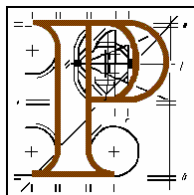


An Bord Pleanála



STRATEGIC INFRASTRUCTURE DEVELOPMENT

PLANNING AND DEVELOPMENT ACTS 2000 TO 2007

An Bord Pleanála Reference Number: PL 08.PA0002

(Planning Authority: Kerry County Council)

APPLICATION for permission under section 37E of the Planning and Development Act, 2000, as amended, in accordance with plans and particulars, including an Environmental Impact Statement, lodged with An Bord Pleanála on the 24th of September, 2007 by Shannon LNG Limited care of Arup Consulting Engineers, 15 Oliver Plunkett Street, Cork.

PROPOSED DEVELOPMENT: Construction of a Liquefied Natural Gas (LNG) Regasification Terminal located on the Southern Shore of the Shannon Estuary in the townlands of Ralappane and Kilcolgan Lower, County Kerry.

DECISION

GRANT permission under section 37G of Planning and Development Act, 2000 as amended, for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

DETERMINE under section 37H(2)(c) the sum to be paid by the applicant in respect of costs associated with the application as set out in the Schedule of Costs below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included the submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to:

- (a) The provisions of the National Development Plan in relation to security of energy supply,
- (b) the strategic goals of the government White Paper, entitled “Delivering a Sustainable Energy Future for Ireland”, published in 2007, which seek to ensure secure and reliable electricity and gas supplies, to enhance the diversity of fuels used for power generation and to be prepared for energy supply disruptions,
- (c) the objectives of the Kerry County Development Plan, 2003-2009, including the industrial zoning objective and the objective to identify lands in key strategic locations that are particularly suitable for development that may be required by specific sectors,
- (d) the identification in the Kerry County Development Plan, 2003-2009, of lands at Ballylongford/Tarbert as suitable for development as a premium deepwater port and for major industrial development and employment creation,
- (e) the accessibility of the site to sheltered deep water capable of being reached by the largest contemplated liquefied natural gas tanker ships,
- (f) the proximity of the site to the national gas transmission grid at a point where there is sufficient capacity to accept the gas output of the terminal,
- (g) the detailed design of the proposed development, including the mitigation measures of the environmental impact statement,
- (h) the submissions and observations received in relation to the likely effects on the environment of the proposed development, and
- (i) the report and recommendation of the person who conducted the oral hearing,

it is considered that, subject to compliance with the conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health or safety and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, not have significant effects on the environment and would 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 and particulars, including the environmental impact statement, lodged with An Bord Pleanála on the 24th day of September 2007, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. This permission shall, in accordance with the application, be for a period of ten years from the date of this order.

Reason: In order to allow a reasonable period for the completion of this extensive development.

3. The construction of the liquefied natural gas terminal shall be undertaken as a single continuous project, or, alternatively, shall be carried out on a phased basis, with each phase being related to the construction of one or more of the full containment liquefied natural gas storage tanks. In the event that the proposed development is undertaken on a phased basis, the first phase shall be related to the construction of two of the full containment liquefied natural gas storage tanks. The developer shall advise the planning authority of the proposed phasing, if any, prior to the commencement of development.

Reason: In the interest of clarity and to reduce the construction period in the interest of residential amenity.

4. The southwestern boundary and the extent of the site shall be amended so as to entirely exclude the road to Kilcolgan Strand and the parking/turning area at its termination. The boundary shall be relocated in such a manner as to allow unimpeded pedestrian access to the shoreline in a straight-line projection from this road from the terminating parking/turning area. The relocated site boundary and fence shall be as agreed during the course of the oral hearing in connection with the proposed development and shall be as shown on modified Arup Drawing No. SK-107 received by the Board on the 12th day of March, 2008.

Reason: To maintain existing access to the shoreline.

5. The entrance to the administration complex shall be relocated in an easterly direction by approximately 50 metres, as shown on Arup Drawings SK-105 and SK-106, presented at the oral hearing on the 29th day of January, 2008.

Reason: In the interest of residential amenity.

6. Subject to any further amendments required to accommodate the relocation of the entrance to the administration complex, required at Condition 5, above, the road boundary fence line shall be set back as shown on the drawing entitled “Proposed Alternative Fence Location”, submitted as part of the landscape and visual presentation images at the oral hearing on the 25th day of January, 2008. The planting and landscaping between this setback boundary and the existing road boundary shall be amended as shown on this drawing.

Reason: In the interest visual amenity.

7. In accordance with the terms of this permission the liquefied natural gas terminal shall be for the purpose of supplying natural gas in to the national grid and may, have the purpose of providing strategic reserve storage. No gas, whether in liquid or gaseous form, shall be permitted to leave the site by road tanker, nor, except in the event of an emergency, shall there be any re-export of liquefied natural gas from the site by tanker ship.

