



An
Bord
Pleanála

Board Direction
BD-015389-24
ABP-318179-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 09/02/2024.

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.

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 (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 a European Site,
- (d) the conservation objectives for the Lower River Shannon Special Area of Conservation (Site Code: 002165),
- (e) the policies and objectives of the Limerick Development Plan, 2022-2028,
- (f) the nature and extent of the proposed works as set out in the application for approval,

- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (h) the scoping submission from the Development Applications Unit to Limerick City and County Council, and
- (i) the report and recommendation of the Inspector.

Appropriate Assessment: Stage 1

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the 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 Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, 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 Consent (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 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.

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 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.

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 any mitigation measures 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 interests of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. A suitably qualified Site 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 set out in CEMP and the Natura Impact Statement. The ecologist shall be present during site 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 terrestrial and aquatic biodiversity.

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the appointed Site Ecologist and relevant statutory agencies, a final Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include:

(a) Specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness.

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

4. Prior to the commencement of development, details of measures to protect fisheries and water quality of the river systems shall be outlined and placed on file. Full regard shall be had to Inland Fisheries Ireland's published guidelines for construction works near waterways (Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters, 2016). A programme of water quality monitoring shall be prepared in consultation with the contractor, the local authority and relevant statutory agencies and the programme shall be implemented thereafter.

Reason: In the interest of the protecting of receiving water quality, fisheries and aquatic habitats.

5. A detailed bat survey shall be undertaken prior to the commencement of site works. Should the bat survey identify any bat roost the appointed Site Ecologist shall detail all measures in relation to the protection of bats and

submit the survey and measures to be agreed in writing with the National Parks and Wildlife Service, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence held on public file with the planning authority.

Reason: In the interest of wildlife protection.

6. A detailed otter survey shall be undertaken prior to the commencement of any site works. Should the otter survey identify any potential otter presence the appointed Site Ecologist shall detail all measures in relation to the protection of otter and submit the survey and measures to be agreed in writing with the National Parks and Wildlife Service, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of otter holts shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence held on public file with the planning authority.

Reason: In the interest of wildlife protection.

7. 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.

The local authority shall ensure the eradication of Giant Hogweed and the use of strict biosecurity measures as per the best practice guidance listed in Section 7.4 of the Natura Impact Statement.

Reason: In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European site.

Board Member

Eamonn James Kelly

Date: 09/02/2024

Eamonn James Kelly