

An  
Bord  
Pleanála

**Board Direction**  
**BD-019090-25**  
**ABP-320300-24**

The submissions on this file and the Inspector's report were considered at Board meetings held on 24/02/2025 and 25/02/2025.

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 performed its functions in relation to the making of its decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Development (Amendment) Act 2021, (consistent with the most recent approved, climate action plan, national long term climate action strategy, national adaptation framework and approved sectoral adaptation plans, the furtherance of the national climate objective, and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State);

And in coming to its decision, the Board had regard to the following:

- (a) the nature, scale and extent of the proposed development;
- (b) the characteristics of the site and surrounding area;
- (c) the national targets for energy production;

- (d) national, regional and local policy support for developing energy infrastructure, in particular:
- Project Ireland 2040 National Planning Framework;
  - National Development Plan (2021-2030);
  - The objectives and targets of the National Biodiversity Action Plan 2023-2030;
  - Long-term Strategy on Greenhouse Gas Emissions Reduction (2024);
  - Policy Statement on Security of Electricity Supply (November 2021);
  - National Energy Security Framework (April 2022);
  - National Energy and Climate Action Plan (2021-2030);
  - The Regional Spatial and Economic Strategy for the Southern Region; and,
  - The Kerry County Development Plan, 2022-2028;
- (e) the documentation submitted with the application, including the Environmental Impact Assessment Report, Natura Impact Statement, and accompanying reports including the outline Construction Environmental Management Plan;
- (f) the location of the proposed development within an area identified as a 'Strategic Development Location' for Marine related industry/industry in the Strategic Integrated Framework Plan for the Shannon Estuary and with a land use zoning of 'Industry' in the Development Plan;
- (g) the distance to dwellings or other sensitive receptors from the proposed development;
- (h) the submissions on file including those from third parties, prescribed bodies and the planning authority;
- (i) mitigation measures proposed for construction and operation of the site; and
- (j) the report of the Inspector.



### **Appropriate Assessment: Stage 1:**

The Board considered the Natura Impact Statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites. The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the only European Sites in respect of which the proposed development has the potential to have a significant effect are the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077).

### **Appropriate Assessment: Stage 2:**

The Board considered the Natura Impact Statement and associated documentation submitted with the application, 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 European Sites, namely, the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077), 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. 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 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, 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' conservation objectives.

#### **Environmental Impact Assessment:**

The Board completed an Environmental Impact Assessment of the proposed development taking account of:

- (a) The nature, scale and location of the proposed development;
- (b) The Environmental Impact Assessment Report and associated documentation in support of the application for which approval is sought;
- (c) The submissions received during the course of the application; and
- (d) The Inspector's report and recommendation.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives for the proposed development and identifies and describes adequately the direct, indirect and secondary and cumulative impacts 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 for approval.

The Board 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 herein, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting Inspector.



### **Reasoned Conclusion on Significant Effects:**

Having regard to the examination of environmental information contained above, and in particular to the Environmental Impact Assessment Report and other information provided by the undertaker, and the submissions from the planning authority, prescribed bodies and observers during the course of the application, it is considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

1. The development could give rise to impacts on surface and groundwaters as a result of run-off of sediments, accidental spillages of chemicals, hydrocarbons or other contaminants entering waterbodies during construction. These impacts would be adequately mitigated by:
  - The implementation of the Construction Environmental Management Plan and standard best practise guidance and measures, including measures for the control of soils, materials and pollutants, drainage design and the management of surface waters.
  - Soil and stockpile management, including separation from waterbodies and from areas subject to flooding.
  - Use of settlement tanks to remove sediment from water that is removed from Ralappane Stream during open cut trenching prior to discharge back to the watercourse downstream of the dam area.
2. Construction activity will give rise to noise and vibration emissions. The impacts from such activities would be adequately mitigated by:
  - Implementation of Construction Environmental Management Plan and a Construction Traffic Management Plan has been included in the Construction Environmental Management Plan.
  - The short-term nature of the activities.
  - Scheduling/ timing of works and separation from residential receptors.
  - Public Liaison Officer and protocols for community relations.
  - On-going monitoring.

