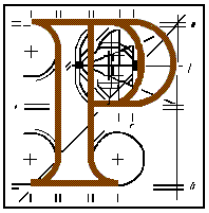
An Bord Pleanála Ref.: PL91.246279

An Bord Pleanála



Inspector's Report

Development: Smokeless and biomass based solid fuel manufacturing and packaging facility at Durnish, International Port Road, Shannon, Foynes Port, Co. Limerick.

Planning Application

Planning Authority:	Limerick County Council
Planning Authority Reg. Ref.:	15/468
Applicant:	Bord Na Mona Fuel Ltd
Type of Application:	Permission
Planning Authority Decision:	Grant Permission

Planning Appeal

Appellant(s):	CPL Fuels
Type of Appeal:	Third Party V Grant
Observers:	An Taisce
Date of Site Inspection:	9th June 2016

Inspector: **Kenneth Moloney**

1.0 SITE DESCRIPTION

The appeal site is located within the Port of Foynes, Co. Limerick. The entire appeal site is currently comprised of two separate sites. The larger site of the two is operated by the applicant (Bord na Mona) and is used for the importation and storage of coal. The imported coal is processed and bagged for outward distribution. There are a number of buildings on this site including portacabins used for offices and storage sheds.

The smaller site comprises of two large warehouses which are used for the storage of imported feedstock such as grain, pollen and maze and for outward distribution. These two large warehouses have an overall floor area of 5,348 sq. metres.

The two sites have their own individual vehicular accesses onto the Port Road. There is informal car parking provision and movement of vehicles throughout both sites.

The overall size of the appeal site is 5.4 ha (13.3 acres) and the shape of the appeal site is irregular. The gradient of the appeal site is generally flat however there is an embankment along the northern north-western boundary and the natural gradient of the site slopes slightly downwards to the east.

The neighbouring uses adjoining the appeal site are all established. This includes large diesel storage tanks situated to the rear (north) of the overall appeal site. These tanks are higher than the existing grain storage sheds on the appeal site. There is a reed swamp known as Crompaun Pond situated immediately west of the appeal site.

The site boundary of the appeal site comprises of a post and wire fencing.

2.0 PROPOSED DEVELOPMENT

The proposed development is to create a smokeless and biomass solid fuel manufacturing and packing facility.

The proposed development includes the following;

- Demolition of existing buildings and storage structures
- Upgrading and extension and change of use of an existing warehouse building for use as a solid fuel manufacturing process plant.
- Construction of a new packaging plant building.
- Construction of new administrative block and associated car park
- Installation of weighbridges and associated kiosk
- Re-surfacing of site and installation of new drainage system
- Construction of storage areas for raw materials and finished product,
- Construction of new electricity substation

- New site entrance works including the relocation of an existing entrance and construction of a new entrance and all associated works including water treatment plant.

The main building of the proposed development site will be the existing warehouse building which will be upgraded and used as a process building. The existing roof in Bay 1 of the existing warehouse will be raised by 3 metres to accommodate the proposed manufacturing plant. There will be a number of air emissions associated with the proposed manufacturing process requiring 5 no. air emissions stacks from the roof of Bay 1. The proposal will also include an extension to the existing warehouse building and the proposed extension will have a floor area of approximately 2,636 sq. m.

The proposed packaging building will have a floor area of approximately 2,183 sq. m. This proposed building will be similar in height to the proposed manufacturing building. This building will also include hoppers, conveyors and chutes located external to the building and immediately adjacent to its northern boundary.

The proposed new administrative building will have a floor area of approximately 184 sq. metres. The floor plan will comprise of office space, meeting rooms, canteen and ancillary facilities. This administrative building will be accessed by a dedicated vehicular entrance referred to as the third entrance below.

The existing vehicular entrance to the site along the southern boundary will be retained. The existing vehicular entrance along the western boundary will be closed and replaced with a new entrance beside the closed up entrance. This new entrance will have a weight-bridge and closed loop wheel-wash. A third vehicular entrance is proposed along the southern entrance and this will be used for staff and visitor car parking only. The proposed development includes parking provision for 61 no. cars and HGV parking for 9 no. vehicles.

A new weighbridge and kiosk building is proposed at the south-west corner of the subject site adjacent to the vehicular entrance.

The proposal also includes the provision of three separate external storage areas adjacent to the western boundary of the appeal site. These storage areas will be used for the storage of the final product, i.e. briquettes. It is proposed that the final bagged products and pallet storage area shall be located along the eastern boundary of the appeal site.

Additional information sought for the following (a) details of any required IPPC licence, (b) car parking provision, (c) air quality assessment, (d) surface water treatment, (e) noise assessment, (f) foul water treatment, (g) processing issues, and (h) flood risk assessment.

Clarification of additional information was sought for the following; (a) noise assessment and (b) air quality assessment.

3.0 PLANNING AUTHORITY'S DECISION

The Planning Authority decided to **grant** planning permission subject to 18 conditions. The conditions are standard for the nature of the development proposed.

Internal Reports: There are three internal reports on the file:

- Fire Dept. – Additional information sought for a satisfactory Risk Assessment Report.
- Water Services Flood Report – Applicant is requested to identify mitigation measures to prevent flooding of buildings / render buildings.
- Environment; - Additional information sought in relation to surface water, noise and foul water.
- Environmental Waste Section; - Additional information sought.

Objections: There is one third party objection on the planning file and the issues raised have been noted and considered.

Submissions: There is a submission from the NRA who request that the Local Authority abide by the official policy. There is a submission from Irish Water who has no objections. The HSA submitted a report highlighting a number of relevant points. An Taisce recommends additional information. A report from the HSE recommends that additional information is sought in relation to noise and air implications.

4.0 PLANNING HISTORY

- L.A. Ref. 92/208 – Retention of extension to store.
- L.A. Ref. 91/269 – Planning permission **granted**, subject to conditions, for retention of completion of coal storage, screening and grading facility, bagging plant and septic tank with associated plant and ancillary buildings.
- L.A. Ref. 90/1255 – Permission **granted** for erection of store, offices, weight-bridge and ancillary facilities.

Adjacent Site

- L.A. 14/603 – Permission **granted** to CPL Fuels Ltd for storage, screening, processing, binding and packaging solid fuel briquettes.

5.0 DEVELOPMENT PLAN

The operational development plan is the Limerick County Development Plan, 2010 – 2016.

In accordance with the zoning map for Foynes the appeal site is zoned 'Industry'.

Objective F8 states that it is a requirement to ensure that full details of any flood mitigation shall be furnished prior to any development taking place on industrial zoned sites.

6.0 MID-WEST REGIONAL PLANNING GUIDELINES, 2010 – 2020

These guidelines set out the vision for the region and of relevance a guiding vision is to maximise the development potential of the Shannon Estuary.

7.0 GROUNDS OF APPEAL

Hughes Planning and Development Consultants, lodged a third party appeal on behalf of CPL Fuels Ireland Ltd. The main grounds of appeal are summarised as relating to the following; -

Grounds of Appeal

- No objection in principle to the proposed development.
- The appellant is most concerned that the manufacturing of energy products is produced in a sustainable and environmentally appropriate manner.
- At the core of the appellants concerns are the heating and quenching processes in the manufacture of briquettes.
- The heating process, if managed incorrectly, may put pressure on the environment for employees and the adjoining Seveso site.
- There is little or no assessment on how to treat 500+ tonnes of product and its associated post-process treatment. The EIS has failed to deal with this issue.
- The facility will produce 150,000 tonnes of end-product per annum, plus 50,000 of bagged lignite nuggets per annum.
- The outdoor storage area will contain final product briquettes, bagged lignite nuggets and petroleum.
- It is submitted that the grant of permission fails to protect the local environment. The grant of planning permission is lacking in measures to protect the environment.
- With the exception of noise there are no ELV's placed on any discharges from the site to the environment.
- The lack of ELV's will make it difficult to police environmental pollution.
- The production output is close to 500 tonnes a day threshold for requiring an IPPC licence.

