



An
Bord
Pleanála

Inspector's Summary of Submissions 08.PM0014A

Development	Application under section 146B of the Planning and Development Act, 2000 (as amended), to alter the terms of a permission for Strategic Infrastructure Development.
Location	Ralappane and Kilcolgan Lower townlands, Tarbert, Co. Kerry.
Planning Authority	Kerry County Council
Applicant(s)	Shannon LNG
Type of Application	Section 146B
Submissions/Observations	<ul style="list-style-type: none">- Ballylongford Enterprise Association- John Fox- Thomas & Mary O'Connell- Clare County Council- Department of Agriculture, Food and the Marine- Tarbert Development Association- Tarbert-Ballylongford Working Group

- Shannon Foynes Port Company
- Kilcolgan Residents Association and Safety Before LNG
- Ken Murphy
- Transport Infrastructure Ireland
- An Taisce
- Friends of the Irish Environment
- Department of Culture, Heritage and the Gaeltacht
- Food and Water Europe & Others
- TCD Environmental Society & TCD Fossil Free
- Not Here Not Anywhere for a Fossil Free Future
- Brid Smith TD, Gino Kelly TD & Richard Boyd-Barrett TD
- Save RGV from LNG
- Friends of the Earth
- People's Climate Clare
- Green Party of Ireland

Inspector

Michael Dillon

1.0 Board Direction

At a meeting held on 4th January 2018, the Board directed that submissions be invited from members of the public and the parties involved in the original planning application ref. 08.PA0002.

2.0 Consequential Correspondence

2.1. By letter dated 10th January 2018, An Bord Pleanála wrote to the applicant, Shannon LNG, indicating that, in accordance with section 146(2)(a) of the Act, that the proposed alteration would constitute a material alteration to the terms of the development. The applicant was informed that the Board had decided to invoke the provisions of section 146B(8) of the Act, and required submission of a copy of the information to be deposited with Kerry County Council for purchase (if required) by members of the public; send notice to the list of Prescribed Bodies, informing them that submissions could be made to An Bord Pleanála before a specified date, and new public notice in two newspapers. The applicant was also requested to erect new site notices. The list of Prescribed Bodies was as follows-

- Kerry County Council.
- Health and Safety Authority.
- Environmental Protection Agency.
- Transport Infrastructure Ireland.
- An Taisce.
- Development Applications Unit of the Department of Arts, Regional, Rural & Gaeltacht Affairs [Department of Culture, Heritage and the Gaeltacht].
- Minister for Agriculture, Food and the Marine
- Clare County Council.
- Limerick County Council [Limerick City & County Council].
- Bord Gáis [Gas Networks Ireland].
- Eirgrid.

- Commission for Energy Regulation [Commission for Regulation of Utilities].
 - Minister for Housing, Planning, Community and Local Government.
- 2.2. A copy of the same letter – this time dated 11th January 2018, is on file – the only apparent difference being the reference to section 146B(2)(b) instead of 146B(2)(a) in the second paragraph.
- 2.3. By letters dated 11th January 2018, the Board wrote to Prescribed Bodies and those who had originally been party to case ref. 08.PA0002, indicating that a request had been received from Shannon LNG in accordance with section 146B of the Planning and Development Act, 2000 (as amended), to alter the terms of a previously permitted development for an LNG Terminal (ref. 08/PA0002), and enclosing a copy of the letter issued to the applicant on 11th January 2018.
- 2.4. An e-mail from the agent for the applicant on 22nd January confirmed that it was intended to publish public notices in the Irish Examiner and Kerry Eye newspapers on Thursday 25th January 2018 – stating a closing date for receipt of submissions/observations by 22nd February 2018. Copy of draft newspaper notice was included. For clarity, reference to Bord Gáis is taken to mean Gas Networks Ireland and reference to the Commission for Energy Regulation is taken to mean the Commission for Regulation of Utilities.
- 2.5. On 22nd January 2018, An Bord Pleanála reverted to the agent for the applicant, with suggested changes to the site notice – to be carried over into the newspaper notices. The e-mail further indicated that- “Contrary to the wording of the original ad issued to Shannon LNG the Board has not made a decision that the amendment sought is material but is instead inviting submissions as to whether the amendment is or is not material”.

