

An
Bord
Pleanála

Board Direction
BD-016116-24
ABP-317829-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 22/04/2024.

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

The Board had regard to the following:

- the EU Habitats Directive (92/43/EEC)
- the European Communities (Birds and Natural Habitats) Regulations, 2011 (as amended),
- 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 conservation objectives and qualifying interests for the Mid-Clare Coast SPA (Site Code: 004182), Carrowmore Dunes SAC (Site Code: 002250) and the River Shannon and River Fergus Estuaries SPA (Site Code: 004077),

- 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 SEA Directive (2001/42/EC)
- the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024),
- the nature and extent of the proposed works as set out in the application for approval,
- the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- the submissions received in relation to the proposed development, and
- 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 the screening assessment, Appropriate Assessment and conclusions contained in the Inspector's report that the Mid-Clare Coast SPA (Site Code: 004182), Carrowmore Dunes SAC (Site Code: 002250) and the River Shannon and River Fergus Estuaries SPA (Site Code: 004077) are European sites for which there is a likelihood of 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 Mid-Clare Coast SPA (Site Code: 004182),

Carrowmore Dunes SAC (Site Code: 002250) and the River Shannon and River Fergus Estuaries SPA (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 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 sites' 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 sites, in view of the sites having regard to their 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.

Proper Planning and Sustainable Development

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

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| 1. | <p>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 any mitigation measures as 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.</p> <p>Reason: In the interest of clarity and the proper planning and sustainable development of the area.</p> |
| 2. | <p>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 required to comply with the following conditions. 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, placed on file and retained as part of the public record.</p> <p>Reason: In the interest of protecting the environment, the protection of European Sites and biodiversity and in the interest of public health.</p> |
| 3. | <p>Prior to the commencement of development, the developer shall submit and agree in writing with Transport Infrastructure Ireland (TII) a comprehensive Design Report. This report shall be in strict accordance with the technical design standards and publications set forth by TII, particularly in reference to TII Publication GN_GEO_03030. The report shall detail the specifications, structural integrity, and safety measures of the proposed retaining wall adjacent to the N67 road, ensuring it is fit for purpose within the transitioning speed limit zones.</p> |

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| | <p>Reason: To safeguard road user safety and to ensure stringent compliance with the design and safety standards as required by Transport Infrastructure Ireland for developments adjacent to national roadways.</p> |
| 4. | <p>Prior to the first occupation of dwellings, the measures outlined in the Road Safety Audit shall be fully implemented.</p> <p>Reason: To ensure the safety of all road users and pedestrians.</p> |
| 5. | <p>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.</p> <p>Reason: In the interest of protecting the environment and in the interest of traffic safety and waste management.</p> |
| 6. | <p>The developer shall install a silt trap, hydrocarbon interceptor and provide a maintenance schedule for the attenuation tank. Details shall be placed on file and retained as part of the public record.</p> <p>Reason: To ensure sustainable drainage and environmental conservation, reduce pollution risks, preserve water quality for Natura 2000 sites, and protect sensitive species and habitats.</p> |
| 7. | <p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> |

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| | <p>Reason: In the interest of public health.</p> |
| 8. | <p>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.</p> <p>Reason: In the interests of visual and residential amenity</p> |
| 9. | <p>Site development and building works shall be carried out only between the hours of 0700 and 1900, Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays, and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p> |
| 10. | <p>A suitably qualified Ecological Clerk of Works shall be retained by the local authority to oversee 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.</p> <p>Reason: In the interest of biodiversity and the protection of European sites.</p> |
| 11. | <p>Proposals for a development name and numbering scheme, and associated signage shall be agreed upon prior to the 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, placed on file and retained as part of the public record.</p> <p>Reason: In the interest of urban legibility.</p> |

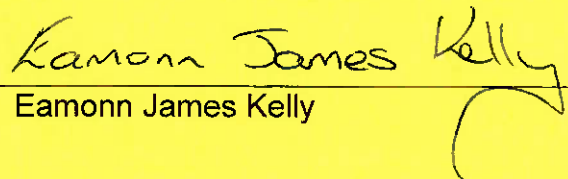
12. The car parking facilities hereby approved shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose.

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

Note

The Board considered there was insufficient information presented in the submissions to justify the Inspector's recommended conditions 7, 12 and 13, and therefore omitted such provisions.

Board Member


Eamonn James Kelly

Date: 22/04/2024