

An
Bord
Pleanála

Board Direction
BD-017569-24
ABP-318540-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 10/09/2024.

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:

- European, National, Regional, County and other support for renewable energy development as follows:
 - (a) The Policies set out in the Kerry County Development Plan 2022 – 2028, specifically KCDP 9-25, 9-26 and 12-1,
 - (b) Strategic Integrated Framework Plan for the Shannon Estuary (SIFP),
 - (c) The Regional Spatial & Economic Strategy for the Southern Region 2020,
 - (d) The Listowel Municipal District Local Area Plan 2020 – 2026,
 - (e) Kerry County Council Climate Change Adaptation Strategy 2019-2024,
 - (f) RED III (European Renewable Energy Directive (EU/2023/2413)),
 - (g) REPower EU Plan 2022 and Directive EU 2018/2001, as amended 18th day of May 2022,
 - (h) The European Green Deal 2020,

- (i) The National Planning Framework 2018-2040 (NPF),
- (j) The National Development Plan 2021-2030,
- (k) The Climate Action and Low Carbon Development (Amendment) Act 2021,
- (l) The Climate Action Plan 2024 (CAP 2024),
- (m) The Energy Security in Ireland to 2030, Energy Security Package, November 2023,
- (n) The National Energy Security Framework, April 2022,
- (o) The Policy Statement on Security of Electricity Supply, November 2021,
- (p) The Long-Term Strategy on Greenhouse Gas Emissions Reductions , April 2023,
- (q) The National Climate and Energy Plan 2021-2030 (NCEP),
- (r) The National Biodiversity Action Plan,
- (s) The All-Island Generation Capacity Statement 2022 – 2031,
- The documentation submitted with the planning application including the Environmental Impact Assessment Report (EIAR), Appropriate Assessment Screening and Natura Impact Statement (NIS),
- The submissions made in connection with the application,
- The mitigation measures proposed for the construction, operation and decommissioning of the site,
- The pattern of development in the area,
- The separation distances between the proposed development and dwellings or other sensitive receptors, and
- 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 of likely significant effects of the proposed development on European Sites.

Appropriate Assessment: Stage 1:

The Board considered the Screening Report for Appropriate Assessment and all other relevant submissions and carried out an appropriate assessment screening exercise in relation to the potential effects of the proposed development on designated European sites. The Board noted that the proposed development is not directly connected with or necessary for the management of any European Site and considered the nature, scale, and location of the proposed development, as well as the report of the Inspector. The Board agreed with the screening exercise carried out by the Inspector.

The Board concluded that, having regard to the qualifying interests for which the sites were designated and in the absence of connections to and distance between the application site and the European sites, including Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code: 004161), Moanveanlagh Bog Special Area of Conservation (Site Code: 002351), Blasket Islands Special Area of Conservation (Site Code: 002172), Kilkieran Bay and Islands Special Area of Conservation (Site Code:002111), Slyne Head Islands Special Area of Conservation (Site Code:000328), they could be screened out from further consideration and that the proposed development, individually or in combination with other plans or projects would not be likely to have significant effects on these European Sites or any other European Site in view of the sites' conservation objectives and that a Stage 2 appropriate assessment is therefore not required in relation to these European Sites. The Board considered that an appropriate assessment of the implications of the proposed development for the the River Shannon and River Fergus Estuaries Special Protection Area (Site Code:004077) and the Lower River Shannon Special Area of Conservation (Site Code: 002165) required further investigation.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) and the Lower River Shannon Special Area of Conservation (Site Code: 002165). The Board considered that the information before it was

adequate to allow the carrying out of an Appropriate Assessment as well as the report of the Inspector. In completing the assessment, the Board considered the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, the mitigation measures which are included as part of the current proposal and the Conservation Objectives for these European Sites. 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 Sites, having regard to the sites' Conservation Objectives. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) and the Lower River Shannon Special Area of Conservation (Site Code: 002165)) or any other European Site in view of the sites' Conservation Objectives.

Environmental Impact Assessment:

The Board completed an environmental impact assessment of the proposed development taking account of:

- a) the transitional nature of the proposed development which will operate as and when needed to ensure security of electricity supply,
- b) the scale and location of the proposed development within a long established industrial and energy generating site,
- c) the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the application,
- d) the Screening for Appropriate Assessment and NIS and associated documentation submitted in support of the application,
- e) the planning authority reports, and the submissions received from the Observers and Prescribed Bodies, and
- f) the Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately considers alternatives to

the proposed development, and identifies and describes adequately the direct, indirect, residual and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the application.

Reasoned Conclusions on the Significant Effects:

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated as follows:

- Negative impacts on **biodiversity** arising from construction and decommissioning activities. The proposed development would give rise to significant localised impacts. These impacts will be mitigated through the adherence to best practice construction measures and the implementation of a final Construction and Environment Management Plan (CEMP). Excavations will be left with a method of escape for mammals and breeding birds and nesting locations will be safeguarded.
- Temporary Adverse impact on **landscape and visual** during construction due to temporary site infrastructure such as machinery etc. This will be for a limited time and mitigation will include limited use of lighting including directional lighting etc.
- **Noise** effects on NSR (Nearest Sensitive Receptor) 1 will occur during the peak month of construction. This impact will be temporary and short-term. Mitigation will include the selection of quieter plant and general mitigation measures comprising those in BS 5228-1 Table B.1.

