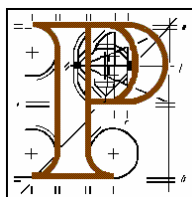


An Bord Pleanála



STRATEGIC INFRASTRUCTURE DEVELOPMENT

PLANNING AND DEVELOPMENT ACTS 2000 TO 2011

An Bord Pleanála Reference Number: 08.PA0028

(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 21st day of December, 2012 by Shannon LNG Limited of Clieveragh Business Park, Listowel, County Kerry.

PROPOSED DEVELOPMENT: Combined heat and power plant consisting of: a 500 megawatt nominal capacity, water cooled, combined cycle gas turbine (CCGT) electric generation facility which includes a turbine hall, gas turbine, electric generator, steam turbine, water cooled condenser, heat recovery steam generator, main exhaust stack, raw and process water storage and treatment, auxiliary boiler and related systems and civil works including roads and parking, administration building, control/operations building, workshop, stores and canteen building and various electrical and mechanical subsystems, structures, annexes and other associated equipment necessary to complete the electric generation facility; heat transfer equipment consisting principally of piping and equipment and associated structures to supply waste heat to the LNG Terminal seawater vaporisation system; a natural gas fuel system consisting of a regulator building, heater building, meter building, instrument building, analyser building and instrument kiosk housing meters, valves and piping (above ground and below ground) and equipment, equipment skids and related works to supply fuel at the required gas quality and condition via a piping system originating at the LNG Terminal and terminating at the gas turbine; modifications to the LNG Terminal seawater intake and discharge system and structures, pipes and pumphouse and supporting equipment (granted planning permission under case reference number PL 08.PA0002) to allow shared use of the seawater by the CHP Plant

and the LNG Terminal; a 220kV electrical substation comprising gas insulated electrical equipment as well as offices and other facilities housed within a building, two transformers located outdoors, electrical cabling and all associated substation infrastructure and civil works including roads, fences and parking and associated new site/civil works including roads, fences, landscaping and laydown areas at the CHP Plant site and modifications of roads, fences, landscaping and laydown areas and other site/civil works (granted planning permission under case reference number PL 08.PA0002), a fire water piping system, potable water supply system, foul water treatment plant, a storm water collection system with a new storm water outfall traversing the intertidal area underground and extending out into the Shannon Estuary, as well as other ancillary facilities and infrastructure necessary to complete the project, all located on the site of the approved Shannon LNG Terminal 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

In coming to its decision, the Board had regard to the following:

- a) the provisions of the National Development Plan, 2007-2013 in relation to diversity and 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 supplies, and to achieve a target of at least 800MW from combined heat and power by 2020,
- c) the National Spatial Strategy, 2002-2020 which seeks to strengthen energy networks in the regions,
- d) the National Renewable Energy Action Plan, 2010 which seeks to achieve specified climate and energy targets, including the reduction in greenhouse gasses and improvement in energy efficiency,
- e) Ireland’s Second National Energy Efficiency Action Plan to 2020 which seeks to improve energy efficiency and makes specific reference to the role of combined heat and power in reducing greenhouse gas emissions, and restates the objective of achieving 800MW of electricity through combined heat and power by 2020,
- f) the planning history of the site, specifically the LNG Terminal granted under case reference number PL 08.PA0002 and the LNG gas pipeline granted under case reference number PL 08.GA0003,
- g) the EU Habitats Directive (92/43/EEC),
- h) the European Communities (Birds and Natural Habitats) Regulations, 2011,
- i) Draft Strategic Integrated Framework Plan for the Shannon Estuary,
- j) the objectives of the Kerry County Development Plan, 2009-2015, including the industrial zoning objective and the objective to support the development of large scale industrial uses on zoned land within the Tarbert/Ballylongford area,

- k) the submissions and observations received in relation to the likely effects on the environment,
- l) the requirement to obtain an Integrated Pollution Prevention and Control (IPPC) licence,
- m) the advice given by the Health and Safety Authority,
- n) the mitigation measures set out in the environmental impact statement, and
- o) the likely consequences for the environment, and the proper planning and sustainable development in the area in which it is proposed to situate the said development, and the likely significant effects of the proposed development on a European site, and
- p) the Inspector's Report.