3.0 Submission of Applicant

- 3.1. On 5th February 2018, Arup, agent for the applicant, wrote to An Bord Pleanála, re-submitting the documentation which had originally been submitted on 22nd September 2017.
- 3.2. The submission was accompanied by the following documentation of note-

- Copies of letters issued to Prescribed Bodies on 23rd January 2018 (13 in total).
- Copy of new site notice.
- New newspaper notices.

4.0 **An Bord Pleanála issues letters to Parties**

- 4.1. On 6th February 2018, An Bord Pleanála wrote to the applicant, Prescribed Bodies, and those who had originally been party to case ref. 08.PA0002, informing them that the letter issued on 11th January 2018, had been revised (copy included) and also including a copy of the notice published on 25th January 2018, in the Kerry Eye newspaper. The altered section of the letter states- “to invite submissions in relation to whether the making of the alteration to which the request relates would constitute the making of a material alteration to the terms of the development concerned”. The last date for submissions remained the 22nd February 2018.
- 4.2. On 12th February 2018, John McElligott of Safety Before LNG, contacted An Bord Pleanála by e-mail to complain of ‘double decisioning’ in relation to 08.PM0014, and that the Board had acted *ultra vires*. A letter of response from An Bord Pleanála, dated 16th February 2018, explained that an administrative error had been made in the drafting of the original letter. The original letter did not reflect the intention of the Board in relation to how the matter was to be administratively dealt with. It is also clear that no decision has been made by the Board as to whether or not the proposed alteration would constitute the making of a material alteration of the conditions of the development. The correspondent was informed that submissions would be received by An Bord Pleanála up until 22nd February 2018.

5.0 **Submissions from Prescribed & Public Bodies**

- 5.1. Submissions were received from the following-
- 5.1.1. Transport Infrastructure Ireland
Received on 20th March 2018; indicating no comment to make.

5.1.2. An Taisce

Received on 22nd February 2018; the 2008 consent was made without any connection to the electricity grid or gas network. The Ó Grianna case is of relevance. A revised EIA is needed to consider both the LNG Terminal and the grid connection. The 2008 decision failed to address the issue of transboundary climate and other impact of extraction and transport of LNG to the site. Fracking generates significant methane impacts. White J. held, in the case of the Edenderry Power Station, that there is a functional interdependence between the power plant and Bord na Móna bogs. Shipping LNG from the US will likely cause an uptake in global greenhouse gas emissions. Under the terms of the Paris Agreement, Ireland has to limit the development of fossil fuel use.

5.1.3. Development Applications Unit of Department of Culture, Heritage and the Gaeltacht

Received on 22nd February 2018; recommended conditions in relation to underwater archaeology. In relation to European sites, it is noted that there have been a number of changes since March 2008- including extension of SPA; publication of detailed conservation objectives for both the SPA and cSAC; more up to date information is now available on marine mammals; new Regulation has been introduced in relation to prevention and management of the introduction and spread of invasive species on ship hulls and within ballast water; changes in the presence of the Otter species since survey was carried out in 2007, and a resurvey would be required prior to commencement of development.

5.1.4. Department of Agriculture, Food and the Marine

Received on 16th January 2018; indicating no comment to make.

5.1.5. Clare County Council

Received on 15th February 2018; indicating that the Board should have regard to the Strategic Integrated Framework Plan for the Shannon Estuary. The LNG Terminal permission forms part of the overall Tarbert-Ballylongford Landbank which was identified within the SIFP for Marine Related Industry.