During operation **noise** will impact NSR1. This is considered a long-term / reversible effect. This will be mitigated by implementing minimum acoustic requirements on the performance of an acoustic gas turbine air intake louvre and gas turbine building envelope including wall/roof construction.

- During construction, there will be temporary negative **Traffic and Transport** effect with HGV construction traffic flow generated by the development on minor

roads. This will be mitigated by the implementation of the detailed Construction Traffic Management Plan (CTMP).

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

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 European, National, Regional renewable energy policies and with the provisions of Local policy including the Kerry County Development Plan 2022-2028, be consistent with the obligations of the Climate Action Plan 2024, would not seriously injure the visual amenities of the area or have an unacceptable impact on the character of the landscape, would not have a significant adverse impact on ecology, would be acceptable in terms of traffic safety and would make a positive contribution to Ireland's renewable energy and security of energy supply requirements. 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 such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. For the avoidance of doubt: -

- (a) The output from the proposed Open Cycle Gas Turbine shall be a maximum of 350 megawatts.
- (b) The operational lifespan the proposed Open Cycle Gas Turbine shall be 25 years, after which the facility shall be decommissioned.

Reason: In the interest of clarity and the proper planning and sustainable development of the area.

3. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of European Sites.

4. The mitigation measures contained in the submitted Environmental Impact Assessment Report (EIAR), shall be implemented.

Reason: To protect the environment.

5. Prior to commencement of operation, the developer shall submit for the written agreement of the planning authority detailed plans and proposals for the restoration and reinstatement of the proposed development site following decommissioning of the plant. The restoration works shall be completed within two years of the closure of the plant site or cessation of use for a period or one year or more.

Reason: To ensure the satisfactory restoration of the site.

6. The services of a suitably qualified and experienced Ecological Clerk of Works shall be retained to oversee and supervise the entirety of the construction works, and to provide monthly electronic reports to the planning authority (Planning and Environment Sections) detailing the stage of the works, and compliance with EIAR and CEMP mitigation measures.

Reason: In the interest of protecting ecology and wildlife in the area.

7. 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 prohibit the spread of invasive species.

8. Water supply and drainage arrangements, including the treatment of wastewater, attenuation and disposal of surface water and connection to the existing drainage system, shall comply with the requirements of Uisce Éireann 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 of the development shall be managed in accordance with a Construction and Environmental 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 all relevant environmental issues including intended construction practices, hours of working, noise, vibration and dust management measures and monitoring of such levels; pest control plan, traffic management and protection of roads and bridges; storage of hydrocarbons, chemicals and liquids and site specific risk assessments.

Reason: In the interests of public safety and residential amenity.

10. The construction of the development shall be managed in accordance with a Construction and Demolition Resource Waste Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development as set out in the Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for C&D Projects (2021), including demonstration of proposals to adhere to best practice and protocols.

Reason: In the interests of public safety and residential amenity.

11. The site development and construction works shall be carried out such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

12. Prior to commencement of development, a Construction Transport Management Plan for the construction stage shall be submitted to, and agreed in writing with, the planning authority. The traffic management plan shall incorporate details of the road network to be used by construction traffic in accordance with the Abnormal Loads Report. The traffic management plan shall incorporate details of the road network to be used by construction traffic, including over-sized loads, and detailed arrangements for the protection of bridges, culverts or other structures to be traversed, as may be required. This shall include pre and post construction phase survey's in conjunction with Kerry County Council and other County Councils where necessary. The plan should also contain details of how the developer intends to manage the interaction between the construction traffic and the traffic queuing for the Shannon Ferry's Tarbert – Killimer ferry and how it intends to engage with and notify the local community in advance of the delivery of oversized loads. Any damage caused to existing road pavement due to deliveries will be rectified in accordance with TII Pavement Standards.

Reason: In the interest of traffic safety.

13. The developer shall provide for a community benefit fund in compliance with Section 12.5.5 of Chapter 12 of the Kerry County Development Plan 2022 – 2028, to be managed by a Community Liaison Committee. Details of the community benefit fund shall be agreed in writing with the Planning authority prior to the commencement of development.

Reason: In the interest of local community benefit.

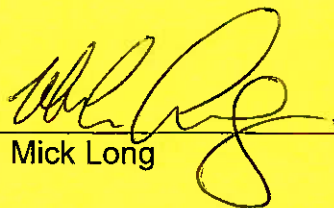
14. The developer shall appoint a Community Liaison Representative for the duration of the construction phase works.

Reason: In the interest of residential amenity.

Schedule of Costs

In accordance with the provisions of section 37H(2)(c) of the Planning and Development Act 2000, as amended, the amount due to be refunded to the applicant is **€74,143**.

Board Member


Mick Long

Date: 01/10/2024