3. Operational discharges to the marine environment, such as surface water and wastewater, have the potential to impact on water quality and dependent species and habitats. The impacts from such activities would be adequately mitigated by:
  - Mitigation for stormwater is embedded in the design and includes that surface water runoff will flow through a petrol interceptor and conveyed to the STEP Power Plant fire water retention tank before discharging to the Shannon Estuary.
  - Measures for the removal of identified effluent streams off-site for treatment.
4. Development of the site will result in terrestrial habitat removal and disturbance and displacement of species occurring on or around the site. The impacts from such activities would be adequately mitigated by:
  - Implementation of Construction Environmental Management Plan and appointment of an Ecological Clerk of Works.
  - Adherence to published guidance including CIRIA guidance on water pollution and Inland Fisheries Ireland guidelines of protection of fisheries, Bat Conservation Ireland guidance on lighting design, and National Roads Authority Guidelines for the treatment of Badgers, Bats and Otters.
  - No heavy machinery will be used within 30 metres (unless carried out under licence from the National Parks and Wildlife Services).
  - Use of settlement tanks to remove sediment from water that is removed from Ralappane Stream during open cut trenching prior to discharge back to the watercourse downstream of the dam area.
  - Planting and landscaping works using native species.
  - Timing and management of tree/ vegetation and structure removal works, with pre-development surveys of features to be removed.
5. Traffic generated during construction will give rise to potential disturbance and congestion on the local road network. These impacts would be adequately mitigated by:



- Existing low traffic volumes on road network.
  - Upgrade of the L1010 prior to the main construction phase.
  - Short-term nature of activities.
  - Implementation of a Construction Traffic Management Plan including the routing and scheduling of construction traffic to avoid coinciding with peak school times.
6. Excavation and redevelopment of the site will give rise to direct impacts on features of archaeological interest and previously unrecorded features. There will also be impacts on the setting of recorded monuments. The impacts would be adequately mitigated by:
- Full resolution of all archaeological sites and areas identified during archaeological testing.
  - Compliance with the National Monuments Acts and the CEMP.
  - A Method Statement for Archaeological Works will be agreed with the National Monuments Service, with fieldwork and monitoring by a suitably qualified and licensed archaeological contractor.
  - Completion of archaeological works prior to commencing enabling works.

### **Proper Planning and Sustainable Development**

It is considered that, subject to compliance with the conditions set out below, the proposed development would accord with European, national, regional and local planning and related policy, it would not have an unacceptable impact on the landscape or biodiversity, it would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and it would be acceptable in terms of traffic safety and convenience and that an approval for the proposed development would be consistent with national climate ambitions and with the relevant provisions of the Climate Action Plan 2024. Furthermore, the Board has performed its functions in relation to the making of its decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015, as

amended. 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, 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 proposed development shall be carried out in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The mitigation measures and monitoring commitments identified in the Natura Impact Statement, shall be carried out in full.

**Reason:** In the interest of clarity and protection of the environment and the protection of European Sites during the construction and operational phases of the proposed development.

3. The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report and other plans and particulars submitted with the application shall be carried out in full.

**Reason:** In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

4. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this Order.

**Reason:** In the interest of clarity.



5. (a) The upgrade of the L1010 local road between the R551 at Tarbert and the proposed development lands at Kilcolgan Lower and Ralappane shall be completed prior to the commencement of the main construction elements of the proposed development. This shall not preclude the undertaking of site preparation and earthworks contemporaneously with the upgrading of the L1010 local road. The precise extent of works which may be carried out prior to the completion of the public infrastructure works, shall be agreed in writing with the planning authority, prior to commencement of development and in default of agreement, shall be determined by An Bord Pleanála.
- (b) Final detail in relation to the design of the proposed entrance to the site from the L1010, including drainage design, shall be agreed in writing with the planning authority prior to the commencement of development on the site.

