



An  
Bord  
Pleanála

**Board Direction**  
**BD-014090-23**  
**ABP-316168-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 12/10/2023.

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 a range of matters including the following:

- the relevant provisions of Council Directive 2014/52/EU amending Directive 2011/92/EU (EIA Directive) on the assessment of the effects of certain public and private projects on the environment, Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union.
- European Union Water Framework Directive 2000/60/EC;
- the European Union Urban Waste Water Treatment Directive 91/271/EEC;
- the European Communities Environmental Objectives (Surface Waters) Regulations 2009, as amended;
- the national, regional and local strategic policies and objectives, inclusive of those set out in National Planning Framework – Ireland 2040, The Water Services Strategic Plan 2015-2040, the Water Services Policy Statement

2018-2025, the Regional Spatial and Economic Strategy for the Southern Region and the Limerick City and County Development Plan, 2022

- the established site context and the pattern of development in the area;
- the entirety of the documentation that accompanied the planning application and reports and submissions, which were submitted by the planning authority, prescribed bodies and observers and the further submission made by the applicant during the course of the application;
- the range of proposed mitigation measures set out in the submitted Environmental Impact Assessment Report and Natura Impact Statement (incorporating Appropriate Assessment Screening);
- and the report and recommendation of the inspector;

The Board considered that, subject to compliance with the conditions set out below that the proposed development would enable sustainable residential and economic growth through the delivery of increased wastewater treatment capacity, would assist Ireland in meeting obligations set down under EU Directives, national legislation and planning policy, and would be acceptable in respect of its likely effects on the environment and its likely consequences for the proper planning and sustainable development of the area, including matters of odour, noise, traffic and visual impact. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

#### **Appropriate Assessment: Stage 1:**

The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion reached in the Inspector's report that the Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA are the European sites for which there is a possibility of significant effects and which, must therefore be subject to appropriate assessment.

### **Appropriate Assessment: Stage 2:**

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposal for the Lower River Shannon SAC and River Shannon and River Fergus Estuaries SPA, in view of the sites' conservation objectives. The Board concluded that the information before it was adequate to allow for a complete assessment of all aspects of the proposed development and to allow them reach complete, precise and definitive conclusions for 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 proposal,
- iii. the conservation objectives for the European Sites' and
- iv. the views contained in the submissions.

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 Sites, having regard to the sites' conservation objectives.

The Board was satisfied that the proposed development would not adversely affect the integrity of European sites in view of the sites' 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 into account:

- (a) The nature, scale, location and extent of the proposed development

- (b) The environmental impact assessment report and associated documentation submitted with the application;
- (c) The reports and submissions received from the planning authority, observers and prescribed bodies and the applicant's further submission in the course of the application;
- (d) The Inspector's report;

The Board agreed with the summary and 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 is satisfied that the inspector's report sets out how these were addressed in the examination and recommendation and are incorporated into the Board's decision.

### **Reasoned Conclusions on the Significant Effects**

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 planning application.

Following on from this assessment, it is considered that the main significant direct and indirect effects (positive and negative) of the proposed development on the environment are those arising from the impacts listed below. An Outline Construction Environmental Management Plan (CEMP), contained in Appendix 4A, together with mitigation measures to be employed, as summarised in Chapter 20 of the EIAR, provide a description of the overarching general mitigation measures embedded in the project design and delivery for construction and operational stages. The main likely impacts, both positive and negative are as follows:

Benefits/positive impacts to **population and human health** arising as a result of the overall wastewater treatment plant upgrade due to providing increased treatment infrastructural capacity and improved level of treatment which would be pivotal in supporting planned residential and economic growth in Limerick city and the southern region. The improvements will also provide for measures to reduce noise and odour levels at nearest sensitive receptors.

Negative temporary impact on **population and human health** during the construction phase arising from increased traffic and construction activity and resultant noise, dust and disturbance. The Construction and Environmental Management Plan will incorporate best practice measures.