- It is considered that an IPPC licence, which is triggered in this case, would offer more stringent environmental control.
- It is considered that an IPPC Licence is triggered under Class 9.4 of the First Schedule of the EPA Act 1992 (as amended).
- The Limerick County Development Plan, 2010 – 2016, The Shannon Foynes Port Company Master Plan Vision, 2041, and the Shannon Estuary 2013 – 2020 all have objectives to protect designated sites.
- The proposed development would have the potential to have serious and significant impacts on the protected Natura 2000 sites.
- It is contended that the Screening for AA was inadequate and did not address any potential impacts on the designated bird species of River Shannon and River Fergus Estuaries SPA as a result of the proposed development.
- The potential impacts that the presence of stacks will have on Black-headed Gill has not been demonstrated.
- It is unclear whether the proposed stacks contain lighting.
- The NIS is also considered inadequate for screening out potential impacts on bird species of the River Shannon and River Fergus Estuaries SPA. It is considered that the competent authority did not receive sufficient information to inform their AA.
- The potential impacts of air pollution from NOx emissions were not considered in the context of the adjacent Lower Shannon SAC. There is no baseline information in relation to NOx.
- The potential impacts on the SAC, in terms of acidification and eutrophication on aquatic habitats and species of the SAC, in combination with other plans and projects (including agriculture, traffic etc) have not been assessed.
- The threat of coastal flooding is a serious risk to the site and serious consideration is the implication for the Lower Shannon SAC.
- Should flooding occur on the site there will be associated problems resulting from malfunction of the waste water treatment plant and cross contamination with storm water flows discharging to the Crompaun wetland pond. Any such incidents may impact on the water quality of the Lower Shannon SAC.
- It is submitted that more detailed information is required from the applicant on the quenching process to ensure that no water abstractions impact on the water quality of the Lower River Shannon.
- It is considered that the Local Authority erred in law in considering the Screening for AA and NIS to be adequate.
- The Local Authority in its conclusions failed to give a statement of its reasons or considerations in relation to AA.
- An assessment under Article 6(3) of the Habitats Directive and CJEU Case Law, cannot be regarded as appropriate if it contains gaps or lacks information. This is the case in Case C-304/05 Commission v Italy (2007).
- The Kelly Case (2014 High Court Judgement no. 802 JR) – Highlights the number gaps identified in Screening and NIS for Planning Authority.
- There are dangers in relation to the heating processes.

- The need for this assessment to be robust is heightened by the close proximity of the development to 2 no. Upper Tier Seveso Sites.
- The heating facility of the proposed development indicates oil fired drier, oil fired oven, a foul gas combustor and oil fired boiler.
- There is no indication of the heating output however the output of these devices will be in the region of 15-20 MW.
- It is contended that this a considerable heat load in proximity to humans.
- It is contended that no effort is made to recover heat loss which will add significantly to greenhouse gas emissions.
- There is the possibility of fugitive emissions from the oven as long curing ovens are difficult to seal.
- From the application the noxious gases pass through a combustor prior to entering the atmosphere. There is no explanation how the combustor will work. The combustor has an important function.
- The EIS does not address the proximity of the proposed development to the Upper Tier Seveso fuel / storage processing facilities.
- It is considered that the recommended condition by the Chief Fire Officer in relation to Seveso should be used.
- There is no proposed water storage tank / lagoon on site in the event of fire.
- The restriction of water or a limitation of water limits water to the quenching process.
- It is estimated that between 30 and 35 million litres of water per annum is required.
- It is contended that the process proposed by the applicant which relies on heat is regarded as unsuitable for uses close to a sensitive receptor (such as the Foynes application) due to potential environmental risks from the heating and quenching process.
- The proposed product exiting the oven will be at an elevated temperature of 250ºC. The quenching process therefore requires water.
- It is contended that heat loads of a production rate of 20 tonnes per hour at 250ºC would require cooling towers which are not mentioned or significant storage lagoons to allow for the heat to dissipate by natural evaporation.
- There is insufficient water available for the proposed processes.
- It is estimated that with the heating and quenching technique, it is important to note that a 2% - 4% breakage rate can be expected during the quenching process. This will result in 3,000 – 6,000 tonnes of sludge remaining in the water per annum. This raises serious waste water management issues.
- It is considered that water management has not been adequately addressed and therefore the EIA process is flawed.
- The source of the water required for quenching is questioned.
- It is recommended that the Board seek additional information requesting the applicant to clarify the source of their water supply.

Further Information / CFI - IPPC Licence

- The EPA determined that a IPPC was not required as the processing capacity does not exceed 500 tonnes per day and therefore does not fall within the Class 9.4.4 of the First Schedule of the EPA Act 1992.
- However it is contended that there are shortcomings in the application in particular proposals to address water requirements and waste management.
- It is estimated that the maximum rate of production if 154,560 tonnes per annum, which is 4,560 tonnes in excess of the data quoted in the EIS.
- The production range varies from 28 tonnes per hour for small briquettes to 48 tonnes per hour for the largest briquettes in the product range. This is a variance of 71% and if applied to the current application would result in the 500 tonne daily limit being substantially breached.
- It is considered unreasonable and anti-competitive for the Planning Authority to attempt to specify the briquette size for the proposed facility over its course of operational life.
- It is therefore considered that the applicant should reduce the production output of the plant to ensure that the daily tonnage is not breached or apply for an IPPC Licence.
- It is contended that the applicants will have to increase average hourly output in order to allow for maintenance to increase operation to 97%. The increase in production hours will result in the production plant exceeding 500 tonne daily limit.
- It is requested that this issue is clarified and should there be any doubt then an IPPC licence is required.
- The Planning Regulations require that a planning application that requires an IPPC Licence must be referred to in the statutory notices.

Further Information / CFI - Car Parking

- It is understood that the required car parking provision for the proposed development is 228 no. car parking spaces however it is considered that the proposed 61 no. spaces are considered adequate.
- It is recommended that a condition is imposed requiring the applicant to provide additional car parking provision should the need arise.
- In relation to traffic management it is estimated that the management of 60,000,000 litres of water will result in between 3,000 and 6,000 tonnes of sludge per annum. To remove this sludge from the site will require a significant number of truck movements to and from the site. This has not been taken into account in the EIS.
- Without this assessment the EIA is flawed.

Further Information / CFI – Air Quality

- The 24-hour operation will consist of a constant movement of raw materials by front loaders from the storage areas to within the processing building. The movement of raw materials will result in a significant rate of dust dispersion.

- The HSE submission made specific concerns for potential health impact of workers.
- It is contended that the applicant has not adequately considered implications for employees.
- It is submitted that the applicant's assertion that Foynes is similar to Castlebar and Claremorris is unfounded. This assertion is used to determine background levels of PM10 and PM2.5.
- It is submitted that Foynes is largely an industrial town whereas Castlebar and Claremorris are predominately residential and commercial.
- Additional information should be sought in relation to composition of PM10 and PM2.5 around the site.
- It is considered that the air quality monitoring for Shannon, compiled by the EPA, should be used.
- The EPA air survey for Shannon indicates that PM10 levels in Shannon are elevated and it is requested that the Board seek more details on how PM10's and PM2.5 fractions will be controlled.
- Clarification is sought how sludge water will be stored and managed with an inadequate storage management plan.
- It is noted that there is no method statement for the demolition of the 200mm thick concrete slab on the site to be demolished. It is considered that such demolition will result in implications for air quality and climate and has not been adequately addressed in the EIS.
- It is submitted that the issue of binders which at 250º will decompose and needs to be addressed.