5.1.6. Shannon Foynes Port Company

Received on 20th February 2018, from HRA Planning, agent for the Port Company; indicating that it is responsible for all commercial maritime activities on the Shannon

Estuary – including at Ballylongford. The Port Company is fully supportive of the permission and considers that condition 2 should be extended to 15 years. Planning circumstances have not materially changed since 2008 – particularly in relation to European and national energy policy. The LNG Terminal is a Project of Common Interest – a key infrastructure project of the EU. To become a PCI, a project must have a significant impact on energy markets and market integration in at least two EU countries, boost competition and help the EU’s energy security by diversifying sources, and contribute to the EU’s climate and energy goals by integrating renewables. Ireland is the only country in northwest Europe without an LNG Terminal. The National Planning Framework acknowledges the importance of energy sustainability, security of supply and competitiveness. Section 6.4 of the White Paper on Ireland’s Energy Policy confirms that Ireland has no strategic gas storage and very limited operational gas storage. The Strategic Integrated Framework Plan (SIFP) for the Shannon Estuary is fully in support of this project. The SIFP has undergone its own Strategic Environmental Assessment (SEA) and appropriate assessment (AA). Although a non-statutory plan, all three local authorities have either varied their development plans or prepared new ones, incorporating the objectives of the SIFP. The land continues to be zoned for marine-related industry in the Kerry County Development Plan 2015-2021. Objective ES-23 of the Plan supports the development. Planning policy has not changed since 2008. The requested amendment seeks to modify the timescale and not the development proposal. The permitted development has been subject to detailed environmental assessment. Section 42(1)(ii) of the Planning and Development Act, 2000 (as amended) sets out criteria on the acceptability or otherwise of extending the life of a permission under four headings – a) to d). Whilst this is not the relevant section of the Act for the purposes of this application to An Bord Pleanála, it is of relevance to the case in hand. With the potential of a post-Brexit trade regime implementing tariffs on gas piped into Ireland through Britain, there has never been a more critical time to ensure a secure energy supply to the country.

6.0 Submissions of Other Parties

- 6.1. Arising from letters issued to Prescribed Bodies and to individuals/groups/bodies who had been party to the previous application (ref. 08.PA0002), and arising from

revised site/newspaper notices, 16 submissions were received by An Bord Pleanála from the following, both opposed to and in favour of extending the permission-

- Green Party of Ireland, Suffolk Street, Dublin 2 – 22nd February 2018.
- Bríd Smith TD, Gino Kelly TD & Richard Boyd-Barrett TD, Leinster House, Dublin 2 – 22nd February 2018.
- Friends of the Earth, Rathgar, Dublin 6 – 22nd February 2018.
- Kilcolgan Residents Association & Safety Before LNG, (Johnny McElligott) Listowel, Co. Kerry – 20th February 2018.
- Food and Water Europe & Others, Templeogue, Dublin 6W – 22nd February 2018.
- Not Here Not Anywhere for a Fossil Free Future, Heuston South Quarter, Dublin 8 – 22nd February 2018.
- Tarbert Development Association, Tarbert, Co. Kerry – 20th February 2018.
- John Fox, Tarbert, Co. Kerry – 7th February 2018.
- Ken Murphy, Tarbert, Co. Kerry – 21st February 2018.
- Tarbert-Ballylongford Working Group, Tarbert, Co. Kerry – 20th February 2018.
- TCD Environmental Society & TCD Fossil Free, Trinity College, Dublin 2 – 22nd February 2018.
- People's Climate Clare, Ennis, Co. Clare – 22nd February 2018.
- Ballylongford Enterprise Association, Ballylongford, Co. Kerry – 13th February 2018.
- Thomas & Mary O'Connell, Tarbert, Co. Kerry – 7th February 2018.
- Friends of the Irish Environment, Eyeries, Co. Cork – 22nd February 2018.
- Save RGV from LNG, Texas, USA – 22nd February 2018.

6.2. The issues raised, where relevant, can be summarised in bullet point format as follows. I note that many of the points put forward relate to earlier decisions of the Board in relation to this site.

