

An
Coimisiún
Pleanála

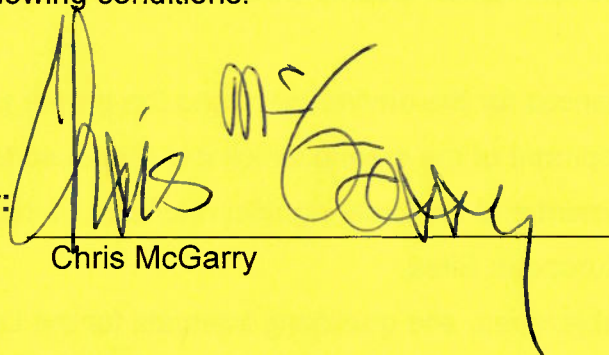
Direction
CD-020140-25
ABP-321627-25

The submissions on this file and the Inspector's report were considered at a meeting held on 04/07/2025.

The Commission decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Planning

Commissioner:


Chris McGarry

Date: 04/07/2025

DRAFT WORDING FOR ORDER

Reasons and Considerations

The Commission 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, including the relevant provisions of the Climate Action Plan 2024 and the Climate Action Plan 2025.

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

- (a) Directive 2000/60/EC, the Water Framework Directive and the requirement to exercise its functions in a manner which is consistent with the provisions of the Directive and which achieves or promotes compliance with the requirements of the Directive,
- (c) the European Union Habitats Directive (92/43/EEC),
- (d) the European Communities (Birds and Natural Habitats) Regulations 2011 as amended,
- (e) National Planning Framework, First Revision - Project Ireland 2040,
- (f) National Biodiversity Action Plan 2023-2030,
- (g) Regional Spatial & Economic Strategy 2020-2032 (RSES), Northern and Western Regional Assembly – Project Ireland 2040,
- (h) The policies and objectives of the Monaghan County Development Plan 2019-2025, and the Monaghan County Development Plan 2025-2031 (Interim Version),
- (i) 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,
- (j) the conservation objectives, and qualifying interests for the Upper Lough Erne Special Protection Area (UK9020071), Upper Lough Erne Special Area of Conservation (UK0016614), Lough Oughter & Associated Loughs Special Area of Conservation (000007), Lough Oughter Complex Special Protection Area (004049) European Sites,
- (k) the nature and extent of the proposed works as set out in the application for approval,
- (l) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (m) the submissions received in relation to the proposed development, and
- (n) the report and recommendation of the person appointed by the Commission to make a report and recommendation on the matter.

Appropriate Assessment: Stage 1:

The Commission agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Upper Lough Erne Special Protection Area (UK9020071), Upper Lough Erne Special Area of Conservation (UK0016614), Lough Oughter & Associated Loughs SAC (000007), and Lough Oughter Complex Special Protection Area (004049) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment: Stage 2:

The Commission considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions on file, and the Inspector's assessment. The Commission completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Upper Lough Erne Special Protection Area (UK9020071), Upper Lough Erne Special Area of Conservation (UK0016614), Lough Oughter & Associated Loughs Special Area of Conservation (000007), and the Lough Oughter Complex Special Protection Area (004049) in view of the site's conservation objectives. The Commission considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Commission 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 Commission 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 Sites' conservation objectives.

In overall conclusion, the Commission 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 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, would not interfere with the existing land uses in the area, would be acceptable in terms of traffic and pedestrian safety, would be in accordance with relevant national, regional and development policy with regard to blueways and would constitute an appropriate form of development at the subject site locations. 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 set out in the Natura Impact Statement 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 interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. The mitigation measures identified in the Natura Impact Statement shall be implemented in full.

Reason: In the interest of protecting European Sites.

3. The mitigation and monitoring measures identified in the Ecological Impact Assessment submitted with the application shall be implemented in full.

Reason: In the interest of protecting the environment.

4. 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 the 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 biodiversity.

5. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the project ecologist and relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and Ecological Impact Assessment and demonstration of proposals to adhere to best practice and protocols and shall be kept on file as part of the public record. The CEMP shall include:

- (a) All mitigation measures indicated in the Natura Impact Statement
- (b) All mitigation measures indicated in the Ecological Impact Assessment
- (c) Location and extent of silt curtains to be installed on site
- (d) Pollution control measures to prevent spills/leakage of fuels/oils
- (e) Control measures to prevent the spread of invasive species
- (f) Details of pre-commencement surveys and timing of works

- (g) Specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness
- (h) A traffic management plan.

Reason: In the interest of protecting the environment and the European Sites, and in the interest of public safety and health.

6. The following nature conservation requirements shall be complied with:

- (a) Prior to the commencement of development, details of measures to protect fisheries and water quality of the river system shall be outlined and placed on file to be kept on file as part of the public record. 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,
- (b) Vegetation removal at Balladian Bridge and Ballycoghill Bridge shall occur outside of the bird-nesting season. No vegetation removal shall take place during the period of the 1st day of March to the 31st day of August (inclusive) without the written approval of the Ecological Clerk of Works. Such approval shall be placed on the public file.
- (c) All pre-commencement surveys as outlined in the Ecological Impact Assessment shall be enacted. A pre-construction otter survey by a suitability qualified ecologist shall be carried out before works commence,
- (d) Areas of Nuttall's Waterweed (*Elodea nuttallii*) and Canadian Waterweed (*Elodea canadensis*) shall be identified prior to the commencement of works. Control measures shall be put in place during works to prevent the spread of Nuttall's Waterweed between project sites via equipment and

machinery or allow the propagation beyond the project area downstream to any EU Natura designated site.

- (e) Environmental impacts to water quality during in-stream development works shall be avoided via the pre-commencement installation of silt curtains around slipways to trap released sediments. The resuspension of sediments shall be avoided.

Reason: In the interests of biodiversity, European Sites and nature conservation.

- 7. Prior to the commencement of development at the the Ballynascarva Bridge and Ballycoghill Bridge car park sites, a flood risk management plan shall be prepared by the local authority for these locations. The plan will also include for the installation of flood warning signage throughout the site, and measures to secure car parks at times of flooding.

The above details shall be placed on file and retained as part of the public record.

Reason: In the interests of public safety.

- 8. The local authority and any agent acting on its behalf shall ensure that all plant and machinery used during the works shall 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.

- 9. (a) All mitigation measures in relation to archaeology and cultural heritage as set out in the Archaeological Impact Assessment (Archer Heritage Planning Limited, 22nd October 2024) shall be implemented in full, except as may otherwise be required in order to comply with the conditions of this permission.

- (b) The developer shall engage a suitably qualified licenced archaeologist (licensed under the National Monuments Acts) in advance of any site preparation works or groundworks to oversee and advise on all aspects of the scheme from design, through inception to completion, to carry out pre-development archaeological testing, and to monitor all site clearance works, topsoil stripping, groundworks.
- i. The archaeologist shall liaise with the Department of Housing, Local Government and Heritage and the planning authority to agree in advance an overall strategy for archaeological works to be carried out both in advance of and in parallel with construction of the development.
 - ii. This shall include the scope of any advance test excavation and archaeological monitoring as well as any additional mitigation measures that may be required to protect archaeological heritage.
 - iii. 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 the Archaeological Impact Assessment or by any subsequent investigations associated with the project).
- (c) The Construction Environment 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 the Archaeological Impact Assessment 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 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 developer. The report shall be placed on the file and retained as part of the public record.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest, and to conserve the architectural heritage of the site and to secure its preservation and protection.