



An  
Bord  
Pleanála

## Board Order ABP-312559-22

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### 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 24<sup>th</sup> day of January, 2022, as amended by the further information received by An Bord Pleanála on the 16<sup>th</sup> day of May, 2022.

**Proposed Development:** The proposed development consists of ground investigation works to inform the option selection and design of the proposed Limerick City and Environs Flood Relief Scheme. The proposed works will comprise of boreholes, cone penetration tests, window sampling and geophysical surveys as well as associated temporary access requirements and localised vegetation removal works at Annacotty, Ballynanty, Castletroy, Corbally, Condell Road, Dock Road and Conigar embankments (within the townlands of Annacotty, Ballynanty, Castletroy, Corbally, Conigar, Corkanree, Courtbrack, Kilrush, Monabraher and Sreelane) in County Limerick, and Athlunkard, Knockballynameath and Quinspool South embankments (within the townlands of Athlunkard, Knockballynameath and Quinspool South) within County Clare.

### 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) and Part XAB of the Planning and Development Act 2000, as amended, including section 177(AE) and 177(V),
- (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), the River Shannon and River Estuaries Special Protection Area (Site Code: 004077) and the Lough Derg (Shannon) Special Protection Area (Site Code: 004058),
- (e) the policies and objectives of the Limerick City & County Development Plans 2010-2016 (as extended), the Clare County Development Plan, 2017-2023, Castletroy Local Area Plan 2019-2025 and Southern Environs Local Area Plan 2021-2027,
- (f) the nature, scale and limited duration of the proposed works as set out in the application for approval,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the revised Natura Impact Statement,
- (h) the submissions and observations received in relation to the proposed development, and
- (i) the report and recommendation of the Inspector.

### **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), the River Shannon and River Estuaries Special Protection Area (Site Code: 004077) and the Lough Derg (Shannon) Special Protection Area (Site Code: 004058), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the revised Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Lower River Shannon Special Area of Conservation (Site Code: 002165), the River Shannon and River Estuaries Special Protection Area (Site Code: 004077) and the Lough Derg (Shannon) Special Protection Area (Site Code: 004058), 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 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 pose a risk to water quality, would not seriously injure the amenities of property in the vicinity and would not adversely impact on the cultural, archaeological and built heritage of the area. The proposed development would inform the option selection and design of a preferred flood relief scheme and assist in the delivery of the Limerick City and Environs Flood Relief Scheme and 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 and the information contained in the Natura Impact Statement, as amended by the further information received by An Bord Pleanála on the 16<sup>th</sup> day of May, 2022 except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures 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 and monitoring measures contained in the revised Natura Impact Statement received by An Bord Pleanála on the 16<sup>th</sup> day of May, 2022 shall be implemented in full.

**Reason:** In the interest of protecting the European Sites.

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan, incorporating all mitigation measures indicated in the revised Natura Impact Statement and demonstration of proposals to adhere to best practice and protocols. The Construction Environmental Management Plan shall include:

- (a) a detailed plan for the duration of the works incorporating inter alia,
- (b) works programme, access/egress measures, supervisory measures, noise management measures and construction hours,
- (c) invasive species management plan,
- (d) an emergency response plan, and

(e) proposals in relation to public information and communication.

The Construction Environmental Management Plan shall be retained on the file as part of the public record.

**Reason:** In the interest of protecting the environment.

4. The hours during which the ground investigation works takes place shall be confined to between 0800 and 1830 hours Monday to Friday inclusive and between 0800 and 1400 hours on Saturday and shall not be permitted on Sundays and public holidays.

**Reason:** To safeguard the amenities of properties in the vicinity.

5. The works shall be limited to daylight hours and no artificial lighting shall be used on the site. No Borehole cable percussion works or Standard Penetration Testing (SPT) in rotary core holes shall take place during the wintering bird season (October to March) in any year.

**Reason:** In the interest of protecting bird species using the site and the adjacent areas.

6. The local authority, or 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.

7. 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 set out in the revised Natura Impact Statement. The ecologist shall be present during site construction 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 the protection of terrestrial and aquatic biodiversity.

8. The local authority, or any agent acting on its behalf shall retain the services of a suitably qualified and experienced bat specialist to survey the bridge for the presence of bat roosts, prior to commencement of development. In the event that any roosts are identified, the National Parks and Wildlife Service shall be consulted regarding how best to deal with such roosts. The removal of any roosts identified shall be carried out only under licence from the National Parks and Wildlife Service.

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

9. The local authority, or any agent acting on its behalf shall retain the services of a suitably qualified and experienced ecologist to survey the site for the presence of badger, prior to commencement of development. In the event that any setts are identified, the National Parks and Wildlife Service shall be consulted regarding how best to deal with such setts. The removal of any setts identified shall be carried out only under licence from the National Parks and Wildlife Service.

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

10. The local authority, or any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. In this regard, the local authority shall:
- (a) employ a suitably qualified archaeologist in accordance with the requirements of the Department of Housing Local Government and Heritage prior to commencement of the development who shall assess the final locations of all tests and monitor all site investigations and other excavation works,
  - (b) ensure that the methodologies and processes outlined in the Archaeological Guidelines for Flood Relief Schemes (DHLGH and OPW 2021) are consulted and adhered to in the design and undertaking of all archaeological assessment and other works for the project.
  - (c) comply with the mitigation measures set out in the revised 'Limerick and Environs Flood Relief Scheme: Review of proposed GI Locations and Infrastructure – Revised Report (AMS, May 2022) in advance of any works,
  - (d) Provide arrangements, acceptable to the Department of Housing, Local Government and Heritage for the recording and removal of any archaeological material which it is considered appropriate to remove.

**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.



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

Dated this 20 day of September 2022