The Board considered the Natura impact statement submitted with the application for approval, and the mitigation measures contained therein, and carried out an Appropriate Assessment of the potential impacts on the affected Natura 2000 site, namely the Lower River Shannon candidate Special Area of Conservation (site code 002165) and the River Shannon and Fergus Estuaries Special Protection Area (site code 004077), and, in doing so, took into account the submissions on file in relation to ecology and the Inspector's assessment. The Board was satisfied that the proposed development would not be likely to have a significant effect, individually or in combination with other plans or projects, on the environment, on the amenities of the area or on these European sites. The Board concluded that the proposed scheme would not have an adverse effect on the integrity of the European sites, having regard to their conservation objectives.

It is noted that the environmental impact assessment carried out by the Inspector, and reported on in the report dated 17th June, 2013, has been carried out giving full consideration to the environmental impact statement submitted with the application, all submissions and observations validly made in relation to the environmental effects of the development. It is considered that the report dated 17th June, 2013 generally contains a fair and reasonable assessment of the likely significant effects of the development on the environment. The assessment, as reported, is adopted as the assessment of the Board.

Having regard to the permitted LNG Terminal on the site, the strategic benefits in terms of energy, security and diversity of supply and the benefits in terms of energy efficiency of the proposed combined heat and power plant, the Board considered that, subject to compliance with the conditions set out 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 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 proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The 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 developer shall implement in full the mitigation measures contained in the environmental impact statement and the Natura impact statement submitted with the application, save where any such mitigation measures relate to emissions to the environment falling within the scope of the Integrated Pollution Control and Prevention licence, responsibility for which rests with the Environmental Protection Agency.

Reason: In the interest of clarity and the proper planning and sustainable development of the area, and to ensure the protection of a European site.

4. The construction of the combined heat and power plant shall be undertaken as a single continuous project, and the electricity generation facility shall not be constructed independently of the heat transfer facility.

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

5. The electricity generation facility shall not operate commercially prior to the commissioning of the LNG terminal.

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

6. Details, including samples, of the materials, colours and textures of all the external finishes to the proposed buildings and plant, shall be submitted to, and agreed in writing with, the local authority prior to commencement of development. The structures hereby permitted shall not be used for any form of advertising or name signs.

Reason: In the interest of the visual amenities of the area.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

8. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a detailed construction traffic management plan. This plan shall include:

- (a) a detailed phasing plan in respect of the construction of the proposed development and the LNG terminal development permitted under case reference number PL 08.PA0002. If the two projects are to be constructed simultaneously, the L1010 (Coast Road)/R551 junction shall be temporarily re-configured in accordance with details to be agreed in writing with the local authority, to accommodate the projected traffic volumes travelling along the Coast Road,
- (b) procedures for the implementation of the mitigation measures as set out in the environmental impact statement in respect of simultaneous construction of the proposed development, the LNG Terminal and the re-development of the Tarbert Power Station,
- (c) details of the timing and routing of construction traffic to and from the construction site and associated directional signage,
- (d) the staggering of various shift start and finish times, and
- (e) 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.

Reason: In the interest of traffic and pedestrian safety.

9. 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 phase 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 local authority, all costs associated with these works shall be reimbursed to the planning authority by the developer.

Reason: In the interest of traffic safety.

10. The construction of the combined heat and power plant shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall provide details of intended construction practice for the development, including:
- (a) Details of foundation construction, including a management strategy for any required dewatering.
 - (b) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
 - (c) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
 - (d) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
 - (e) Provision of a minimum 20 metre buffer zone in respect of the candidate Special Area of Conservation and the proposed National Heritage Area.
 - (f) The means of ensuring that surface water run-off is controlled such that no silt or other pollutants enter surface water, ground water or the Shannon Estuary.
 - (g) Details of car parking facilities for site workers during the course of construction.