- The extension of permission should be regarded as a material alteration to the terms of the original permission, and should be refused.
- There are newly designated SACs in the vicinity. When originally considered, the Lower River Shannon SAC had only candidate status.
- The River Shannon and River Fergus Estuaries SPA has been expanded since the original permission was granted in 2008. This SPA is home to over twenty species of wetland and water birds.
- Advances in climate science and international climate agreements have been made since the original permission was granted. Reduction in greenhouse gas emissions within the EU is now set at 40%, compared with 20% in 2008. Europe needs to urgently phase out all fossil fuels. No more than one third of proven reserves of fossil fuels can be consumed prior to 2050, if the world is to achieve the two-degree Centigrade goal for limiting climate change.
- Infrastructure may become a stranded asset due to changes in international investment patterns. BNP-Paribas Bank has just withdrawn funding for LNG terminals in the US which would be exporting to Shannon LNG Terminal. Demand for gas in Ireland has dwindled by 20% in recent years.
- There are no plans in place in the event of the future abandonment of the site. Abandonment could lead to safety issues for residents and potential pollution of the environment. The Board must take appropriate measures to ensure that calamitous events do not ensue, in the case that the development is abandoned by its operators. This is particularly so, given that the original promoter has withdrawn from the project.
- EU reductions in burning fossil fuels would likely lead to early redundancy of this facility and potential claims for compensation from the owners to the Irish Government.
- LNG Terminals pose hazards to human health and safety, and to the surrounding environment.
- The Climate Action and Low Carbon Development Act 2015, requires the Board to consider climate change objectives. Climate change impact was

barely touched upon in the original EIS. The Government is committed to reducing CO₂ emissions by 80% by 2050.

- The Paris Climate Accord of 2015, aims to hold the increase in global average temperature to well below the 2 degrees Centigrade above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5 degrees Centigrade above pre-industrial levels.
- The World Bank will end its support for oil and gas extraction within the next two years. Fossil-fuel based energy is outdated and the way forward is with renewable energy.
- Fracked gas could be imported from the US. Ireland has banned terrestrial fracking since 2017. Importing fracked gas would be morally unjustified and would make more difficult the fight of groups in the US to halt the construction of fracking infrastructure.
- The release of fugitive methane emissions from fracking and liquefaction/gasification processes is of concern. Methane (CH₄) is of much more concern than CO₂ in relation to greenhouse gas emissions.
- Since 2008, there have been new EIA Directives, and the Aarhus Convention has been transposed into Irish legislation.
- Appropriate Assessment and Environmental Impact Assessment need to be undertaken for this extension of permission. The Board carried out screening for appropriate assessment of 08.PM0002 in 2013, and the same needs to be done now. No AA was carried out for the original application on this site (ref. 08.PA0002) and so permission cannot be extended – breaching section 41(1)(a)(ii)(IV) of the Act.
- The new Project Ireland 2040 National Planning Framework makes no reference to LNG, and neither does the accompanying National Development Plan 2018-2027.
- Baseline data submitted in original EIS is now long out of date.
- The local region is now being supplied with gas from a new pipeline linking Foynes with Listowel – by-passing the Ballylongford site completely.

- The amending EIA Directive 2014/52/EU requires consideration of resource efficiency, climate change, biodiversity and disaster prevention.
- The Aarhus Convention requires that members of the public be adequately informed of the environmental consequences of the Shannon LNG project, and sufficient time must be given to allow for full engagement with the decision.
- The Seveso III Directive was launched in 2012. LNG poses a serious threat to the surrounding environment and to public health and safety, and much more evidence is now available in relation to the dangers of storage and transportation of LNG than was the case in 2008. Changing weather patterns pose much greater risks for facilities such as this one.
- Public consultation by An Bord Pleanála gives rise to concern at the manner in which letters were issued and dates for submissions. There is concern that the Board has already pre-determined this issue. An Bord Pleanála has acted *ultra vires* in issuing double decisions. This is an abuse of procedure. Fourteen days is not enough time to allow interested persons to participate fairly in the process.
- The construction phase will be at least six years – so a five-year extension will not be sufficient for this project. Section 42(1) of the Act provides that five years is the maximum a permission can be extended. Substantial works have not been carried out on this site. Given that ten years was originally allowed for the ‘completion of this extensive development’, then it is likely that another ten would be required for it – particularly where no work has been carried out to date.
- This is the first time that section 146B has been used to extend a planning permission. As section 42 of the Act does not allow a planning authority to interfere with conditions, and only allows for an extension in isolation from the other conditions, the whole application should be re-examined under section 146B.
- There has not been any change in the regulatory certainty surrounding the onshore transmission grid, by parties using new entry points, as claimed by the applicant.

