

An
Bord
Pleanála

Board Direction
BD-018043-24
ABP-319013-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 01/11/2024.

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:

- Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives),
- the National Planning Framework - Project Ireland 2040,
- the Climate Action Plan, 2024, to which the proposed development is consistent with,
- the Regional Spatial and Economic Strategy for the Southern Region,
- the policies and objectives of the Tipperary County Development Plan 2022-2028,
- the policies and objectives of the Waterford City & County Development Plan 2022-2028,
- the policies and objectives of the Clonmel & Environs Local Area Plan 2024-2030,

- the nature, scale and design of the proposed development, the existing development on the site, and the pattern of development in the vicinity of the site,
- the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- 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 submissions received in relation to the proposed development, and
- the report and recommendation of the Inspector, including the examination, analysis and evaluation undertaken in relation to the appropriate assessment and environmental impact assessment screening.

It is considered that the proposed development would accord with European, national, regional and local planning and that it is acceptable in respect of its likely effects on the environment and its likely consequences for the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1:

The Board considered the Screening Report for Appropriate Assessment 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 a 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 and adopted the screening assessment and conclusion carried out in the Inspector's report that the Lower River Suir Special Area of Conservation (Site Code: 002137), Nier Valley Woodlands Special Area of Conservation (Site Code: 000668), Comeragh Mountains Special Area of Conservation (Site Code: 001952) and the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) are

the European sites for which there is a likelihood of significant effects. The Board concluded that, having regard to the qualifying interests for which all other European Sites were designated and in the absence of viable connections to, and distance between the application site, these could be screened out from further consideration and that the proposed development, individually or in combination with other plans and projects would not be likely to have significant effects on any other European Sites in view of the sites' conservation objectives and that the Stage 2 appropriate assessment is therefore not required in relation to other European Sites.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and carried out an appropriate assessment of the implications of the proposal for the Lower River Suir Special Area of Conservation (Site Code: 002137), Nier Valley Woodlands Special Area of Conservation (Site Code: 000668), Comeragh Mountains Special Area of Conservation (Site Code: 001952) and the River Barrow and River Nore Special Area of Conservation (Site Code: 002162), in view of the sites' conservation objectives. 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 and 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 conservation objectives. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the Lower River Suir Special Area of Conservation (Site Code: 002137), Nier Valley Woodlands Special Area of Conservation (Site Code: 000668), Comeragh Mountains Special Area of Conservation (Site Code: 001952) and the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) 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 into account:

- the nature, scale, location, and extent of the proposed development;
- the Environmental Impact Assessment Report and associated documentation submitted with the application;
- the submissions received during the course of the application; and
- 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, secondary 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 planning application.

Reasoned Conclusions on the Significant Effects:

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below. The main significant effects, both positive and negative, are:

- Negative impacts on **biodiversity** arising from construction, operation and decommissioning activities. These impacts will be mitigated through the adherence to best practice construction measures and the implementation of a final Construction and Environmental Management Plan.
- Temporary adverse impact on **landscape and visual** during construction due to temporary site infrastructure such as cranes and other machinery. This will be for a limited time and mitigation will include the retention of the existing mature site boundaries.
- **Noise** effects on NSR3 will occur during the phase 1 of construction. Subject to the adoption of the mitigation measures, all effects are predicted to be Imperceptible and Not Significant. Construction effects are defined as Temporary/ Short-Term. Noise levels during the operational phase will be emitted principally from Heavy Goods Vehicle movements, conveyors, fans, dryers and various plant and machinery. Given the small number of proposed development related vehicle movements on existing road networks per day during the operational phase, noise impacts are likely to be negligible during the operational phase. Emissions during the operational phase will comply with expected fixed permitted limits by the Environmental Protection Agency, based on current best practice for this type of facility, and which are more stringent at night-time.
- During construction, there will be temporary negative **Traffic and Transport** effect with Heavy Goods Vehicle construction traffic flow generated by the development on the adjacent local road. This will be mitigated by the implementation of the detailed Construction Traffic Management Plan.

