

An
Bord
Pleanála

Board Direction
BD-016068-24
ABP-318080-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 12/04/2024.

The Board decided to grant approval 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 EU 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 Architectural Heritage Protection Guidelines for planning authorities 2011,
- (e) the Southern Regional Economic & Spatial Strategy 2020,
- (f) 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,
- (g) the conservation objectives, qualifying interests, and special conservation interests for the Ballyallia Lake SAC (site code:000014), and Ballyallia Lough SPA (site code:004041),
- (h) the policies and objectives of the Clare Development Plan, 2023 to 2029,

- (i) the nature and extent of the proposed works as set out in the application for approval,
- (j) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natural Impact Statement report (NIS), and
- (k) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that Ballyallia Lake SAC (site code: 000014) and Ballyallia Lough SPA (site code:004041) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natural Impact Statement 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 Sites, namely the Ballyallia Lake SAC (site code: 000014) and Ballyallia Lough SPA (site code:004041), 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,
- iii. the conservation objectives for the European Sites, and
- iv. the submissions received from prescribed bodies and members of the public.

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, or give rise to a traffic hazard. 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 including the Natura Impact Statement 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 any 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 (NIS) report, and demonstration of proposals to adhere to best practice and protocols. This Plan shall be placed on file and retained as part of the public record.

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

4. The following nature conservation requirements shall be complied with:
 - (a) No vegetation removal shall take place during the period 1st March to 31st August (inclusive).
 - (b) A pre-construction Long-eared owl survey by a suitably qualified ecologist shall be carried out before works commence. This survey shall be placed on file and retained as part of the public record.
 - (c) A pre-construction bat survey shall be carried out by a suitably qualified ecologist during the active bat season. This survey shall be placed on file and retained as part of the public record.
 - (d) 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 County Council 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 sites.

7. The County Council and any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. A suitably qualified archaeologist shall be appointed by the County Council to prepare an Archaeological Investigation Assessment report and to oversee the site set-up and construction of the proposed development, and the archaeologist shall be present on-site during construction works. Upon completion of works, the Archaeological Investigation Assessment report shall be kept on file as part of the public record and a copy shall be submitted to the Minister for Housing, Local Government and Heritage.

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.

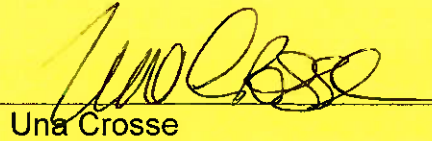
8. Drainage arrangements, including the attenuation and disposal of surface water, and flood risk management shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.

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

9. The construction works shall be limited between 08.00-hours and 18.00-hours Monday to Saturday excluding Bank Holidays.

Reason: To protect the amenities of nearby residential properties

Board Member



Una Crosse

Date: 12/04/2024