Reason: In the interest of clarity and of orderly development and traffic safety.

8. Prior to the commencement of the main construction elements of the development, all necessary public infrastructure works shall be completed to the satisfaction of the planning authority. This shall not preclude the undertaking of site preparation and earthworks contemporaneously with the upgrading of the L1010 coast road. The precise extent of works, which may be carried out prior to the completion of the public infrastructure works, shall be submitted to and agreed in writing with the planning authority, prior to commencement of development and in default of agreement, shall be determined by An Bord Pleanála.

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

9. Prior to commencement of development, the developer shall submit and agree in writing with the planning authority a detailed traffic management plan. This management plan shall include restrictions on traffic movements at Tarbert Comprehensive School, which shall prohibit the movement of heavy goods vehicle traffic associated with the construction of the terminal for a minimum period of 20 minutes before and ten minutes after the opening and closing times of the school. It shall also include the staggering of various shift start and finish times.

Reason: In the interest of traffic and pedestrian safety.

10. All vehicles traversing unpaved areas of the construction site shall pass through wheelwash facilities with rumble grids. These shall be located inside all exits from the site. All vehicles leaving the site shall be monitored to ensure that the public road is kept free of mud and debris.

Reason: In the interest of traffic safety and general amenity.

11. Prior to commencement of development, the developer shall submit and agree in writing with the planning authority, a monitoring programme for the condition of the L1010 coast road during the construction phases of the proposed development from the southernmost extremity of the site to Tarbert. The monitoring programme shall include details of the frequency of surveys, acceptable surface standards and response times for agreed works. In the event that identified remedial works are to be carried out by the planning authority, all costs associated with these works shall be reimbursed to the planning authority by the developer.

Reason: In the interest of traffic safety.

12. The developer shall maintain on site, for the duration of the construction period, oil abatement kits comprising of booms and absorbent materials. The precise nature and extent of the kits shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To prevent water pollution.

- 13(a) During the site clearance, preparation and construction phase of the proposed development, the resulting noise level, when measured at the nearest noise sensitive location, shall not exceed-

- (i) an $L_{Aeq}1$ hour value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday (inclusive), and
- (ii) an $L_{Aeq}15$ minutes value of 45 dB(A) at any other time.

- (b) All sound measurements shall be carried out in accordance with ISO Recommendations R 1996, "Assessment of Noise with Respect to Community Response" as amended by ISO Recommendations R 1996/1, 2 and 3, "Description and Measurement of Environmental Noise", as appropriate.

Reason: To protect the amenities of properties in the vicinity of the site.

- 14 (a) The vibration levels from blasting shall not exceed a peak particle velocity of 12mm/sec.

- (b) Blasting shall not give rise to air overpressure values exceeding 125 dB (Lin) max peak.

- (c) Blasting shall only take place between the hours of 10.00 a.m. to 17.00p.m Monday to Friday. Prior to the firing of any blast, the developer shall give notice of his intention to the occupiers of all dwellings within 600 metres of the site. An audible alarm for a minimum period of one minute shall be sounded. This alarm shall be of sufficient power to be heard at all dwellings adjacent to the site.

Reason: In the interest of residential amenity and public safety.

15. During the site clearance, preparation and construction phase of the development, dust levels shall not exceed 350 milligrams per square metre (TA LUFT Air Quality Standard) per day averaged over 30 days, when measured at the site boundary.

Reason: In the interest of public health and residential amenity.

16. The developer shall employ suitably qualified marine mammal observers for the duration of sub-tidal piling and on-shore blasting. Commencement of piling or blasting shall be delayed if the marine mammal observers note dolphins within 500 metres of the site within 20 minutes of the planned commencement of works. No action shall be necessary if a dolphin approaches once operations have commenced. A log of the marine mammal observer operations shall be submitted to the planning authority, following completion of these works.

Reason: In the interest of wildlife protection.

17. The acoustic monitoring programme carried out in assessing the potential impact of the proposed development on the resident bottle-nosed dolphin population shall be continued through the construction phase and for a period of 24 months into the final operational phase. The results of the monitoring programme shall be submitted to the planning authority at 12 monthly intervals.

Reason: In the interest of wildlife protection.

18. During the construction phase, the developer shall adhere to the document entitled "Guidelines for the Treatment of Badgers prior to the Construction of National Road Schemes" published by the National Roads Authority in 2006. In particular, there shall be no blasting or pile driving within 150 metres of an active badger sett during the breeding season (December to June) or construction works within 50 metres of an active sett during the breeding season.

Reason: In the interest of wildlife protection.

19. Where an existing badger sett would be disturbed or destroyed, an artificial sett shall be constructed beforehand and the badgers relocated thereto. Details of any such artificial setts shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of wildlife protection.

20. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The proposed mitigation measures set out in the environmental impact statement in relation to bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be copied to the planning authority.

Reason: In the interest of wildlife protection.

21. As soon as practical, a monitoring programme shall be instituted to monitor the movement of winter wetland birds along the shore adjacent to the application site between Ballylongford Bay and Tarbert Bay. This monitoring programme shall continue through the construction phase and for a period of 3 years after the final construction, with monthly surveys from October to March. The results of this monitoring programme shall be submitted to the planning authority at 12 monthly intervals.

Reason: In the interest of wildlife protection.

22. Prior to the destruction of the existing sand martin breeding cliffs within the site, the developer shall ascertain the suitability of alternative potential nesting locations within a distance of 500 metres of the site. Should no suitable natural locations be found within this distance, artificial burrows shall be provided within the site.

Prior to commencement of development, details showing compliance with this requirement shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of wildlife protection.

23. The removal of frogs from the site shall be undertaken during the months of August-February only and shall be carried out under licence from the National Parks and Wildlife Service.

Reason: In the interest of wildlife protection.

24. The design of the water intake shall be based on best available technology and shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. A monitoring programme shall be implemented following the commissioning of the water intake over the course of 2 years to provide an estimate of the numbers of impinged and entrained organisms, particularly fish and macro-crustaceans. The results of this monitoring programme shall be submitted to the planning authority at 12 monthly intervals and every effort shall be made to facilitate any changes, which may be deemed necessary to reduce the numbers of impinged and entrained organisms.

Reason: In the interest of wildlife protection.

25. The effects on the salt marsh of regulating the flow of water downstream of the holding pond during the pond filling period and reverting to the natural flow regime thereafter shall be monitored and any alterations to the flow, deemed necessary, shall be made.

Reason: In the interest of wildlife protection.

26. During the construction phase, the developer shall adhere to the document entitled “Guidelines for the Treatment of Otters prior to the Construction of National Road Schemes”, published by the National Roads Authority in 2005. In particular a pre-construction otter holt survey shall be conducted no more than 10-12 months in advance of construction.

Reason: In the interest of wildlife protection.

27. During the filling of the pond, the stream shall be diverted along an alignment following its ultimate southern margin and paralleling the top of the embankment, as shown on the amended Arup Figure 3.11 and amended extract from Arup Drawing C1676/C021, submitted at the oral hearing on the 29th day of January, 2008.

Reason: To minimise the impact on the stream, downstream of the embankment.

28. The full containment liquefied natural gas storage tanks shall have an uncoloured plain concrete finish. They shall not be used for any form of advertising or name signs.

Reason: In the interest of visual amenity.

29. Prior to commencement of development, the developer shall enter into discussions with the landowners at Ralappane House and the house approximately 500 metres to the east of Ralappane House with a view to providing additional screen planting in the vicinity of these houses. Such planting shall be designed to screen the liquefied natural gas tanks from view in as short a time as possible, having due regard to the exposed conditions at these locations. Details of agreed planting, at a minimum scale of 1:500, shall be submitted for the records of the planning authority. In the event that this should not prove possible, as a result of the failure to obtain the consent of the landowners, evidence of having attempted to achieve such consent shall be submitted for the records of the planning authority.

Reason: In the interest of visual amenity.

30. Prior to commencement of development, the developer shall submit and agree in writing with the planning authority, details in relation to the site clearance and preparation phase of the development. These details shall include a waste management plan, the timely and secure fencing of the entire land boundary, including details of any temporary fencing, arrangements for the storage and dispensing of all oils, including fuel, hydraulic and lubricating oils and their storage within bunded areas, the provision oil pollution equipment, the provision of mobile bowsers, machinery reversing alarms, the treatment of surface waters and run off waters which may be contaminated by silt, grit, etc., and the treatment of sanitation and canteen waste.

Reason: In the interest of orderly development and the protection of the environment.

31. Prior to commencement of development, the developer shall submit and agree in writing with the planning authority, a timetable for the planting and landscaping shown on Brady Shipman, Martin Drawing C501. Should it be intended to carry out this planting in a series of phases or areas, this shall be illustrated with appropriate maps and shall be submitted to and agreed in writing with the planning authority, prior to commencement of development and in default of agreement, shall be determined by An Bord Pleanála.

Reason: In the interest of visual amenity.

32. The following archaeological requirements shall be complied with in the development: -

- (a) Targeted archaeological testing shall be undertaken at areas B, C, F, I, J, K, L, M, 6, 8, 10 and 13 (as identified in the archaeological assessment report) and in the identified areas of archaeological potential.
- (b) A wade and metal detection survey shall be undertaken on the watercourse.
- (c) Areas CHS2, CHS4, CHS5, CHS6, CHS7, CHS9, CHS13 and CHS15 shall be fully recorded in advance of removal.
- (d) A seabed impact exclusion zone of 50 metres shall be established around feature SS8 (as identified in the archaeological assessment report) during the construction phase of the development.
- (e) A diver survey shall be undertaken along the footprint of the proposed jetties and, where archaeological material/features are shown to be present, they shall be preserved *in situ*, preserved by record, avoided or monitored, as appropriate.