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 as set out in the Environmental Impact Assessment Report, 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 and regional renewable energy policies and with the provisions of the Tipperary County Development Plan 2022-2028, would not seriously injure the visual or residential amenities of the area or have an unacceptable impact on the character of the landscape or on cultural or archaeological heritage, would not significantly adversely affect biodiversity in the area, would be acceptable in terms of traffic safety and would make a positive contribution towards achieving Ireland's energy target as set out in the Climate Action Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 8th day of February 2024, 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. 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 proposed development, the Board considered it reasonable and appropriate to specify a period of the permission in excess of five years.

3. All mitigation and environmental commitments identified in the Natura Impact Statement shall be implemented in full as part of the proposed development.

Reason: In the interest of development control, public information, and clarity.

4. All mitigation, environmental commitments and monitoring measures identified in the Environmental Impact Assessment Report shall be implemented in full as part of the proposed development.

Reason: In the interest of development control, public information, and clarity.

5. The following limits and requirements shall be complied with in the manufacturing process:

- (a) A maximum of 186,000 tonnes per annum of biomass fuel shall be processed in the bio-energy plant.
- (b) The biomass supply shall comprise forestry by-products as described in the submitted details and shall be within the parameters of descriptions as defined in Statutory Instrument Number 350/2022 European Union (Renewable Energy) Regulations (2) 2022.

Reason: In the interests of clarity.

6. Prior to commencement of development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by staff employed at the Medite facility and to reduce and regulate the extent of car parking.

Reason: In the interest of encouraging the use of sustainable modes of transport.

7. The noise levels generated during the construction of the development shall not exceed the following limits: 55 dB(A) during daytime, 50 dB(A) during evening time and 45dB(A) during night-time when measured at the nearest occupied

house. When measuring the specific noise, the time shall be any one-hour period.

Reason: In order to protect the amenities of property in the vicinity.

8. The proposed development shall be operated and managed in accordance with an Environmental Management System (EMS) which shall be submitted by the developer and agreed in writing with the planning authority prior to commencement of development. This shall include the following:
 - (a) Proposal for the suppression of on-site noise and monitoring at sensitive receptors.
 - (b) Proposal for the suppression of dust on site and on the surrounding roads.
 - (c) Proposal for the bunding of fuel, lubrication storage areas and any other substance as required by the planning authority and details of emergency action including warning sign in the event of accidental spillage/leakage.
 - (d) Details of safety measures for the fencing.
 - (e) Specification of limits in relation to the following parameters, NO_x, SO₂, CO and PM₁₀ particulate matter.
 - (f) Monitoring of ground and surface water quality, levels and discharges.
 - (g) Details of Site Manager and public information signs at entrance.

Reason: In order to safeguard the environment and local amenities.

9. Biomass supply deliveries to the site and transport waste from the site shall be confined to between the hours of 0600 to 2200 Monday to Thursday and 0600 to 2000 on Fridays. No deliveries of biomass shall take place on Saturdays or Sundays.

Reason: In the interest of orderly development and the residential amenity of surrounding dwellings.

10. Landscaping of the site shall be carried out in accordance with the landscaping scheme which shall include planting of deciduous trees and retention of hedgerows along the site boundaries, all of which shall be protected from damage, and enhanced in such a manner as to ensure that their value as a commuting and foraging habitat is protected. A Landscape Plan clearly detailing proposals in this regard, including the precise extent of existing hedgerow to be retained, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To ensure the protection of the hedgerow habitat and in the interest of visual amenity.

11. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be permitted in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

12. 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 incorporate all the construction stage mitigation measures outlined in the Natura Impact Statement, and shall provide details of intended construction practice for the development, including and not limited to:
- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
 - (b) location of areas for construction site offices and staff facilities,
 - (c) details of site security fencing and hoardings,

- (d) details of car parking facilities for site workers during the course of construction,
- (e) 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 if required,
- (f) measures to obviate queuing of construction traffic on the adjoining road network,
- (g) measures to prevent the spillage or deposit of clay, rubble, or other debris on the public road network,
- (h) 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,
- (i) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (j) 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,
- (k) details of construction lighting,
- (l) details of key construction management personnel to be employed in the development, and
- (m) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan and monitoring results as appropriate shall be kept for inspection by the planning authority.

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

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

14. The developer shall appoint a suitably qualified ecologist to monitor and ensure that all avoidance/mitigation measures relating to the protection of flora and fauna are carried out in accordance with best ecological practise.

Reason: To protect the environmental and natural heritage of the area.

15. Water supply and drainage arrangements, including the disposal of surface water shall comply with the requirements of the planning authority for such works in respect of both the construction and operation phases of the proposed development.

Reason: In the interest of environmental protection and public health.

16. (a) All mitigation measures in relation to archaeology and cultural heritage as set out in Chapter 12 of the Environmental Impact Assessment Report (Charles Mount Consultant Archaeologist, January 2024) shall be implemented in full, except as may otherwise be required in order to comply with the conditions of this order.
- (b) The developer is required to employ a suitably qualified archaeologist (licensed under the National Monuments Acts) to carry out a pre-development Archaeological Geological Survey and a pre-development Archaeological Test Excavation at Area 4 of the development site and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the Department, in advance of any site preparation works or groundworks,

including site investigation works/ topsoil stripping/ site clearance/ and/ or construction works. This shall be in addition to any mitigation measures outlined in Chapter 12 of the Environmental Impact Assessment Report.

- (i) The Archaeological Geological Survey must be carried out under licence from the Department and in accordance with an approved method statement. Having completed the work, the archaeologist shall submit a written report to the Department and the planning authority describing the results of the geophysical survey.
 - (ii) The archaeologist will liaise with the Department to establish – based on the Archaeological Geological Survey – the appropriate scope of the Archaeological Test Excavation to adequately characterise the character and extent of any potential sub-surface archaeological material within Area 4 of the development site.
 - (iii) The report on the Archaeological Test Excavation shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record (archaeological excavation) and/ or monitoring may be required.
 - (iv) Any further archaeological mitigation requirements specified by the planning authority, following consultation with the Department, shall be complied with by the developer.
 - (v) No site preparation and/ or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority.
- (c) The Construction and Environmental Management Plan (CEMP) shall include the location of any and all archaeological or cultural heritage constraints relevant to the proposed development as set out in Chapter 12 of the Environmental Impact Assessment Report and by any subsequent archaeological investigations associated with the project. The CEMP shall clearly describe all identified likely archaeological impacts, both direct and

indirect, and all mitigation measures to be employed to protect the archaeological or cultural heritage environment during all phases of site preparation and construction activity.

- (d) The planning authority and the Department of Housing, Local Government and Heritage shall be furnished with a final archaeological report describing the results of archaeological monitoring and of any archaeological investigative work/ excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation (either in *situ* or by record) of places, caves, sites, features and other objects of archaeological interest.

- 17. Prior to commencement of development, the developer 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 reinstatement of public roads that may be damaged by construction transport 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 developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the reinstatement of public roads that may be damaged by construction transport.

- 18. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the

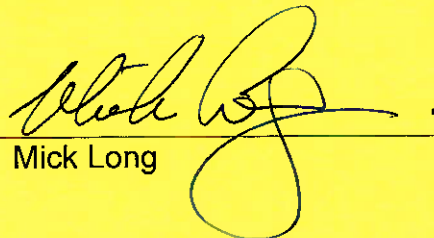
Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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 reimbursed to the applicant is **€50,810**.

Board Member


Mick Long

Date: 01/11/2024