

An
Bord
Pleanála

Board Order ABP-310301-21

Planning and Development Acts, 2000 to 2021

Planning Authority: Limerick City and County Council

Application by Limerick City and County Council for approval under section 177AE of the Planning and Development Act 2000, as amended, in accordance with plans and particulars, including a Natura Impact Statement, lodged with An Bord Pleanála on the 21st day of May, 2021, as amended by the further information received by An Bord Pleanála on the 26th day of January, 2022.

Proposed Development: Removal of excess gravel build up in the River Galey in the vicinity of Athea Bridge located in the townlands of Templeathea West and Gortnagross, Limerick. As revised by further public notice received by An Bord Pleanála on the 17th day of February, 2022.

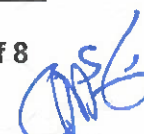
Decision

APPROVE the above proposed development based on the reasons and considerations under and subject to the conditions set out below.

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 2011-2015,
- (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, qualifying interests and special conservation interests for the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code: 004161),
- (e) the policies and objectives of the Limerick City and County Development Plan 2010-2016,
- (f) the nature and extent of the proposed works as set out in the application for approval including the response received to the further information request,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (h) the submissions received in relation to the proposed development, and
- (i) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.



Appropriate Assessment

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) and the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code: 004161), are the European Sites for which there is a likelihood of significant effects.

The Board considered the Natura Impact Statement, the revision to same and all other relevant submissions and carried out an appropriate assessment of the implications of the proposal for the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code: 004161), 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 assessment, the Board considered, in particular:

- i. the likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code: 004161),
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. 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 integrity of 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.

Proper Planning and Sustainable Development/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, in particular the protected bridge structure or underwater archaeology 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 proposed development shall be carried out and completed in accordance with the plans and particulars, including the mitigation measures specified in the Natura Impact Statement, submitted with the application to An Bord Pleanála on the 21st day of May, 2021 and in the further information response submitted to An Bord Pleanála on the 26th day of January, 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be prepared by the local authority, these details shall be placed on file prior to commencement of development 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 and monitoring commitments identified in the Natura Impact Statement and the updated Natura Impact Statement received by An Bord Pleanála on the 26th day of January, 2022, and other plans and particulars submitted with the application shall be carried out in full except as may otherwise be required in order to comply with other conditions.

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

3. Prior to the commencement of development and after consultation with the relevant statutory agencies as appropriate, the local authority shall finalise a Construction Environmental Management Plan and Method Statement, incorporating:

- (a) All mitigation measures indicated in the Natura Impact Statement and the updated Natura Impact Statement.
- (b) Methods to be employed to sterilise the equipment and machinery.

This Construction Environmental Management Plan shall be placed on file prior to commencement of development and retained as part of the public record.

Reason: In the interest of protecting the environment.

4. A suitably qualified ecologist shall be appointed by the local authority to oversee the site set-up and works and the ecologist shall be present part time on site. Upon completion of works, an audit report of the site works shall be prepared by the appointed ecologist and submitted to the local authority to be kept on record

Reason: In the interest of nature conservation, to prevent adverse impacts on the European Sites and to ensure the protection of the Annex I habitats and Annex II species and their Qualifying Interests/Special Conservation Interests for which the Sites were designated.

5. Prior to the commencement of the development, details of measures to protect fisheries and water quality of the river systems shall be outlined and placed on file. In-channel works shall adhere to the timing restrictions set out in the Natura Impact Statement and the updated Natura Impact Statement. 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).

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

6. 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

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

7. A suitably qualified conservation architect shall be retained by the local authority to oversee the site set up and works in the vicinity of the bridge. Upon completion of works, a conservation report of the site works shall be prepared by the appointed conservation architect to be retained on file as part of the public record.

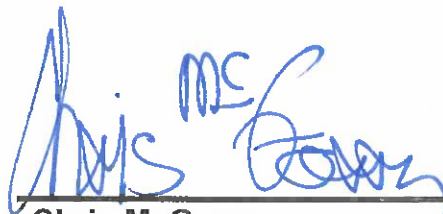
Reason: In the interest of cultural heritage.

8. The local authority and any agent acting on its behalf shall facilitate archaeological monitoring to be carried out during all excavations being undertaken for the proposed development, and for all associated groundworks, whether in stream or terrestrial. The monitoring shall take the following format:
- (a) The services of a suitably qualified and suitably experienced underwater archaeologist shall be engaged to carry out the archaeological monitoring of all works.
 - (b) The archaeological monitoring shall be licensed by the Department of Housing, Local Government and Heritage and a detailed Method Statement is to accompany the licence application.
 - (c) The Method Statement shall set out the monitoring strategy for the proposed works.
 - (d) A communication strategy is to form part of the monitoring strategy to ensure full communication is in place between the monitoring archaeologist and the plant operators at all times during works.
 - (e) The archaeological personnel undertaking the monitoring shall be in a position to monitor directly all elements of the extraction works, to ensure they have unobstructed views of the plant and machinery operators shall be prepared to facilitate the archaeological personnel in the undertaking of their monitoring work.
 - (f) No works at the bridge should damage the existing protected structure and all provisions shall be made to ensure that the historic structure is protected from all potential impacts. The archaeological monitoring strategy shall include the plan for the protection of the historic bridge.
 - (g) A Finds Retrieval Strategy shall include the spreading and metal detection (under licence) of all deposits removed from the river.
 - (h) Sufficient archaeological personnel shall be in place to cover all aspects of the monitoring works.

AMB

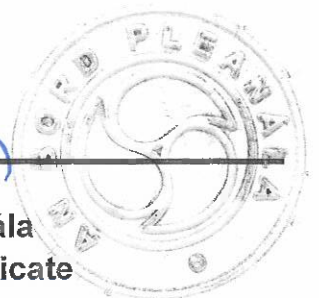
- (i) Should potential archaeology be identified during the works, all excavations shall be suspended in the affected location to enable further assessment to be undertaken and liaison with the Department of Housing, Local Government and Heritage, who shall provide recommendations on further archaeological works. These may include archaeological assessment, testing, avoidance/preservation in situ or full excavation. Any additional works shall be detailed within an amended Method Statement that shall be forwarded to the Department of Housing, Local Government and Heritage for review and approval.
- (j) A dive team, suitably licenced and experienced, shall be on standby in the event that underwater assessment of potential archaeological features/materials uncovered during archaeological monitoring is required.
- (k) The Department of Housing, Local Government and Heritage shall be furnished with a report describing the results of the archaeological works.

Reason: In order to ensure continued preservation (either in situ or by record) of underwater cultural heritage and all associated features, objects and structures.



Chris McGarry

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**



Dated this *28th* day of *June* 2022