- If the Shannon LNG Terminal has just been added to the EU list of Projects of Common Interest, then a new SEA of energy developments in Ireland needs to be undertaken to account for this inclusion.
- The list of Prescribed Bodies, which An Bord Pleanála required the applicant to circulate, is not the same as the one provided in the EIS of the original application. The omission of the Minister of Communications, Climate Action and Environment is of particular concern.
- There is concern that groups and individuals who attended the oral hearing into the original scheme (ref. 08.PA0002) were not informed by An Bord Pleanála of this application to extend planning permission.
- There is no investor behind this project – since the original applicant abandoned it in 2015.
- There is no national demand for an LNG Terminal (which would last for thirty years) – Ireland would have to be a hub for the export of this gas abroad.
- A detailed referral on this facility has already been sent to An Bord Pleanála – ABP-300417-17.
- The original planning permission and conditions was welcomed by groups and individuals in the area, and the proposed extension of permission is supported.
- The extension will have no impact on the environment and is reasonable.
- There will be no change to the other conditions imposed, and permits required for this development.
- Jobs which this development will bring, are much needed in the area – where there are no jobs for young people.
- 99% of the population of North Kerry and West Limerick are genuinely very supportive of this project. This landbank was purchased in 1959 – and this is the first project which has been granted permission on the site.
- Development will tarnish the clean environment tourism of County Clare.
- If LNG is regarded as a transitional fuel, the length of the transition to a low-carbon energy system needs to be discussed. The means of generating

electricity in the state needs to be decided – these are all significant changes since 2008, and argue against the extension of permission.

- Ireland is likely facing fines of up to €455 million for failing to meet Paris Agreement targets on fossil fuel use by 2020. Constructing new fossil fuel infrastructure will not help to meet the targets.

6.3. The submissions are accompanied by the following documentation of note-

- Petition of 933 objectors from Friends of the Earth.
- Details of referral to An Bord Pleanála (dated 5th December 2017) from Safety Before LNG.
- Copy of letters/press releases in relation to complaint of double decisioning between John McElligott and An Bord Pleanála.
- Open letter to An Bord Pleanála calling for proper public consultation in relation to LNG Terminal at Ballylongford (undated).
- Correspondence from Safety Before LNG in relation to Section 5 referral to KCC and An Bord Pleanála.
- Testimony of John Young of Save RGV from LNG, Rio Grande Valley, Texas, USA – dated 12/11/2017.

7.0 **An Bord Pleanála refers Submissions/Observations**

By letters dated 8th and 23rd March 2018, An Bord Pleanála referred the submissions/observations received, to the applicant, Shannon LNG and to Kerry County Council for information.

8.0 **An Bord Pleanála Extends Time for Submissions/Observations**

8.1. By letters dated 10th April 2018, An Bord Pleanála wrote to the parties to this application, acknowledging that there had been administrative errors made in the processing of the case, and that those errors had caused some confusion and that additionally persons involved in the case had complained about the time given for comment arising from the date of the letters issued. It was confirmed that no

decision had been made by the Board to date in relation to the application. In the interest of fairness, additional time was allowed for comments – up to 14th May 2018.

8.2. This letters from the Board elicited a further four submissions/observations from the following-

- Not Here Not Anywhere for a Fossil Free Future, Heuston South Quarter, Dublin 8 – 14th May 2018.
- Kilcolgan Residents Association & Safety Before LNG, Listowel, Co. Kerry – 14th May 2018.
- An Taisce – 11th May 2018 [Copy of original submission of 22nd February 2018].
- Kerry County Council – 14th May 2018.