<u>Further Information / CFI – Surface Water Treatment</u>

- It is contended that commentary is required on the capacity of the proposed interceptor for storm water having regard to the catchment area.
- It is submitted that the concept of an open drainage channel presents further risk on a site with Flood Zone A.
- The EIS is silent on how wastewater on the site will be managed.
- The quenching and cleaning process will result in fines becoming entrained in quench water.
- The process water in the closed loop will result in water very quickly becoming fouled and the water would need to be constantly refreshed.
- Full details of solids recovery from the drying process need to be explained.
- The application states there will be no process waste water discharge from the manufacturing process which given the high temperatures and requirements to cool the product, needs further clarification.
- It is submitted that without explanation of this issue the plant puts a significant risk to the environment and the Lower Shannon SAC.
- The EIS does not assess the ability of the sand filter to cater for the volume of wastewater from the quenching process.
- In addition the application fails to explain how soluble metals arising from quench water will be treated.

- The black water / slurry produced from the quenching and the washing of the products are dealt with along with the site drainage by a series of capture pits / concrete setting bays / lagoons / chemical and Ph addition / control to recover the solids.
- It is submitted that recovered solids are typically 50% solid and 50% water which requires draining and air drying in piles or mechanical drying.
- It is submitted that the stocks of finished briquettes, other products, the closed loop quench tank and quenching system and sand filter are all located within an area that measures approximately one-third of the overall site. This raises concerns with capacity and site management.
- The application does not address maintenance and breakdowns.
- It is submitted that at these temperatures and throughputs the curing oven and associated equipment will build up with very fine dry fines. This build up will need to be removed either continuously or at frequent levels.
- Water washing / flushing will be required to prevent fires and personnel injury. An operational breakdown in either the oven or the product handling equipment will result in a significant production hazard.
- The lack of fire water capacity is a concern.
- Deluging the equipment with water is the most effective way to overcome hazards. This requires significant water storage.
- It is submitted that there are significant environmental risks associated with flooding on the appeal site and how this might affect the surface water management.
- The storage of wastewater and sludge following the quenching process will provide a flood risk concern.
- The impacts associated with the quenching process have not been fully addressed in the EIA process.

<u>Further Information / CFI – Foul Water Treatment</u>

- The wastewater treatment is to be located within Flood Zone B at a level of circa 2.8m OD. This is below the maximum tide level of 3.79m.
- Should flooding occur on the site there will be associated environmental issues resulting from malfunction of the wastewater treatment plant.

<u>Further Information / CFI – Flooding</u>

- The site is partially located within Flood Zone A and Flood Zone B.
- The Guidelines state that for less vulnerable development in Flood Zone A the justification test is required.
- It is submitted that the scale of the buildings proposed is likely to exacerbate any future flooding.
- In a flood event the implications for the sand filter bed is unclear.
- There are no mitigation measures illustrated that prevent flood waters from inundating the roofed storage areas for raw materials or the potential storage of wastewater and sludge from the quenching process.

- The flood risk does not take account of the serious nature of the processing equipment.
- The possibility of a serious fire should there be a loss of power or failure of any equipment does not appear to have been considered.
- Any equipment failure which resulted in a process stop would lead to the requirement to deluge the equipment to control fires resulting in significant water effluent.
- Any proposal to discharge unattenuated storm water into the Crompaun wetland is likely to increase the risk of flooding within Foynes village.
- It is submitted that an analysis is required that demonstrates that flooding is not increased as a result of direct discharge into Crompaun wetlands pond.

Alternatives

- The EIS fails to consider alternatives adequately.
- It is contended that alternative production methods such as the approved 'cold' method would substantially overcome many environmental concerns.

8.0 OBSERVERS

The following is a summary of an observation submitted from An Taisce;

- There is a preliminary need to determine whether an IPPC Licence is required given the site location adjacent to a Seveso site and Lower Shannon SAC. Also having regard to the scale and nature of the proposal.
- The site drains into River Shannon therefore an assessment is required on the risk arising from the proposed activity, and water management and drainage and spillage risk.
- An assessment of the quantity of water required in the quenching process is required.
- The risk of water supply interruption needs to be addressed. This is a concern having regard to the proximity of the Seveso Site and Irish Bulk Liquid Storage and the Atlantic Fuel Supply Company.

9.0 RESPONSES

Second Party Response

The local authority submitted a response stating that they had no further comments.

First Party Response

The following is a summary of response submitted by the applicant's agent;

Adequacy of AA Screening / NIS

- It is submitted that the Screening for AA was thorough and complete and is in accordance with Department Guidelines, EPA and EC Guidance documents.
- The assessment of birds, flooding, air quality and the quenching process are adequately assessed.
- The proposed development will have no significant impacts on the Lower Shannon SAC and the River Fergus SPA.
- The proposal is in accordance with the Limerick County Development Plan, 2010 – 2016, Shannon Foynes Port Company Master Plan 2041, and Strategic Integrated Framework Plan for Shannon Estuary, 2013 – 2020.
- It is acknowledged that the Board will carry out its own AA.

Consideration of Birds

- The NIS demonstrates that there are no potential pathways for impacts in relation to the conservation objectives.
- Section 6.3 of the NIS describes measures put in place to block any pathways thus negating impacts on the SPA.
- The proposed development includes the construction of a stack which is located over 200m from the SPA.
- The site is an industrial port with neighbouring building shielding the proposed stacks from the SPA.
- The proposed stacks are approximately 28.5m high which is only 6.4m higher than the roof level of the neighbouring fuel storage facility bulk storage tanks.
- The stacks will not represent a significant feature in the context of the SPA.
- No birds listed in Annex I of the EU Birds Directive were recorded on the site visit.
- No habitat of any significance for any bird was recorded within the site.
- There is no lighting associated with the stacks.

Air Quality

- The potential impacts of air pollution on the Lower River Shannon SAC are addressed in Section 4.3 of the NIS.
- Based on the assessment in the NIS it is reasonable to conclude that the proposed development will not result in any significant effect on the Lower River Shannon SAC.

Flooding

- Although the site of the proposed development is located within a coastal zone it has flood defence in the form of an embankment and quay wall.
- The site has never been flooded within the 25 year history of the applicant's presence on the site.

Quenching Process

- The quenching process does not involve any abstraction or discharge to or from the SAC.
- The quenching system will be a closed loop with the water re-used.

Process Design

- The applicant is more than adequately informed on the proposed processes and manufacturing process.
- The applicant has been involved in the large-scale drying and briquetting processes for over 70 years.
- The proposed facility has been designed over a period of two years and comprised of an experienced mutli-disciplined team.
- Table 3.1 sets out the project team.

Heat and Output Combustion

- The proposed operations will include thermal processing equipment and this equipment has been designed and specified to ensure that fugitive emissions do not occur.
- The briquettes enter and leave the oven through narrow openings at each end with mechanical flaps. The circulating oven gases are pressure controlled so that no fugitive emissions into the working area do not occur.
- Extracted air is treated prior to discharge to an agreed set of conditions as per the EIS.
- All thermal equipment shall be insulated to ensure energy conservation and occupational safety standards.
- It is proposed to implement an Energy Management System and carry out an Energy Efficiency Audit.
- The thermal energy requirements for the manufacturing process are in the region of 6 – 8MW.

Fire Risk and Adjacent Seveseo Sites

- All thermal equipment has been designed and specified to meet the safety requirements for thermal plant including ATEX zoning and fire suppression systems.
- The applicant is in the process of obtaining a fire certificate for the proposed buildings on site.
- The fire assessment concludes that subject to specified design controls there will be low risk of impacts on adjacent sites.
- As the facility will not require a IPPC licence site there is no requirement to provide for fire water retention onsite.
- There is a fire water reservoir tank of 300m³ at the port and a fire ring main of 150mm around the entire port including the proposed site from which the site will be serviced.

