

An  
Bord  
Pleanála

**Board Direction**  
**BD-015955-24**  
**ABP-313895-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 21/03/2024.

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:

- The National Planning Framework - Ireland 2040.
- The Climate Action Plan 2023.
- The Regional Spatial & Economic Strategy for the Southern Region, 2020.
- The policies of the planning authority as set out in the Clare County Development Plan, 2023 to 2029.
- The Government Statement on the Role of Data Centre's in Ireland's Enterprise Strategy, July 2022.
- The distance to dwellings or other sensitive receptors.
- The observations made in connection with the application.
- The report of the planning authority.
- 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 European Sites.
- The report and recommendation 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 following European Sites are the only Sites in respect of which the proposed development has the potential to have a significant effect are

- Old Domestic Buildings (Keevagh) SAC - Site code: 002010
- Dromore Woods & Loughs SAC - Site code: 000032
- Old Domestic Buildings (Rylane) SAC - Site code: 002010
- Lower River Shannon SAC - Site code: 002165
  
- Ballyallia Lough SPA - Site code: 004041
- River Shannon & Fergus Estuaries SPA - Site Code: 004077
- Slieve Aughty Mountains SPA - Site code: 004168
- Corofin Wetlands SPA - Site code: 004220

### **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 Sites, in view of the sites' conservation objectives, namely,

- Old Domestic Buildings (Keevagh) SAC - Site code: 002010
- Dromore Woods & Loughs SAC - Site code: 000032
- Old Domestic Buildings (Rylane) SAC - Site code: 002010
- Lower River Shannon SAC - Site code: 002165
  
- Ballyallia Lough SPA - Site code: 004041

- River Shannon & Fergus Estuaries SPA - Site Code: 004077
- Slieve Aughty Mountains SPA - Site code: 004168
- Corofin Wetlands SPA - Site code: 004220

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.

In completing the assessment, the Board considered, in particular, the following:

- (i) the site-specific conservation objectives for the European Sites,
- (ii) the current conservation status, threats and pressures on the qualifying interest / special conservation interest features,
- (iii) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and
- (iv) the 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 implications of the proposed development on the integrity of the European Sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of 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**

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

- the nature, scale, location, and extent of the proposed development on a site,

- the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- the submissions received from the prescribed bodies and planning authority, and
- 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.

#### **Reasoned Conclusion on Significant Environmental Effects:**

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- The ***risk of pollution of ground and surface waters, or changes to ground water flow paths during the construction phase*** through a lack of control of surface water during excavation and construction, the mobilisation of sediments and other materials during excavation and construction. The construction of the proposed project could also potentially impact negatively on ground and surface waters by way of contamination through accidents and spillages, and disrupting flow paths. These impacts would be mitigated by the implementation of the Drainage Management Plan, agreement of measures within a Construction and Environment Management Plan, and the implementation of mitigation measures related to design and avoidance; accidental spills and contamination; sediment and erosion control; and drainage management.
- ***Biodiversity impacts*** arising from habitat loss and fragmentation, changes to the vegetation on the site, loss of foraging and / or commuting habitat and

disturbance to otters, badgers, birds and bats, connections to foraging, aquatic and water dependent habitats and general disturbance during the construction and operational phases. These impacts would be mitigated by the agreement of measures within a Construction and Environment Management Plan, and the implementation of mitigation measures which include Pre-construction Surveys; Water Quality protection measures; an Invasive Species Management Plan; and appointment of a Project Ecologist.

- The proposed project gives rise to an increase in **vehicle movements and resulting traffic impacts** during the construction phase and significant impacts on the road network can be avoided by the proposed works along the road network. These impacts would be mitigated by the agreement of measures within a Construction and Environment Management Plan and the implementation of mitigation measures related to staging of deliveries, and implementation of a Construction Traffic Management Plan.
- **Air pollution and noise during the construction and operational phase** which would impact negatively on sensitive ecological receptors and human populations in the vicinity of the site. These impacts are substantially avoided by the limited number of sensitive receptors in close proximity to the proposed development. Any remaining impacts would be mitigated by the agreement of measures within a Construction and Environment Management Plan and the implementation of mitigation measures related to air quality, dust, and noise.
- The impacts on **residential amenity** during the construction and operational phases would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report which include specific provisions relating to the control and management of dust, noise, water quality and traffic movement.
- The impacts on **cultural heritage** during the construction and operational phases would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report, and by compliance with the recommended conditions in relation to archaeological site assessment.

- The proposed development would have ***potentially positive environmental impacts*** during the operational phase arising from the undergrounding of the existing overhead transmission cables.

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

### **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, it would not have an unacceptable impact on the landscape or ecology, it would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and it 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 undertaker 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. The mitigation measures identified in the Environmental Impact Assessment Report, Natura Impact Statement and other plans and particulars submitted with the planning application, shall be implemented in full by the undertaker, except as may otherwise be required in order to comply with the conditions of this permission.

