the Clare County Development Plan 2023-2029,
- (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, flora and fauna, including the Natura Impact Statement,
- (h) the submissions and observations received in relation to the proposed development, and
- (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 Lough Derg (Shannon) SPA (site code: 004058), is the only European Site 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 Site, namely the Lough Derg (Shannon) SPA (site code: 004058), 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 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 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 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 have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution, 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 or traffic movements and would not interfere with the existing land uses in the area. 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, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures set out in the Natura Impact Statement or Construction and Environment Management Plan 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 outlined in the plans and particulars relating to the proposed development, including those set out in Section 5 of the Natura Impact Statement, shall be implemented in full or as may be required in order to comply with the following conditions. Prior to the commencement of development, details of a time schedule for 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 the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement as well as incorporating all control measures set out in the submitted CEMP and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include:
  - a. All mitigation measures indicated in the Natura Impact Statement.
  - b. All control measures set out in the CEMP submitted with the application proposals.
  - c. Hours of construction, and lights-out times during construction.
  - d. Details of protection measures to be employed to ensure that existing mature trees and vegetation will not be removed or impacted by construction.
  - e. Specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness.

**Reason: In the interest of protecting the environment and in the interest of public health.**

4. Prior to the commencement of development, details of measures to protect fisheries and water quality of Lough Derg 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.

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

5. (a) The treatment plant and percolation area shall be located, constructed and maintained in accordance with the details submitted to An Bord Pleanála with the application, and in accordance with the relevant requirements of the EPA in relation to the installation of such systems as set out in the relevant sections of the EPA Code of practice March 2021, and Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels, 1999. No system other than the type proposed in the submissions shall be installed unless it is certified to comply with the conditions below. Should an alternative system be appropriate its details shall be placed on file for record.
- (b) Prior to the commencement of development, the developer on behalf of the Council, shall confirm in writing that the proposed system to be installed is appropriately sized to cater for 8 no. wc pans, 8 no. wash-hand basins, 10 no. showers and 1 no. kitchen sink. Should revisions or upgrades to the system be required these shall be placed on file.
- (c) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (d) An on-going maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the proposed first use of the facility, thereafter, the maintenance contract shall be updated and remain in place at all times. Signed and dated copies of the contract and subsequent updates shall be submitted to the public file

within four weeks of the installation and thereafter upon renewal of the maintenance contract.

(e) Surface water soakways shall be located such that the drainage from the building and paved areas of the site shall be diverted away from the location of the percolation area.

(f) Within three months of the first operation of the treatment system, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the percolation area is constructed in accordance with the standards set out in the EPA documents.

**Reason: In the interest of public health and nature conservation.**

6. The County Council and any agent acting on its behalf 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.

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

7. Prior to commencement of development a Visitor Management Plan shall be prepared and implemented, generally in accordance with the commitments regarding same set out in the submitted Natura Impact Statement. A copy of the Visitor Management Plan will be attached to the file and retained as part of the public record. The Visitor Management Plan will be subject to annual review prior to the commencement of each summer season to ensure new operators using the facility are identified and any updates to protection measures or guidance in relation to key ecological receptors are provided as necessary.

**Reason: In the interests of nature conservation, protecting the environment and the proper planning and sustainable development of the area.**

8. A suitably qualified ecologist shall be retained by the local authority to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology set out in the Natura Impact Statement, Ecological Impact Assessment and Construction and Environmental Management Plan. The ecologist shall be present during site construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

**Reason: In the interest of nature conservation and the protection of terrestrial and aquatic biodiversity.**

9. (a) A landscaping scheme generally in accordance with layout plans received shall be submitted to the file for public record. The landscaping scheme shall specify the nature and type of planting proposed and will consist of trees, shrubs and hedging of indigenous species. The planting shall be carried out in accordance with the landscaping agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.

(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species.

**Reason: In the interest of visual amenity.**

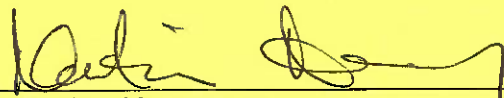
10. All lighting within the site shall be cowled to prevent overspill outside the site and shall be designed to minimise impacts on bats in accordance with application documentation received.

**Reason: In the interests of clarity, protection of bats and visual and residential amenity.**

11. The County Council and any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. A suitably qualified archaeologist shall be appointed by the County Council to oversee the site set-up and construction of the proposed development and the archaeologist shall be present on-site during construction works.

**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.**

**Board Member**

  
Martina Hennessy

**Date:** 30/06/2023