8.3. The issues raised in the submissions, where different from those already made to An Bord Pleanála, and summarised in this Inspector’s Summary of Submissions, can be summarised in bullet point format as follows-

- The decision of the Board will have long-term implications for Ireland’s future energy policy, and the ability of the country to fulfil climate commitments under the Paris Agreement.
- The decision will integrate Ireland into the global fracking industry.
- The EU Parliament is breaching its own SEA Directive by approving the EU Energy Programme of Projects of Common Interest without any environmental assessment or consideration of reasonable alternatives. PCI projects may be considered as being of overriding public interest. There was no environmental report accompanying the approval of the first PCI list. If An Bord Pleanála approves the extension of planning for Shannon LNG, without requiring SEA on what is already a split project in the Priority Corridor North-South Gas Interconnections in Western Europe, this will be a clear example of a breach of EU law by Ireland.
- The Union List of Projects of Common Interest has grouped Shannon LNG in the Priority Corridor North-South Gas Interconnections in Western Europe

(NSI West Gas) which includes Northern Ireland and Scotland. A cumulative SEA of these projects is required by An Bord Pleanála.

- There is a new gas distribution pipeline from Foynes to Listowel. When the case for the pipeline from Shannon LNG to Foynes was being debated, it was argued that the pipeline could also serve Listowel. Things have clearly changed since that time.
- A number of Irish MEPs are opposed to Shannon LNG being included on the PCI list.
- The site is owned by the state – Shannon Commercial Properties (formerly Shannon Development). There are rumours about a US company ready to sign a deal in relation to a gas-based project on the site. An Bord Pleanála needs to request information on any such deal from Shannon Commercial Properties under the precautionary principle – in order to assess the cumulative impacts of any such deal before it reaches any decision.
- Having SEAs at an individual project level amounts to project splitting. SEA needs to be carried out for combined gas projects.
- The National Planning Framework recognises the Strategic Integrated Framework Plan for the Shannon Estuary as a model of multi-agency collaboration. The National Planning Framework also provides for increased linkages to the area through the Limerick-Foynes national route corridor and the Listowel By-pass, thereby positioning the Ballylongford lands as a strategic development site of national importance.

8.4. The submissions are accompanied by the following documentation of note-

- Sample of comments in relation to Uplift Petition – and list of those associated with the petition.
- EU Parliament motion objecting to the PCI list – 8th March 2018.
- EU list of Projects of Common Interest – 23rd November 2017.
- Issue Brief – May 1017, “The Trans-Atlantic Plastics Pipeline: How Pennsylvania’s Fracking Boom Crosses the Atlantic”. (Food & Water Watch).

- Letter from Matt McCarthy MEP to Safety Before LNG – dated 23rd April 2018, in relation to PCI vote at the EU Parliament.
- Letter from Lynn Boylan MEP to Safety Before LNG – dated 16th March 2018, in relation to PCI vote at the EU Parliament.
- Extract from RTE news website quoting EPA press release in relation to Ireland not meeting 2020 greenhouse gas emissions targets – dated 13th April 2017.
- Irish Times article by Eoin Burke-Kennedy in relation to bill which Ireland will face for missing climate targets – dated 24th November 2017.

9.0 Correspondence from European Commission

By letter, dated 1st March 2018, the European Commission Directorate-General for Energy wrote to An Bord Pleanála in relation to this site. The response of An Bord Pleanála of 11th April 2018, is on file. The further response of the European Commission of 17th May 2018, is on file.

10.0 Board Memo

A Memo from the Board, to Diarmuid Collins, SAO (dated 1st May 2018), indicated that the case should be referred back to the original reporting Inspector to summarise the submissions received: and it is on the basis of this Memo, that this Inspector's Summary of Submissions is prepared.

Michael Dillon,
Planning Inspectorate.

24th May 2018