- (h) A dust minimisation plan outlining the dust suppression measures proposed during the construction phase. These measures shall ensure that dust from the site and from site traffic shall not exceed 350mg per square metre per day at the site boundaries.
- (i) An emergency response plan detailing procedures to be undertaken during the construction phase of the development, in the event of a spill of chemical, fuel or other hazardous waste on site.
- (j) The containment and disposal of foul drainage from all site offices and construction facilities in an appropriate manner to prevent pollution.
- (k) The location of all batching and mixing activity in areas well removed from watercourses and drains and the carrying out and containment of washout from the mixers of concrete lorries in designated impermeable areas.
- (l) The maintenance of a record of daily checks confirming that works are being undertaken in accordance with the Construction Management Plan which shall be available for inspection by the local authority.

Reason: To minimise emissions to the environment from the construction phase of the development and not covered by Integrated Pollution Prevention and Control licensing arrangements in order to protect groundwater and surface water and the general amenities of the area.

- 11. Prior to commencement of development, a Construction and Demolition Waste Management Plan, as specified in the Natura impact statement shall be submitted to, and agreed in writing with, the local authority.

Reason: In the interest of sustainable waste management.

- 12. Prior to commencement of development, the developer shall agree the location and nature of any obstacle lights, which may be necessary, with the Irish Aviation Authority. Red or continuous lighting, which could pose a collision risk to birds, shall not be used to light the stack, and no guy wires or cables shall be attached to the structure. Details of such lights, if any, shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of public safety.

13. 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.

14. The developer shall employ suitably qualified marine mammal observers for the duration of any piling or 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.

15. (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 LAeq1 hour value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday (inclusive), and
 - (ii) an LAeq15 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.

Construction activity outside these hours, other than works required in response to an emergency, shall require the prior written agreement of the planning authority and shall accord with the noise parameters set by the planning authority.

Reason: To protect the residential amenities of property in the vicinity of the site and to ensure the protection of fauna in the area.

16. (a) Prior to commencement of development, the developer shall engage the services of a landscape architect, or other suitably-qualified professional, who shall be retained to advise on the external finishes and lighting of the CHP plant and landscaping and/or planting within the site.
- (b) The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) The scheme shall include a timescale for implementation. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

17. 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 construction works within 50 metres of an active sett during the breeding season.

Reason: In the interest of wildlife protection.

18. 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.

19. 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.

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 throughout the construction phase and for a period of three 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. 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.

23. 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 two 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.

24. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. Particular attention shall be given to the three circular features identified as potential archaeological monuments from aerial photography (Field 61) and parts or all of fields 30B, 31, 42, 45, 46, 47, 54, 57, 58, 59, 60 & 61. The areas requiring testing are outlined in the

environmental impact statement. This testing shall be carried out prior to resolution of features and strata identified previously as part of Shannon LNG testing strategy. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation, including hydrological and geotechnical investigations relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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

25. 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 roads, footpaths, watermains, drains, open space and other services required in connection with the development, together with the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. 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 referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

26. 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 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.

27. 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:
- (a) Upgrading the public water infrastructure serving the site to a 200-millimetre diameter Class C watermain.
 - (b) Upgrading and widening the L1010 Coast Road to the standard required to facilitate the project.
 - (c) Parking restrictions along Bridewell Street in the vicinity of the junction with the N67(Ferry Port Road) and N69 (Listowel to Tarbert Road).

The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

(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.

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 towards costs incurred the planning authority in its consideration of the application:-

To Kerry County Council	€10,593
Reimbursement of fees by An Bord Pleanála to the applicant	€30,017

A breakdown of the Boards costs is set out in the attached Appendix 1.

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

Dated this day of 2013.