



**An
Bord
Pleanála**

**Board Direction
BD-015182-24
ABP-317774-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 22/01/2024.

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:

- (a) The Government's Climate Action Plan 2023;
- (b) the Government's Project Ireland 2040 National Planning Framework;
- (c) the Regional Spatial and Economic Strategy for the Southern Assembly;
- (d) the Kerry County Council Development Plan 2022-2028;
- (e) the nature, scale, and extent of the proposed development;
- (f) the documentation submitted with the proposed application, as well as submissions and observations from prescribed bodies, the planning authority and any third parties;
- (g) the report of the Planning Inspector;
- (h) the separation distances between the proposed development and dwellings or other sensitive receptors;
- (i) the permitted solar farm development (Register Reference Number: 23/284);

- (j) 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 absence likely significant effects of the proposed development on European Sites.

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.

Appropriate Assessment - Stage 1

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development, zoning of the site, the Screening for Appropriate Assessment and Natura Impact Statement Report submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have an adverse effect on any European Site in view of the conservation objectives of such sites, other than River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) and Lower River Shannon Special Area of Conservation (Site Code: 002165), which were European Sites where the likelihood of adverse effects could not be ruled out.

Appropriate Assessment - Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions on the file and carried out an Appropriate Assessment of the implications of the proposed development on River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) and Lower River Shannon Special Area of Conservation (Site Code: 002165), in view of those sites

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:

- (a) The site-specific conservation objectives for the European Site,
- (b) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, and in particular the risk of impacts on water quality and disturbance of qualifying interest or Special Conservation Interest species,
- (c) 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 potential effects of the proposed development on 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 Site in view of the site's conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

This conclusion is based on the measures identified to control the quality of surface water discharges which provide for the interception of silt and other contaminants prior to discharge from the site during construction phase, and avifauna protection measures to limit disturbance during construction phase.

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 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this order.

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

3. Mitigation and monitoring measures outlined in the plans and particulars, including the Natura Impact Statement submitted with this application, shall be carried out in full.

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

4. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, including Construction Stage Traffic 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:

- (a) The appointment of a full-time, appropriately qualified environmental manager for the duration of the construction and development phases of the project.
- (b) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains, and a site-specific water management plan providing details of measures to in accordance with the submitted Natura Impact Statement;
- (c) a Construction and Demolition Resource Waste Management Plan as set out in the Best Practice Guidelines for the Preparation of Resource and

Waste Management Plans for Construction and Demolition projects
(Environmental Protection Agency 2021);

- (d) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (e) details of site security fencing and hoardings;
- (f) details of on-site car parking facilities for site workers during the course of construction;
- (g) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (h) measures to conform with the standards and requirements as identified by Transport Infrastructure Ireland and the planning authority for the management of construction traffic and associated impacts;
- (i) measures to obviate queuing of construction traffic on the adjoining road network;
- (j) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (k) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (l) details of pre and post construction surveys to be carried out over the L-6021 and L-1012 local roads and of any culvert, including monitoring during works. In addition, details of passing bays on these local roads and dwell areas at access points;
- (m) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels. In the event that complaints are received regarding noise, measures to facilitate investigation by Kerry County Council and abate the nuisance;

- (n) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (o) off-site disposal of construction and demolition waste and details of how it is proposed to manage excavated soil;
- (p) measures for the disposal of any hazardous waste encountered;
- (q) the burning or burial of waste is prohibited at the site;
- (r) a record of daily checks that the works are being undertaken in accordance with the Construction and Environmental Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, environmental protection and safety.

5. 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) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the road.
 - (c) Fencing shall be dark green in colour.
 - (d) Roofs shall be covered with slates or slate effect tiles either black, dark-grey or blue-black. The colour of ridge tiles shall match the colour of the roofs.
 - (e) External finishes shall be neutral colour, tone and texture, the use of bright colours is not permitted.

Reason: In the interest of clarity, of visual and residential amenity

6. Sightlines to reflect details agreed in planning application Register Reference Number: 23/284 and in accordance with recommendations in the submitted Road Safety Audit.

Reason: In the interest of traffic safety.

7. The site shall be landscaped, and earthworks carried out in accordance with the landscaping details which accompanied the application submitted, unless

otherwise agreed in writing with, the planning authority prior to commencement of development or as otherwise stipulated by conditions. The site shall be landscaped with suitable native Irish trees and hedges. Existing boundary screening shall be retained in full (unless otherwise detailed for removal in plans submitted with the application) and shall be suitably strengthened with native hedge species indigenous to the area. 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, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

8. The undertaker shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the undertaker 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,
 - (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

9. Prior to commencement of development, the undertaker shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the maintenance during construction and/or satisfactory reinstatement of public

roads, specifically the section of the public road L-6021 between the proposed site entrance 3 and the junction of the L-1012 and between the proposed site entrance 1 and the junction with the N-69, that may be damaged by the transport of materials and/or used as haul routes for construction of the development site coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the undertaker or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure satisfactory reinstatement of the site.

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 **€78,705.00**.

Board Member



Tom Rabbette

Date: 24/01/2024