(f) The results of archaeological testing, in consultation with the planning authority, shall inform the size and extent of the buffer zone around the ringfort CH10, Area G and Area 17 (as identified in the archaeological assessment report).

(g) Scheduled testing shall be undertaken.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation of any remains which may exist within the site.

33. Prior to commencement of development, the developers shall agree the location and nature of any obstacle lights, which may be necessary, with the Irish Aviation Authority. Details of such lights, if any, shall be submitted for the records of the planning authority.

Reason: In the interest of public safety.

34. Prior to commencement of development, a comprehensive lighting scheme for the development shall be prepared and implemented. This shall be prepared by a suitably qualified lighting specialist, and shall minimise light pollution from the facility. Full cut-off lighting shall be employed for all lighting of roads, parking, and other relevant surface lighting. It may be appropriate to employ variable lighting levels or other controls to minimise unnecessary lighting. The scheme shall also set out practices to minimise light pollution during construction.

Reason: In the interest of visual amenity.

35. 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 considered reasonable that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000 as amended be applied to the permission.

36. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of

- Upgrading the public water infrastructure serving the site from a 50 millimetre diameter main to a 150-millimetre diameter Class C watermain.
- Provision of specialist fire fighting facilities for the fire service.
- Upgrading and widening the L1010 coast road to the standard required to facilitate the project.
- Upgrading footpaths and the road surface of Bridewell Street, Tarbert and the development of an off-street car park to facilitate proposed traffic management and parking control measures.
- Improvements at the junction of the R551 and L1010.

(In the event of the specified infrastructure benefiting subsequent developments, contributions arising shall be apportioned to each development. While the entire contribution is payable, as the works are immediately required for the current development, on completion of subsequent developments, the current developer shall receive the benefit of development contributions as apportioned).

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs, which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which shall benefit the proposed development.

37. Prior to commencement of development, the developer shall prepare an Annual Community Contribution Scheme to be administered by the planning authority in conjunction with the Community Liaison Committee established under condition 38 for the benefit of the local community. The amount of the contribution shall be €200,000 (two hundred thousand euro) per annum for the duration of the development. The first payment contribution shall be paid prior to commencement of development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition 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.

Reason: It is considered appropriate that the developer should contribute towards the cost of community projects in the vicinity of the development, in accordance with the provisions of section 37g(7) of the Planning and Development Act, 2000, as amended by the Planning and Development (Strategic Infrastructure) Act, 2006.

38. Prior to commencement of development a community liaison committee shall be established to liaise between the developer and the local community. The membership of the committee shall include representation from two elected members of Kerry County Council, two officials of Kerry County Council, three members of the local community (Ballylongford, Kilcolgan and Tarbert) and two representatives of the developer. The community liaison committee shall have responsibility for the administration of the community fund to be set out under condition number 37 above and for decisions on projects to be supported by the fund in addition to acting as a liaison committee with the local community in relation to ongoing monitoring of the construction and operation of the proposed terminal.

Reason: To provide for appropriate ongoing review of operations at the site in conjunction with the local community and to provide for the allocation of resources from the community gain fund in accordance with the requirements of the local community.

39. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of the development. The bond shall remain in place for a period of 17 years from the date of grant of permission, or until such time as the development has been completed to the satisfaction of the planning authority in accordance with the conditions of the planning permission hereby granted (whichever is the sooner). The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be determined by An Bord Pleanála.

Reason: To ensure the satisfactory completion of the development.

40. On or before the date of expiry of the cash deposit, bond or other security required at Condition 45, above, the developer shall lodge a similar form of financial security to secure the satisfactory reinstatement of the site upon cessation of the project. The form and amount of the security shall be as agreed between the planning authority and the developer, or, in default of agreement, shall be determined by An Bord Pleanála.

Reason: To secure the satisfactory reinstatement of the site, in the interests of visual amenity.

SCHEDULE OF COSTS

In accordance with section 37H of the Planning and Development Act 2000 as amended the Board requires the following costs to be paid by the applicant-

	€
To An Bord Pleanála towards the cost of determining the application	162,124.00
To Kerry County Council towards reasonable costs incurred in consideration of the application.	43,076.00
To Kilcolgan Residents Association as a contribution towards the costs incurred during the course of consideration of the application.	2,876.00
Total:	€208,076.00

Note: A breakdown of this sum is set out in the attached Appendix.

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

Dated this day of 2008.