Water Consumption and Treatment

- It is submitted that any comparison of the proposed plant to the appellant's English based plant is misleading.

- The English based plant is 25-30 years old and involves towers to remove heat from the quench water.
- This method of water cooling is generally considered inadequate in terms of water conservation and energy recovery as the intent is to cool by evaporation.
- The proposed facility is a modern state of the art plant.
- Briquettes exiting the curing oven are quenched in water before been transferred to storage area. The briquettes will be stored for one day before they are bagged in the packaging plant.
- The quench system is a closed loop and there are no discharges of process water to either surface water of foul water systems.
- The water is reused within the site and any spent water will be small in volume and will be removed off-site by an authorised contractor.
- The Traffic Impact Assessment allows for one tanker a day to remove process water.
- The quench step has been designed and specified such that water used is passed through a filtered heat exchange system and coal fines are removed by continuous filtration / screening.
- The proposed heat exchange system will cool the water recirculating through the quench system.
- Any water absorbed by the product or evaporated will be replaced by rainwater harvesting system.
- The rainfall in Foynes is approximately 1000mm per annum, which indicates up to 1166 m^3 of water for reuse can be captured on a monthly basis.
- In dryer months water from the mains will be used to make up any differential.
- It is submitted that should there be an extended dry period of 6 months then annual requirements of mains water for the process of c.8000 m^3 and not 60,000 m^3 as stated by the appellant.
- It is the applicant's intension to ensure as much water as possible is reused in the process.
- The applicants are currently undergoing a process with Irish Water to assess if any upgrade of water supply is required.

<u>Wastewater Management</u>

- The appellant refers to sludge of approximately 3,000 to 6,000 tonnes that will be reused in the process. This is actually coal solids which will be re-used in the process.
- This is not the case as the generation of fines is minimal. The briquettes will sit on a conveyor belt and carried through the quench tank.
- Any coal solids removed in the quench tank will be reused in the manufacturing process.
- The proposed facility will have no uncovered storage of fine material or finished product. Accordingly raw materials will not be subject to rainfall and as such settlement ponds for surface water run-off are not required.

IPPC Licence Requirement

- It is submitted that the proposed oven is designed to have a daily output of 19.2 tonnes of coal per hour which is equivalent to 460 tonnes per day. This ensures that the processing capacity of the proposed facility will not exceed Class 9.4.4 of the EPA Act 1992.
- The curing oven must operate within tight operational parameters to ensure the smokeless fuel briquettes are sufficiently cured and to ensure optimal use of thermal energy. This is a capacity limiting factor.

Parking Provision and Traffic

- Table 1 in Appendix 1 outlines the breakdown of the number of staff and visitors that will occupy the plant.
- The maximum number occupants at the facility are 47 persons.
- To allow for change over in shifts it is proposed to allow 61 no. spaces.
- The Limerick County Development Plan requires 1 space per 35 sq. m. gross floor area for general industry but allows relaxation in cases where there is planning merits. The proposed facility is not labour intensive.
- A workplace travel plan has been prepared for the proposed development. The overall objective of this plan is to reduce reliance on car travel and promote alternative modes.
- The appellant's calculation of 60,000,000 litres of quench water to be released or removed annually is unclear.
- Quench water is cooled and fines are removed by filtration / screening and water reused.
- The only removal of quench water will be during quarterly routine maintenance.

Air Quality

- The site layout allows for screening due to the established on-site building, the new bagging plant and the high embankments.
- In addition and following a clarification of additional information request by the local authority it is now proposed to roof the finished product storage area of the finished product.
- This roof area eliminates the potential for dust emissions from this area.
- The HSE has no objections to dust emissions.
- It is submitted that the ambient PM_{10} in Shannon Town tend to be lower than Castlebar / Claremorris.
- In terms of air quality standards there is no requirement to determine the composition of the PM10 / PM 2.5 fractions in order to determine compliance with the ambient air quality standard.

Surface water Management

- Any proposed surface water discharges will be subject to Trade Effluent Discharge Licencing.
- The applicant will comply with the requirements of the Discharge Licence.

- The proposed oil interceptors manufactured by Klargester have been designed and tested to European Standard EN 858 Part 1.
- The selection of separators was determined in accordance with Environment Agency Prevention Guideline 03 (PPG).

Foul Water Treatment System

- The proposed foul water treatment system is located at a level higher than the 1/1000 year tidal event.
- Tidal flooding is very predictable and advance flood forecasting can be used to identify risk periods.
- An emergency response plan has been prepared. The mitigation measures include the safe and controlled shut-down of the manufacturing process and advance emptying and de-sludging of wastewater using a vacuum tanker detailed in the EIS.

Flood Risk

- The site is located in a coastal flood zone but has never flooded.
- Plans have been prepared by Limerick County Council and Shannon Foynes Port Company to enhance coastal flood protection at the port.
- Plans are in place to start the Foynes Flood Relief Scheme works in 2016.
- As such the premise of the appeal submission is based on potential coastal flooding risk.
- Flooding has not impacted on the site previously.
- Section 6 of the revised Engineering Report submitted with the further information response identifies measures to prevent flooding.

Health and Safety

- Both the HSA and the HSE have no objections to the proposed development.

EIA

- The EIS has been prepared in accordance with relevant guidelines by the EPA, 'Information to be contained in an EIS', 2002, and the Department of Environment, 'Guidelines for Planning Authority and An Bord Pleanala on carrying out EIA', 2013.
- The proposed development requires EIS having regard to item 3(f) of Schedule 5 (Part 2) of the Planning and Development Regulations, 2001.
- The EIS has been prepared in line with the recent EIA Directive.
- The planning report prepared by Limerick County Council acknowledges that alternatives were considered and that the appeal site is the most suitable.
- Section 2.7.2 of the EIS describes the process used to identify the optimal location for the proposed development.
- Section 2.7.3 of the EIS describes the multiple internal and external layout options with respect to operational efficiency and environmental impact.

- The decision on process selection involved comprehensive and ongoing analysis of the capital investment requirements, operational parameters, health and safety considerations and impacts, product quality requirements and operational costs.

10.0 ASSESSMENT

The main issues to be considered in this case are: -

- Principle of Development
- Environmental Impact Assessment
- Appropriate Assessment
- Flood Risk
- Car Parking Provision
- Other Issues – IPPC Licence

Principle of Development

In accordance with the provisions of the Limerick County Development Plan, 2010 – 2016, the zoning objective of the appeal site is 'Industry'. The objective of this zoning provision is stated as '*primarily cater for port industries which are heavy industries by nature. A range of uses are permitted which is intended to facilitate the further development of the port by allowing a range of heavy industries within the industrially zoned area*'.

It is also an objective of the Limerick County Development Plan, 2010 – 2016, to expand the economic base of the Shannon Estuary by diversifying the economy through the promotion of industrial / business and employment opportunities.

The Mid-West Regional Planning Guidelines, 2010 – 2016, sets out its guiding vision for the region and it is stated that an objective is to maximise the development potential of the Shannon Estuary.

The proposed development intends to develop a smokeless fuel by using coal fines and biomass-based solid fuel manufacturing facility and replace the existing bituminous and smokeless fuel bagging facility at the appeal site.

The established use on the majority of the appeal site includes the importation of coal products and open storage of these coal products prior to mixing and processing this coal to a finished product. The end product is both smoky coal and smokeless coal. This process involved removing the excess, also known as coal fines, from the coal product before processing the coal. The finished product is bagged and stored on-site for onward distribution. The applicant (Bord Na Mona) has several outlets nationwide from which the finished product is distributed to. The final product is stored in a roofed warehouse / shed structure.

