



**An
Bord
Pleanála**

**Board Direction
BD-015453-24
ABP-317686-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 16/02/2024.

The Board decided to approve the proposed development generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

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

- (a) the European Union Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the Government of Ireland Climate Action Plan, 2023,
- (d) the Southern Regional Economic & Spatial Strategy, 2020,
- (e) 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,
- (f) the conservation objectives, qualifying interests, and special conservation interests for the Lower River Shannon Special Area of Conservation (Site Code: 002165)
- (g) the policies and objectives of the Limerick Development Plan 2022 to 2028,
- (h) the nature and extent of the proposed works as set out in the application for approval,

- (i) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (j) the submissions received in relation to the proposed development, and,
- (k) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment: Stage 1:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that Lower River Shannon Special Area of Conservation (Site Code: 002165) is the only European Site in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment: Stage 2:

The Board considered the Stage 2 appropriate assessment screening report 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 Lower River Shannon Special Area of Conservation (Site Code: 002165), 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 Site.

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 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 Site, in view of the Site's conservation objectives.

Proper Planning and Sustainable Development and 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 and built heritage of the area 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 and it would not give rise to likely effects on the environment.

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.

Reason: In the interest of clarity.

2. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development or as may be required in order to comply with the following conditions shall be implemented. 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 and European Sites.

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 report, and demonstration of proposals to adhere to best practice and protocols.

Reason: In the interest of protecting the European Site and biodiversity.

4. A following nature conservation requirements shall be complied with:
 - (a) The works shall be carried out in compliance with the Inland Fisheries Ireland document "Guidelines on protection of fisheries during construction works in and adjacent to waters."
 - (b) No in-stream works shall be undertaken without prior consultation with Inland Fisheries Ireland, and the works shall only be undertaken between October and June (inclusive).
 - (c) No vegetation removal shall take place during the period 1st March to 31st August (inclusive).
 - (d) A pre-construction otter survey by a suitably qualified ecologist shall be carried out before works commence.
 - (e) A pre-construction bat survey shall be carried out by a suitably qualified ecologist during the active bat season.
 - (f) 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.

Reason: In the interest of biodiversity and nature conservation.

5. 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. The ecologist shall be present during 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 biodiversity.

6. The local authority, 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 Site.

7. Drainage arrangements, including the attenuation and disposal of surface water, and flood risk management shall comply with the requirements of Irish Water and the local authority for such works and services as appropriate. A 5-metre-wide strip of land running parallel with Channel C1/2, should be provided to facilitate access and maintenance activities in the immediate area. This area should be accessible to mechanical plant and should not be landscaped, paved, or otherwise developed in a manner that would prevent access.

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

Board Member



Patricia Calleary

Date: 16/02/2024