Potential impacts on **biodiversity** and disturbance of badger on the site which would be mitigated by measures to be put in place to prevent disturbance or infringement on the badger sett.

Potential impacts on **land and soils** from risk of spread of invasive species at the site which would be mitigated by the implementation of the Invasive Species Management Plan and a method statement for the control of disturbance of soils containing the invasive species.

Risk of pollution of receiving **water** environment as a result of accidental spillages of chemicals, hydrocarbons or other contaminants entering the site drains and discharging to the River Shannon during the construction phase. The impacts would be mitigated by measures within the Construction and Environmental Management Plan and adherence to best practice construction measures and incorporation of appropriate drainage facilities.

Positive impacts on **water** from the proposed stormwater storage which will result in a reduction in spills from on average 123 spills per year to on average less than 7 spills per year and 3 spills during bathing season which ensures that recreational water quality standards are met.

### **Conclusion on Proper Planning and Sustainable Development**

The benefits of the proposed development are considered to be positive. Its delivery would assist Ireland in meeting obligations set down under EU Directives, national

legislation and planning policy expressed through the hierarchy of plans which regulate development at a national, regional and local level. The proposed development would enable sustainable and properly planned residential, employment and other development within Limerick through the delivery of increased wastewater treatment capacity and provision for stormwater storage. It can, therefore, be concluded that the proposed development is 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 planning application and the information contained in the Environmental Impact Assessment Report and Natura Impact Statement, as amended by the further particulars submitted to the Board on the 26<sup>th</sup> day of July, 2023, 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, or in default of agreement, shall be referred to An Bord Pleanála for determination, and the proposed development shall be carried out and completed in accordance with the agreed particulars.

**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. All mitigation and environmental commitments, including monitoring measures identified in the EIAR and the Natura Impact Statement shall be implemented in full as part of the proposed development except as may otherwise be required to comply with the following conditions.

**Reason:** In the interest of clarity and to protect the environment.

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

**Reason:** Having regard to the nature and extent of the proposed development, the Board considered it appropriate to specify a period of validity of this permission in excess of five years.

4. Odour levels at the site boundary shall comply with an odour concentration limit of 3 ouE/m<sup>3</sup> on a 98th percentile basis of hourly averages. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

5. No part of the proposed compensatory flood storage shall be within Flood Zone A. A revised plan with the area shown thereon shall be submitted to the planning authority for written agreement prior to commencement of development.

**Reason:** In the interest of reducing flood risk.

6. Prior to the commencement of development, the applicant shall submit to, and agree in writing with the planning authority a detailed Construction and Environmental Management Plan. This plan shall provide details of the proposed construction practice for the development including traffic management, noise management measures, hours of construction and offsite disposal of construction/demolition waste and shall clearly identify all measures / commitments as set out in the EIAR and NIS in relation to construction activities.

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

7. 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.

8. Prior to commencement of the development, a Traffic Management Plan for the construction phase shall be submitted to, and agreed in writing with the planning authority. The developer shall comply with the requirements of the planning authority in respect of minimising traffic disruption on the local communities, cleaning and repair of any damage to the public road networks during the construction phase.

**Reason:** To protect the public road network and in the interest of traffic safety.

9. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to



the planning authority and the Department of Housing, Local Government and Heritage and, arising from this assessment, the developer 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.

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.

10. Site development and building works shall be carried out only between the hours of 0800 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.

11. The development shall comply with the requirements of the planning authority in respect of surface water management.

**Reason:** In order to protect water quality and avoid the creation of flood risk.

12. All external lighting within the proposed development shall be sufficiently cowled so as to ensure that light spillage beyond the boundary of the site is minimised.

**Reason:** In the interest of residential amenity

**Note:** In accordance with the provisions of section 37H(2)(c) of the Planning and Development Act 2000, as amended, the Board determined that the amount due to be refunded to the applicant is €72,455.

**Board Member**

A handwritten signature in blue ink, appearing to read 'Tom Rabbette', written over a horizontal line.

**Date:** 12/10/2023

Tom Rabbette