Although the existing operation involves importing and processing coal the proposed development will entail importing coal fines such as;

- Fines Bituminous Coal
- Fines Petcoke
- Fines Anthracite
- Fines Biomass

The fines are moved by conveyor belt to a dryer in order to dry the product. From the dryer the product is moved to a classifier where the material is reduced until the desired particle size distribution is achieved. The process continues to a mixer where binding agents are applied. The briquette nuggets are created by a roll press. The manufactured briquettes are sent to the light oil fired curing oven where they are gradually heated and curled in temperature up to 250º. The retention time in the oven will be 1 to 2 hours. When exiting the oven the briquettes are quenched in water before being transferred to the finished briquette storage area where they will be stored for at least one day before they are bagged in the proposed bagging plant.

I would note that the EIS has considered alternative sites for the proposed development and critical factors such as proximity to market, access to raw materials, access to transport infrastructure and industrially zoned land played a part in this assessment. I would consider that the appeal site offers many of the desired factors for the proposed development given the nature of importation and the proximity to the port and the need for good transport infrastructure.

I would conclude that the proposed development is consistent with the zoning objectives of the appeal site and I would also note that the proposed development is reliant on the proximity of the port. Therefore I would consider that the principle of the proposed development would be acceptable provided that the proposed development protects the amenities of the area.

Environmental Impact Assessment

The application is accompanied by an environmental impact statement and there is a non-technical summary document.

I am of the opinion that the EIS is detailed and complies with statutory requirements, i.e. Article 94 and Schedule 6 of the Planning and Development Regulations, 2001, as amended, and the EPA Guidelines as they relate to the Environmental Impact Assessment. In general the information provided is considered to be relatively clear and precise.

In accordance with the requirements of Article 3 of the European Directive 85/337/EEC, as amended by Council Directives 97/11/EC and 2003/35/EC, the environmental impact statement submitted by the applicant is required to be assessed by the competent authority. In this assessment the direct and indirect effects of the proposed development need to be identified, described and assessed in an appropriate manner, in accordance with Articles 4 to 11 of the Directive.

Human Beings, fauna and flora

In relation to direct and indirect impacts to **human beings** the proposed development will result in employment opportunities during the construction stage however this will be temporary in nature. This employment creation during the construction stage may have spin-off implications for the local economy. The development during the operational stage will result in permanent employment opportunities.

The proposed employment creation would amount to 140 temporary jobs during the construction stage and 59 persons permanently employed which is a sizable increase on the current 13 no. permanent employees on site. These employment levels will make a positive contribution to the local economy and the overall economic impact is therefore a net-benefit.

The construction phase of the proposed development will directly impact on the local road network which will have an indirect impact on human beings. The proposed development will also result in the creation of dust, noise, and result in potential air pollution during construction stage which will also indirectly impact on human beings. Construction noise will occur during demolition, construction and excavations. Additionally given the possibility of a construction site for the proposed development the proposal will have health and safety implications for human beings, such as construction workers.

In relation to traffic these impacts are largely temporary in nature although there will be some permanent traffic to and from the site and I will examine this further below. The proposed development will have impacts for human beings such as visual impact however I would consider that these impacts will be minor to slight and I have addressed these impacts under the heading landscape.

In relation to noise and dust emissions I would acknowledge that mitigation measures are proposed and I will examine these further below. In assessing the impact on human beings I would conclude that the most significant impacts of the proposed development would be noise generation and employment creation and that the employment creation is a positive impact.

In relation to **fauna and flora** it is important to note that the subject site is not within nor does it adjoin a Natura 2000 site. However there are designated Natura 2000 sites located within close proximity to the appeal site and this includes The Lower River Shannon SAC (200m) and the River Shannon and River Fergus Estuaries SPA (200m).

In relation to **flora** the submitted EIS outlines that the main habitats on site are buildings and artificial surfaces and recolonizing bare ground. It is also noted that the site adjoins on its western boundary an established pond, i.e. Crompaun Pond. The EIS concludes that the habitats on site are of low ecological significance with few plant species associated and I would concur with this conclusion on the basis of my visual observation of the area. Although the adjacent Crompaun Pond has a higher ecological value than the

appeal site the EIS states that the Pond has modified from its natural state and does not include any habitat listed on Annex I of the EU Habitats Directive. Furthermore in consideration of the implications for flora I would note that the existing site is fully developed and hard surfaced throughout and the proposed development will essentially built over existing hard surface areas. Overall I would conclude having regard to the receiving environment which has limited flora habitats that the proposed development will not have an adverse impact on flora of any significance and in reaching this conclusion I would also have regard to the mitigation measures proposed as set out in Section 5.6.2 of the EIS.

In relation to **fauna** the submitted EIS outlines that a mammal and bird survey was undertaken within the appeal site. In relation to Birds the only specie identified of conservation significance was the Black-headed Gull which was identified flying over the site. However the Black-headed Gull is not protected under Annex II of the EU Habitats Directive. This bird was recorded flying over the appeal site during the bird survey however there is no evidence that there is a habitat on site supporting the bird. In relation to mammals and bats the EIS concluded that the site offers little habitat potential for these species. Overall and having regard to the receiving environment I would consider that the mitigation measures, as outlined in Section 5.6.2 of the EIS, would ensure no residual impacts on fauna.

Soil, water, air, climate and the landscape

In relation to **soil** a direct impact of the proposed development is the relocation and excavation of soil. The excavation of subsoil and possibly bedrock will be required for site levelling and the installations of foundations for proposed buildings. In terms of mitigation measures during the construction stage it is intended that any excavated soil will be used for site levelling. During the operational phase the most likely impact on soil will be due to accidental spillage. The contamination of soil could be caused during operation stage by hydrocarbon leaks. A hydrocarbon leak would have negative short-to-medium term moderate impact on the vegetation and earth materials on-site or down gradient of a leak.

I would accept that the construction phase could have an effect on soils and sub soils in terms of leaks by fuels, lubricants, paints and cement based products. I would acknowledge the proposed mitigation measures set out in Section 6.5.3.2.1 of the E.I.S. and I would consider that these measures would ensure that concerns are addressed.

Having regard to the details of the proposed development, including mitigation measures, I do not consider the proposed development to present a significant risk to soils and geology.

In relation to **water** I would note that the existing surface water drainage environment consists of surface water discharge from the open yards of the existing development to an adjacent reed swamp to the west of the appeal site via settlement tanks / silt traps to the west of the appeal site.

In relation to proposed surface water drainage I would note that from the details of the submitted EIS that the anticipated impacts on water are likely to occur as a result of demolition and construction works and surface water run-off which may directly impact on water quality and also due to hydrocarbon and chemical spillage.

It is intended that surface water drainage from the open yards of the proposed development will be discharged to an adjacent reed swamp area, i.e. Crompaun Pond. In addition I acknowledge that the design for surface water drainage includes silt traps, full retention interceptors, a sand filtration system and oil interceptors.

A rain harvesting system will be developed to collect rain from the roofed areas. The overflow from the rain harvesting system will be directed to the adjoining reed swamp.

The proposed surface water drainage for the entire site has been divided into ‘less clean’ areas and ‘clean’ areas with ‘less clean’ areas, such as loose materials storage bays, directed to the sand filtration areas and by-pass interceptors prior to discharge to the reedswamp. The relatively clean areas are directed to silt traps and full retention interceptors prior to discharge.

The proposed manufacturing process will include process water. The manufacturing process will involve transporting briquettes, by conveyor belt, from the curing oven to a shallow quench bath. The EIS states that the volumes of water used for this quench bath will be small and the system is a closed loop system with no discharge to either surface water or foul sewer network. The EIS states any spent water or sediment that builds up in the closed loop system will be removed off site by an authorised waste contractor.

The proposed development includes a waste water treatment plant situated to the south-east corner of the appeal site and it is proposed that treated sanitary wastewater will be directed to an off-site foul water sewer located to the north of the site.