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

3. The undertaker shall comply with the following general requirements:
  - a. No additional artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.
  - b. Operational noise levels shall not exceed 55dB(A) Leq 1 hour at the nearest existing noise sensitive locations between 0800 and 2000hours (Monday to Friday inclusive) and shall not exceed 45dB(A) Leq 1hour at any other time.
  - c. Each fencing panel shall be erected such that for a minimum of 300 millimetres of its length, its bottom edge is no less than 150 millimetres from ground level.
  - d. Cables within the site shall be located underground.
  - e. No additional signage or advertising shall be erected on the lands or buildings without a prior grant of planning permission.

**Reason:** In the interest of clarity, of visual and residential amenity, to allow wildlife to continue to have access to and through the site, and to minimise impacts on drainage patterns and surface water quality.

4. The undertaker shall comply with the following nature conservation requirements:
  - a. No felling or vegetation removal shall take place during the period 1<sup>st</sup> day of March to 31<sup>st</sup> day of August.
  - b. A pre-construction bat survey shall be carried out by a suitably qualified ecologist during the active bat season.
  - c. Any destruction of bat roosting sites or relocation of bat species shall be carried out by a suitably qualified ecologist under a Derogation

Licence granted by the Minister for Housing, Local Government and Heritage.

- d. A 30 metre cordon shall be installed around any badger sett entrances, which shall be screened and remain in place throughout the construction works.
- e. There shall be no artificial lighting of any badger sett entrances during the construction and operational phases.

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

5. The landscaping proposals shall be carried out within the first planting season following commencement of construction of the proposed development. All existing hedgerows (except at access track openings) shall be retained. The landscaping and screening shall be maintained at regular intervals. Any trees or shrubs planted in accordance with this condition which are removed, die, become seriously damaged or diseased within two years of planting shall be replaced by trees or shrubs of similar size and species to those original required to be planted.

**Reason:** To assist in screening the proposed development from view and to blend it into its surroundings in the interest of visual amenity and biodiversity

6. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.

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

7. Drainage on to the R352 Tulla Road and the site access shall be by means of a separate drainage network and attenuation system that discharges directly to the Ballymacahill / Spancelhill Stream. This system shall be independent of the M18 Motorway Drainage network.

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



8. The undertaker shall comply with the transportation requirements of the planning authority for such works and services as appropriate.

**Reason:** In the interest of traffic and pedestrian safety.

9. The undertaker shall comply with the following transportation requirements:
  - a. Provide a final Traffic Management Plan for the construction phase of the development to the planning authority for written agreement prior to the commencement of development.
  - b. This Plan shall ensure that there is not a backup of construction traffic from the M18 / Junction 13 and shall include for staggered deliveries to the site.
  - c. Construction of the proposed right hand turning lane at the main access shall be commenced concurrently with the commencement of the site works and be completed within 6 months of the commencement of development on the site. The site access and right-hand turning lane including the proposed pavement overlay shall be undertaken as indicated in the details submitted with the application and detailed design including drainage arrangements along the R352 Tulla Road. Works shall be carried out by the undertaker at their own expense.
  - d. CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining properties or the road.

**Reason:** In the interest of traffic safety, infrastructure provision, and the proper planning and sustainable development of the area.

10. 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 provide details of intended construction practice for the development, including hours of working, noise management measures, traffic management, protection of wayleaves, an invasive species management plan and off-site disposal of construction /demolition waste.

**Reason:** In the interests of public safety and residential amenity.

11. 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 and 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 residential amenities of property in the vicinity.

12. 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 out on the adjoining public roads by the undertaker and at the undertaker's expense on a daily basis.

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

13. The undertaker shall comply with the following archaeological requirements:

- (a) Pre-development archaeological testing shall be undertaken by a suitably qualified archaeologist, licensed under the National Monuments Acts 1930-2004. No sub-surface work shall be undertaken in the absence of the archaeologist without his/her written consent.
- (b) A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the undertaker shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. A copy of the report shall be submitted to the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media.
- (c) The planning authority and the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs shall be notified in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

14. Prior to commencement of development, the undertaker 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.

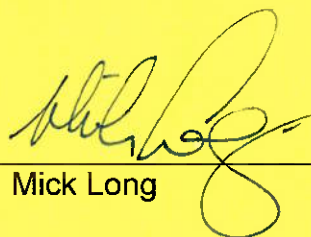
**Reason:** To ensure the satisfactory completion of the development.

#### **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 **€84,095**.

**A breakdown of the Board's costs is set out in the attached Appendix 1.**

**Board Member**



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Mick Long

**Date:** 27/03/2024