**Reason:** In the interests of road safety.

6. (a) Drainage arrangements, including the attenuation and 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;
- (b) All works in the vicinity of watercourses shall be in accordance with the recommendations in Inland Fisheries Ireland's Guidance Document on Protection of Fisheries during Construction Works in and adjacent to Waters, 2016, shall be referred to in the Construction and Environmental Management Plan (CEMP) and shall be supervised by an Ecological Clerk of Works; and
- (c) Surface water from the site shall not be permitted to drain onto the adjoining public road or adjoining properties.

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

7. Prior to commencement of development, a detailed Construction Environmental Management Plan (CEMP) for the construction phase shall be submitted to and agreed in writing with the planning authority, generally in accordance with the Preliminary Construction Environmental Management Plan and Construction Traffic Management Plan submitted with the application. The Construction Environmental Management Plan shall incorporate the following:

- (a) the location of any and all archaeological or cultural heritage constraints relevant to the proposed development as set out in Chapter 15 of the Environmental Impact Assessment Report (Archaeological Management Solutions, July 2024) and by any subsequent investigations associated with the project. The Construction Environmental Management Plan 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;
- (b) a detailed plan for the construction phase incorporating, inter alia, construction programme, supervisory measures, noise, dust and surface water management measures including appointment of a site noise liaison officer, construction hours and the management, transport and disposal of construction waste;
- (c) a comprehensive programme for the implementation of all monitoring commitments made in the application and supporting documentation during the construction period;
- (d) traffic management and road safety procedures and measures for the duration of underground cabling works under public roads;
- (e) an emergency response plan; and
- (f) proposals in relation to public information and communication.

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

**Reason:** In the interest of environmental protection and orderly development.



8. All road surfaces, culverts, watercourses, verges, and public lands shall be protected during construction and, in the case of any damage occurring, shall be reinstated to the satisfaction of the planning authority at the developer's expense. Prior to commencement of development, a road condition survey shall be carried out to provide a basis for reinstatement works. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In order to ensure a satisfactory standard of development

9. The undertaker shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the undertaker shall –
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development;
  - (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works;
  - (c) this shall include the scope of any Advance Archaeological Geophysical Survey, Advance Test Excavation and Archaeological Monitoring as well as any additional mitigation measures that may be required to protect archaeological heritage;
  - (d) this shall include the location, extent and method of demarcation for any Exclusion Zones around the external-most elements of vulnerable heritage assets that are to be preserved in situ (as identified in Chapter 15 of the Environmental Impact Assessment Report or by subsequent investigations associated with the project);
  - (e) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove; and

- (f) the planning authority and the Department of Housing, Local Government and Heritage shall be furnished with a final archaeological report describing the results of all archaeological monitoring and 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 undertaker.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**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.

10. Washing out of fresh cement from trucks shall be carried out more than 50 metres from the Ralappane and Farranawana (Glencloosagh) Streams. Monitoring of Ralappane and Farranawana (Glencloosagh) Streams, 20-50 metres below the works site, will be carried out for alkalinity before, one hour after and one day after concrete pouring, by the independent Environmental Clerk of Works, and the results communicated to Inland Fisheries Ireland (IFI) and to the Department of Housing, Local Government and Heritage as soon as available. Inspections of the two streams below the works areas, during the construction period, by authorised officers of Inland Fisheries Ireland and the Department of Housing, Local Government and Heritage shall be facilitated when requested.

**Reason:** In order to protect the environment and sensitive receptors in the vicinity.

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



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

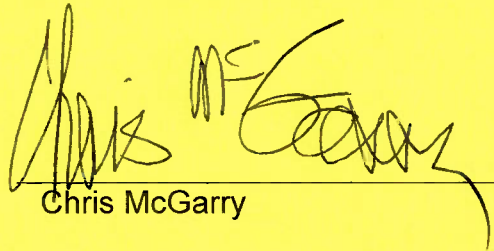
12. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site on cessation of the project coupled 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 undertaker or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory reinstatement of the site.

#### **Schedule of Costs**

In accordance with the provisions of section 182B of the Planning and Development Act 2000, as amended, the amount due to be reimbursed to the applicant is **€65,847**

**Board Member**

  
Chris McGarry

**Date:** 04/03/2025