I have examined the mitigation measures and I would consider that should any adverse impacts arise that the proposed mitigation measures will adequately address these adverse impacts. I would note during the operation phase that the EIS anticipates that impacts may include run-off from hard standing / storage areas impacting in surface water quality, and other potential impacts include increased site run-off volumes and hydrocarbon and chemical leaks.

Having regard to the details of the proposed development including proposed mitigation measures as set out in Section 7.4.2 of the EIS, inclusive of integrated design measures, and the details of the assessment included in the EIS, I am satisfied that the proposed development dose not present a significant risk to the water environment.

In relation to **air** and dust emissions the construction plans associated with the proposed development would have implications for air quality due to dust generation, including earth moving and site excavation and also emissions associated with traffic.

The EIS illustrates that the site was the subject of air monitoring survey to establish the existing air emissions from the site and the values recorded where all below the relevant Air Quality Standards.

I would note that the report on the file from the HSE considers that the submitted Construction Environmental Management Plan is acceptable and the report from the Environment Section of the Local Authority has no objections in relation to dust emissions during construction. Section 8.61 of the EIS sets out mitigation measures which are generally best practice methods during the construction phase and the EIS concludes that with these mitigation measures in place that the residual impacts of dust due to construction activities would be slight. I would consider that these mitigation measures are robust.

The most prominent implication in relation to air quality during the operation stage will result in dust generation associated with the stockpiling and processing of solid fuels which typically emit dust. The primary raw materials that will be imported to the site for the proposed operation include;

- Fines Bituminous Coal
- Fines Petcoke
- Fines Anthracite
- Fines Biomass

The manufacturing process includes a dryer which will burn light oil to heat the air above 450º in order to dry the product. The exhaust gas from dryer is passed through a cyclone and bag filter before discharging to the atmosphere through Stack no. 3. The process also includes a clarifier where material is reduced until desired particle size distribution is achieved. The exhaust gas from dryer is passed through a cyclone and bag filter before discharging to the atmosphere through Stack no. 1. The exhaust gas from the curing oven is passed through a post combustor before discharging to atmosphere through Stack no. 4. A steam generator will be used to produce liquid binders and the exhaust from the steam generator will be dispatched to the atmosphere through Stack no. 2.

The EIS includes an air dispersion model for air emissions associated with the proposed development. The submitted air dispersion model estimates that air emissions for NO2, NO_X, SO_2, CO, VOC, PM_{10} and $PM_{2.5}$ are less than the relevant Air Quality Standards and therefore there will be no significant impact to the environment or vegetation due to atmospheric emissions from the proposed facility. I would also note that during the course of the planning application the applicant proposed a roof over the raw material storage area along the western boundary which will result in greater control of dust. This area was noted as one of the main sources of dust generation during the

operation phase. A further mitigation measure includes the provision of planting along the eastern and southern boundary of the appeal site. The HSE submission, dated 5th February 2016, considers these two additional mitigation measures as positive. It is notable also that should rainfall exceeds a level greater than 2mm then this rainfall will have a dampening effect on dust emissions from the site. The information on the file indicates that rainfall in the Shannon Airport Meteorological Station exceeds 2mm on average 211 days per year. I would consider that the EIS has adequately demonstrated that air emissions during the operation stage would be acceptable. I would acknowledge the mitigation measures set out in Section 8.6.2 of the EIS relating to the 'Operational Phase'.

Having regard to the details of the proposed development, including mitigation measures, I do not consider the proposed development to present a significant risk to air quality.

In relation to **climate** the vehicle movement to and from the site will give rise to CO_2 and N_2O emissions which is a harmful gas contributing to global warming. However the EIS concludes that the proposed development will largely have a positive impact on climate. It is proposed in Year 8 that bituminous coal fines will be replaced by biomass and this will have a lower fossil fuel content. It is also noted from the EIS that smokeless coal, which is the proposed end product, is more energy efficient in terms of its longer burning times than smoky coal which is the redundant product. In addition smoky coal has a much higher particulate matter / black carbon emission than smokeless solid fuel and this will result in a significant air quality benefit. I would consider on the basis of the information available that the proposed benefits in relation to climate would largely out weight the negatives and having regard to the mitigation measures, to the details of the proposed development, I do not consider the proposed development to present a significant risk to climate.

In relation to **noise** the dominant noise sources at the proposed development site will be during construction stage and then permanently during the operational phase. The construction works will continue for approximately 12 months and the main source of noise will be demolition and excavations, construction traffic and also concrete pouring however there will be no rock breaking. The EIS includes two noise monitoring surveys at two noise sensitive locations within close proximity to the appeal site to identify the established noise in the vicinity of the appeal site. These surveys established that the existing noise levels were recorded within acceptable levels.

Table 9.8 of the EIS uses BS 5228-1 to predict typical noise levels from the proposed construction activities and using these typical construction noises the predicted noise levels at a NSL (noise sensitive location) some 200m away are estimated. This distance of 200m corresponds with the distance of NSL1 used in the noise monitoring survey referred to above. These estimated noise levels would appear to be acceptable levels and based on the predicted dB values I would not consider any significant adverse impacts during the construction phase having regard to the distance of the noise sensitive

properties from the appeal site and the temporary nature of the construction works. Furthermore I would note the noise mitigation measures as set out in Section 9.6.1 of the EIS and I would consider these measures are robust.

The primary noise source from the proposed development during operational stage is anticipated as building services noise and additional vehicular traffic on the public roads. The EIS included a noise prediction assessment and it has been predicted that noise from the proposed plant items will be well below the adopted criteria at the nearest noise sensitive locations during both day and night periods. In terms of good practice a number of noise controlling measures are considered in the design and most noise generating plant items will be contained within buildings that should provide a satisfactory level of acoustic attenuation to the source.

I would note that some additional mitigation measures have been proposed and these include;

- ensuring that no plant emits tonal or impulsive characteristics
- site design ensures that plant is largely accommodated internally
- ventilation louvers will also acoustically treated
- external plant will be located in a location to benefit from screening
- provision of purpose built noise attenuation barriers

Overall I would accept that the submitted noise report demonstrates that the proposal will not adversely impact on the local residents and would not be a significant risk to the environment.

In relation to **landscape** I note the submitted Landscape Assessment which forms part of the EIS and I would consider this a comprehensive and robust assessment of the visual and landscape implications of the proposed development. It is notable from the submitted Landscape Assessment that the proposed development will have no impacts from the town of Foynes which is the largest population concentration in the local area due to the established built environment.

I am of the opinion based on a visual observation of the area that the visual impact of the proposed development is pre-determined by the established buildings on the appeal site and those buildings on the sites adjoining the appeal site. There are established warehouses on the appeal site adjoining the northern boundary and the adjoining site immediately to the north of the appeal site has diesel tank structures. The character of the local area is determined by the Port activities which includes many high buildings.

I would note that the N69 further west of Foynes town has protected views in accordance with Map no. 7.6 of the Limerick County Development Plan, 2010 - 2016. The submitted Landscape Assessment also has assessed views from the N69, further west of Foynes, and has concluded that any visual or landscape impacts will be minor. The Landscape Assessment also has

assessed views from County Clare, where there are protected views towards the appeal site, and the EIS has concluded that having regard to the established landscape, notably Foynes Island and the existing Port development which is situated in the foreground that any impacts will be minor. I would concur with this conclusion.

Overall I would consider, having regard to the submitted Landscape Assessment and the visual observation of the area that the visibility of the proposed development will be limited due to established buildings on the appeal site and also within the Port. The site neighbouring the appeal site to the immediate north accommodates large diesel tankers and these structures are distinctly white in colour and are higher than any structures proposed on the appeal site. In addition there are established sizable structures on the neighbouring site west of the appeal site and on the appeal site itself the proposed development will match the height of the existing warehouse buildings. In conclusion therefore I would consider that the proposed structures are consistent in terms of height with the established port buildings and will have no adverse impacts on the landscape character of the area.

