



An
Bord
Pleanála

Board Direction
BD-014883-23
ABP-317384-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 18/12/2023.

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

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 European Sites,
- (d) the conservation objectives and qualifying interests for Lower River Shannon Special Area of Conservation (Site Code: 002165) and River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077),
- (e) the policies and objectives of the Clare County Development Plan 2023-2029 and the results of the Strategic Environmental Assessment and Appropriate Assessment of this plan undertaken in accordance with the Strategic Environmental Assessment (SEA) Directive (2001/42/EC),

- (f) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, and the accompanying Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (g) the nature and extent of the proposed works as set out in the application for approval,
- (h) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (i) the submissions received in relation to the proposed development, and,
- (j) the Inspector's report and recommendation of the.

Appropriate Assessment: Stage 1:

The Board agreed with and adopted the screening assessment, appropriate assessment and conclusions contained in the Inspector's report that the Lower River Shannon Special Area of Conservation (Site Code: 002165) and River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) are the only European Sites in respect of which the proposed development has the potential to have significant effects.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, 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 affected European Sites, namely the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 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 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 Sites', having regard to the Site's conservation objectives.

In 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.

Likely Effects on the Environment

It is considered that, subject to compliance with the conditions set out below including requiring compliance with the submitted details and with the mitigation measures, the proposed development would not have significant negative effects on the environment. It is considered that, subject to compliance with the conditions set out below, the proposed development would 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.

Reason: In the interest of clarity and the proper planning and sustainable development of the area.

2. The mitigation and monitoring measures outlined in the plans and particulars including the Natura Impact Statement relating to the proposed development, shall be implemented in full or as may be required in order to comply with the following conditions. Where any mitigation measures set out in the Natura Impact Statement 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 protecting the environment, the protection of European Sites and biodiversity 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 set out in the Natura Impact Statement and conditions set out herein. The CEMP shall include a Traffic Management Plan and Waste Management Plan which shall adhere to best practice, standards and protocols. All construction phase parking shall be accommodated within the site. All plans prepared shall be placed on file and retained as part of the public record.

Reason: In the interest of protecting the environment and in the interest of traffic safety and waste management.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the details submitted on the 16th day of June 2023 and 3rd day of October 2023 in respect of both the construction and operation phases of the proposed development. Measures required by Inland Fisheries Ireland shall also be incorporated into the arrangements. Where such measures require details to be agreed, all such details shall be placed on file and retained as part of the public record.

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

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the local authority to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity

6. 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 or public holidays. Deviation from these times will only be allowed in exceptional circumstances.

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

7. A final boundary treatment and landscape scheme shall be prepared by the local authority prior to the commencement of development. Details shall be placed on file and retained as part of the public record.

(a) The scheme shall include a comprehensive scheme of landscaping for the 'Future Amenity/Open Space Area' to be used as a public open space with appropriate access to the public and a proposed wet path set out in the Flood Risk Assessment section of the Natura Impact Statement.

(b) Any such details shall exclude the current design for weld mesh fencing (Type 10 as per the Boundary Treatment Layout) in its entirety and ensure the area remains habitually open to the public.

(c) All planting shall be adequately protected from damage until established.

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.

(d) The wall on the eastern boundary shall be retained in situ or, where this is not possible, the stone salvaged and wall reinstated to match existing. All salvaged stone shall be reused within the site.

(e) All boundary treatment, including for the northern and eastern parts the site shall include the details on:

- i. Proposed locations of trees and other landscape planting in the development, including details of proposed species and settings.
- ii. Details of street furniture, including bollards, lighting fixtures.
- iii. Details of perimeter measures including heights, materials and finishes.

This work shall be maintained as public open space by the local authority.

Reason: In the interest of residential and visual amenity and to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

8. A suitably qualified Ecological Clerk of Works shall be retained by the local authority to oversee pre-commencement surveys, the site clearance and construction of the proposed development. The ecologist shall have full access to the site as required and shall oversee the implementation of mitigation measures. Upon completion of works, an ecological report of the site works shall be prepared by the appointed Ecological Clerk of Works to be kept on file as part of the public record.

Reason: In the interest of biodiversity and the protection of European sites.

9. Prior to the commencement of development pre-commencement surveys for protected plant and animal species including bats shall be undertaken at the site and where required the appropriate licence to disturb or interfere with same shall be obtained from the National Parks and Wildlife Service. The details of such surveys and licences (if required) shall be placed on the file and retained as part of the public record.

Reason: In the interest of wildlife protection.

10. The local authority and any agent acting on its behalf shall engage a suitably qualified archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an Archaeological Impact Assessment Report for the written agreement of the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record archaeological excavation and/or monitoring may be required. Any further archaeological mitigation requirements specified by the National Monuments Service, shall be complied with by the local authority and any agent acting on its behalf. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and agreed in writing with the National Monuments Service. The National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the local authority and any agent acting on its behalf. All reports prepared shall be placed on file and retained as part of the public record.

Reason: In order to ensure the continued preservation either in situ or by record of places, caves, sites, features or other objects of archaeological interest.

11. Proposals for a development name and numbering scheme and associated signage shall be agreed prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme. A justification for the development name and numbering scheme shall be prepared and placed on file and retained as part of the public record.

Reason: In the interest of urban legibility.

12. The car parking facilities hereby approved shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and the remaining development.

Board Member



Mick Long

Date: 18/12/2023