On the basis of this assessment I would note that the proposed development, having regard to the existing warehouse buildings on the appeal site and neighbouring structures on the adjoining site that the proposed development will have minor to slight visual impacts.

Materials assets and cultural heritage

In relation to **material assets** the proposed development will result in traffic generation during both the construction stage and the operational stage. It is anticipated that the construction traffic will amount to approximately 25 cars for construction workers daily and a total of 255 HGV movements per day for the first 6 months. It is anticipated that the construction works will last for approximately 12 months.

In relation to traffic prediction I would note that Section 12.1.4.2 of the EIS sets out Capacity Test Results based on future traffic modelling. The TIA reviews the existing road network, existing traffic situation, anticipated traffic levels and proposed access arrangements. The capacity assessment was undertaken using the junction analysis programme PICADY'S. In summary the main findings concluded that the proposed development will increase traffic volumes on the access road by a maximum of 29% and will increase traffic volume on the N69 by a maximum of 6.4%. In addition the TIA observed that the N69/ Port Road junction operates well within capacity with a maximum ratio of flow to capacity (RFC) of 29%. It is estimated that in the opening year the maximum RFC for the N69/ Port Road of 34.4% is forecast and by 2032 the junction is forecast to remain well within capacity with the maximum RFC increasing to 36.1%. The EIS estimates that up to 85% is considered within capacity. It is notable that the cumulative traffic impact on the junction in 2032 taking account of the proposed development and the permitted development on a neighbouring site that the forecast for the maximum RFC is 41.2%. Overall I would conclude that the proposed access

arrangements would satisfactorily operate on the site and nearby junctions in terms of traffic from the proposed development.

The EIS also includes proposals for Smarter Workplace Travel and the local authority imposed condition no. 12 on their grant of permission which will ensure its implementation. I would recommend a similar condition to the Board should they favor granting permission. Overall I would consider the TIA has adequately demonstrated that there is sufficient road and junction capacity to accommodate the proposed development.

In relation to **cultural heritage** there are no recorded archaeological sites, architectural heritage or cultural heritage within the proposed development site. The EIS survey, which involved a desk-top study and a field inspection, identified no features that would be of architectural or cultural heritage. It is relevant to note that the EIS alluded to Foynes as a relatively recent settlement with no medieval history. Foynes as a settlement possibly dates from the mid 19th century. The EIS also concluded that there are no known archaeological sites of interest within the proposed development site. However the EIS notes that there are 35 recorded monuments within 2km of the subject site however none are national monuments.

Having regard to the details of the proposed development, including mitigation measures, I do not consider the proposed development to present a significant risk to cultural heritage.

The interaction between the factors mentioned in the first, second and third indents

In my opinion the following interactions are relevant;

Human beings / noise and traffic – the proposed development will generate additional traffic both during construction and operational stage.

Human beings / air quality – the proposal will have air emissions which will impact on the receiving air quality,

Soil / water – the removal of soil for site excavation purposes may result in increased run-off and evaporation.

Site habitats / landscape – there is an interaction between landscaping and site habitats.

I would consider that the interaction of the impacts does not lead to significant environmental impacts beyond those identified for each of the individual environmental topics.

Appropriate Assessment

The application documentation included an AA Screening for Natura 2000 designated sites within 15km radius of the appeal site.

Firstly I will consider SAC's and the AA Screening has identified four SAC's within the Likely Zone of Impact and these include;

- Lower River Shannon (002165)
- Barrigone (000432)
- Askeaton Fen Complex (002279)
- Curraghchase Woods (000174)

The Lower River Shannon is situated approximately 200 metres from the appeal site and the development proposal. I would acknowledge that there is a concern that during construction works and also during operation phase that there is the possibility that run-off water may find its way to the Lower River Shannon SAC. I would consider that this is a reasonable conclusion given the proximity of the appeal site to the designated Natura 2000 site. Furthermore the western boundary of the appeal site adjoins a reedswamp, known as Crompaun Pond. The AA Screening has identified vegetation in this pond consistent with both a saline environment and freshwater environment. The reedswamp is drained by a man-made culvert towards the estuary. Therefore I would consider that there is a definite source-pathway-receptor from the proposed development to the Lower River Shannon SAC.

In relation to Barrigone SAC this Natura 2000 site is situated 3km from the proposed development site. The site comprises an area of dry, species-rich, calcareous grassland and patches of scrub. There is no pathway from the proposed development site to this SAC and having regard to the nature of the SAC I would consider it reasonable that this site is screened out of any further assessment.

Askeaton Fen Complex (002279) is situated approximately 11 km east of the proposed development site. Askeaton Fen Complex consists of a number of small fen areas to the east and southeast of Askeaton in Co. Limerick. This area has a number of undulating hills, some of which are quite steep, and is underlain by Lower Carboniferous Limestone. At the base of the hills a series of fens/reedbeds/loughs can be found, often in association with marl or peat deposits. This site is of conservation value because it supports two fen types, each of which exhibit many sub-types. However having regard to the separation distance and the lack of any pathway from the proposed development site I would consider it reasonable to screen out the Askeaton Fen Complex (002279).

In addition the Curraghchase Woods are located approximately 14 km east of the proposed development site and having regard to the qualifying interests, the separation distance and the lack of any hydrological connection I would also consider that it is reasonable to conclude that this SAC shall be screened out of any further assessment.

Therefore it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination that the proposed development individually or in combination with other plans

or projects would not be likely to have significant effect on European Sites no. 000432 (Barrigone), no. 002279 (Askeaton Fen Complex) and no. 000174 (Curraghchase Woods), in view of the sites conservation objectives.

The AA Screening has identified 2 no. SPA's within the likely Zone of Impact and these include;

- Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle (Site code 04161).
- River Shannon and River Fergus Estuaries (004077)

Although I would note and concur with the applicant's AA Screening that the appeal site is of little ecological value and there is no habitat present that would support any of the qualifying interests in either of the SPA's. However given the proximity of the proposed development to the River Shannon and River Fergus Estuaries SPA the AA Screening concluded that a NIS be carried out. I would concur with the conclusion that it was not necessary to carry out a NIS for the Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle (Site code 04161) given the separation distance almost 6.4km from the appeal site and that the sole qualifying interest is a hen harrier.

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination that the proposed development individually or in combination with other plans or projects would not be likely to have significant effect on European Site no. 004161 (Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle), in view of the sites conservation objectives.

The submitted NIS in relation to the Lower River Shannon SAC identified pathways for the qualifying interests such as otters, estuaries and mudflats / sand flats. I would note that from the submitted NIS that the anticipated impacts on water during the construction and demolition stage are likely to occur as a result of site clearance and construction activities may directly impact on water quality and also due to hydrocarbon and chemical spillage. Section 6.3.1.1 of the NIS sets out a range of mitigation measures which I have generally described and assessed in my EIA above and I would consider that they adequately address any concerns in relation to impacts on surface water discharge and potential adverse impacts on the SAC. These mitigation measures will block identified pathways and would also apply to the River Shannon and River Fergus Estuaries (Site Code no. 004077).

I would consider it reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of European site no.s 002165 (Lower River Shannon SAC) and site no.004077 (River Shannon and River Fergus Estuaries SPA), or any other European site, in view of the site's conservation objectives.

Flood Risk

I would note from the submitted Flood Risk Assessment that the main risk of flood to the appeal site or the immediate locality is coastal flooding. The predicted highest astronomical high tide is estimated at 2.69 m OD. However one such coastal flooding event occurred in 2002 reaching 3.25 m OD and thus breaching the predicted high tide by 0.56m. A submitted flood risk model for a 200 year flood level is calculated at 3.615 m OD. The elevation of the proposed development site varies from between approximately 1.4m and 6m OD.

In assessing the flood relief proposals I would consider it relevant to have regard to the provisions of the degree of flood risk on the site and its environs, the provisions of the Limerick County Development Plan, 2010 – 2016, and the 'Planning System and Flood Risk Management', Guidelines for Planning Authorities, 2009.

I note the proposed policies contained in the Ministerial Guidelines – 'The Planning System and Flood Risk Management', 2009. These guidelines advocate a precautionary approach, and recommend that the appropriate land uses be assigned to distinct areas of differing flood risk.

The ministerial guidelines advocate a sequential approach which attempts to guide development away from areas at risk of flooding. The guidelines identify 3 zones of flooding;

- Zone A – High Probability of Flooding
- Zone B – Moderate Probability of Flooding
- Zone C – Low Probability of Flooding

I would note that in accordance with Table 3.1 of the Guidelines that the proposed development would be a 'less vulnerable development' and given that it is generally located in a Flood Zone A then a justification test would be required. There are two Justification Tests in the guidelines, the plan-making justification test and the development management justification test.

I would acknowledge that the proposed development would fulfil the development management justification test of the Ministerial Guidelines – 'The Planning System and Flood Risk Management', 2009.

The primary flood risk to the appeal site is coastal flooding and I would note that the EIS contends that this type of flooding is very predictable and advance flood forecasting can be used to identify flood risk. This advance warning will allow mitigation measures such as;

- Evacuating personnel and sensitive plant
- Waste water tank emptied by vacuum tank
- Oil interceptor tanks can be emptied
- Flood barriers and sand bags installed

In addition and in response to the further information request the applicant proposes to install flood barriers to all door and access ways of buildings (and windows were required). This will prevent flooding of buildings and prevent washout of contaminated materials. The internal report by the local authority considers this acceptable.

I would conclude that having regard to the established use on the site, the scale of the proposed development, the national guidelines, the OPW 'National Flood Hazard Mapping', and the submitted flood risk assessment that any concerns of flood risk with the proposed development has been adequately addressed.

Car Parking Provision

In relation to car parking provision I would accept the argument submitted by the applicant's agent that the proposed development is not labour-intensive and although there is a sizable gross floor area within the proposed development only limited staff numbers will be employed on-site.

I would note that Section 10.11.3 of the Limerick County Development Plan, 2010 – 2016, states that parking standards can be relaxed in the certain cases and this includes '*where on particular planning merits of the case, it would be unreasonable, to require full provision. The merits depend on the development type and on its context*'.

I would consider having regards to the nature of the proposed development which is largely an automated based manufacturing operation and the intended number of employees that the proposed car parking provision is acceptable.

Other Issues – IPPC

A core argument submitted by the appellant relates to whether the proposed development would require an IPPC Licence. The appellant essentially argues that the output from the proposed development would exceed the threshold of 500 tonnes per day which would trigger an EPA Licence. However the application documentation estimates that the overall output from the proposed development is approximately 460 tonnes per day.

The criteria for determining whether an IPPC licence is required for a development is governed by the EPA Act, 1992. I would consider that the Board would have no role in this determination process as it relates to a separate code to the planning legislation and as such the appellant's arguments in relation to this matter cannot be considered. Nonetheless I would note that there is a letter from the EPA, included with the application documentation, stating that an IPPC Licence would not be required for the proposed development.

11.0 RECOMMENDATION

I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

REASONS AND CONSIDERATIONS

Having regard to the nature of the proposed development, to regional policy, to the zoning of the site in question for 'industry' in accordance with the provisions of the Limerick County Development Plan, 2010 – 2016, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or property in the vicinity, would not have an adverse impact on the environment, would not result in a traffic hazard and would, otherwise, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out in accordance with the plans, particulars and documents lodged with the application as amended by drawings received by the planning authority on the 3rd November 2015 and on the 21st January 2016, except as may otherwise be required in order to comply with the following conditions.

   Reason: In the interest of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Full details of surface water treatment, prior to discharge, shall be agreed with the local authority prior to the commencement of development.

   Reason: In the interest of public health and to ensure a proper standard of development.

3. There shall be no discharge of process water or treated process water to groundwater or surface water. Any waste material generated from the proposed treatment of process water on-site shall be collected by an authorised contractor.

   Reason: In the interest of proper planning and sustainable development.

4. The developer shall monitor noise, dust deposition and suspended solids of surface water run-off associated with the construction phase and shall submit to the planning authority on a monthly basis a

summary report of all such monitoring. Full details of reporting shall be agreed between the developer and the planning authority prior to the commencement of development.

Reason: To ensure satisfactory monitoring of the development, it is considered reasonable that the developer shall contribute towards the cost of check monitoring of the development in order to pre-empt pollution during the construction phase of the development.

5. The vehicular access arrangements, internal road network, public footpaths within the proposed development site, to service the proposed development shall comply with the requirements of the planning authority.

   Reason: To ensure a satisfactory standard of development.

6. Lighting shall be provided in accordance with a scheme, details of which, including the specification of downward and sensitive lighting proposed, shall be submitted to the planning authority for agreement prior to commencement of development.

   Reason: In the interest of amenity and public safety.

7. The developer shall ensure that:
   (i) Prior to commencement of development, details of a Traffic Management Plan during the construction phase, shall be submitted to the Planning Authority for their written agreement.

   (ii) The Traffic Management Plan shall be subject to on-going review with the planning authority during the whole of the construction period with review periods being directly related to the levels of construction employees on site.

   (iv) Prior to commencement of development, a HGV route strategy shall be submitted to the planning authority for written agreement.

   Reason: In the interest of development control and traffic safety.

8. In relation to Smarter Travel;
   a. In order to ensure compliance with the Workplace Travel Plan, a monitoring report shall be submitted to the Planning Authority on the first anniversary of the first occupation of the development. Further monitoring reports shall be completed and submitted to the Planning Authority on the third and fifth anniversaries of the first occupation of the development.
   b. The Monitoring Report shall assess the level of compliance with the Workplace Travel Plan in terms of both measures and targets. This monitoring report shall include the following information;

i. An assessment of performance against key targets and measures set out in the Workplace Travel Plan.
ii. Information on travel mode share.
iii. Identifying modal split by car, car-sharing, public transport, walking and cycling and to secure sustainable development patterns.

Reason: In the interest of traffic safety.

9. The site shall be landscaped in accordance with a scheme of landscaping, details of which shall be submitted to the planning authority for agreement before development commences.

Reason: In the interest of visual amenity.

10. Details of site boundary treatment shall be submitted for the written agreement of the planning authority prior to the commencement of development.

Reason: In the interest of the amenities of adjoining properties.

11. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

12. Prior to the commencement of development the developer shall submit a full and detailed construction management plan which shall include a construction programme for the works, hours of operation, a traffic management plan, noise and dust mitigation measures(including details of truck wheel wash at the site entrances) and details of construction lighting. A Construction Manager shall be appointed to liaise directly with the council. Details to be agreed in writing with the Planning Authority.

Reason: In the interest proper planning and sustainable development of the area.

13. During the construction phase of the proposed development, the noise level, measured at noise sensitive locations in the vicinity, shall not exceed an LAeqT value of 55 dB(A) during the period 0800 to 2000 hours and an LAeqT value of 45 dB(A) at any other time. Any deviation from these limits required for specific works of limited duration shall be agreed in advance with the planning authority in writing. There shall be no audible tonal component or impulsive component in the noise emission from the activity at any noise sensitive location.

Reason: In the interest of protection of the amenity of adjoining properties.

14. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

    Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

15. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

    Reason: It is a requirement of the Planning and Development Act 2000 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.

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Kenneth Moloney
Planning Inspector
22nd June 2016