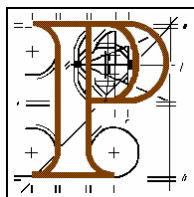


An Bord Pleanála



STRATEGIC INFRASTRUCTURE DEVELOPMENT

PLANNING AND DEVELOPMENT ACTS 2000 to 2007

An Bord Pleanála Reference Number: 08.GA0003

(Local Authorities: Kerry County Council and Limerick County Council)

APPLICATION for approval under section 182C(1) 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 14th day of August, 2008 by Shannon LNG Limited care of Arup Consulting Engineers of 15 Oliver Plunkett Street, Cork.

PROPOSED DEVELOPMENT: Construction of a natural gas pipeline with associated above ground installations (AGIs) to connect the Shannon LNG Regasification Terminal at Ralappane, County Kerry to the existing natural gas network at Leahys, County Limerick.

The proposed development comprises a new below ground steel natural gas pipeline (approximately 26 kilometres long, 98 bar, 750 millimetres nominal diameter) with associated marker posts and cathodic protection facilities and two new above ground installations, one at either side of the new pipeline. The new above ground installation at the Shannon LNG Regasification Terminal comprises above ground and below ground pipework and valves, pig trap, instrument building, instrument kiosk, odorant facilities, metering building, analyser building, electrical metering cabinets, lighting, ancillary equipment and facilities, site roads, security fencing, gates, earthworks, below ground and above ground drainage, utility systems, operational laydown areas, landscaping and all associated on-site infrastructure required to serve the proposed development.

The new above ground installation at the connection to the existing natural gas network at Leahys, County Limerick comprises above ground and below ground pipework and valves, pig trap, instrument buildings, metering and analyser building, analyser building, heater building, regulator building, heat exchangers, filters, metering equipment, pressure regulation/flow control equipment, electrical metering cabinets, lighting, ancillary equipment and facilities, entrance road and site roads, security fencing, gates, earthworks, below ground and above ground drainage including soakpits, utility systems, operational laydown areas, landscaping, works to existing public road to accommodate a new entrance and all associated on-site infrastructure required to serve the proposed development.

The proposed development is located in the townlands of Ralappane, Carhoonakineely, Carhoonakilla, Cockhill, Carhoona, Dooncaha, Doonard Upper, Tieraclea Upper and Kilmurrily, County Kerry and Ballygoghlan, Ballycullane Upper, Ballynagaul, Kinard, Ballygiltenan Lower, Killeany More, Flean More, Curra More, Lisready (Clare), Ballyroe, Knocknabooly West, Knocknabooly Middle, Knocknabooly East, Mounttrenchard, Ballynash (Bishop), Ballynash (Clare) and Leahys, County Limerick.

DECISION

GRANT approval under section 182D of the 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.

MATTERS CONSIDERED

In making its decision, An Bord Pleanála 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, 2007-2013 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 March, 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 at the Shannon above ground installation and the Shannon LNG Terminal, that the pipeline will connect to the national gas transmission network,
- (d) the detailed design of the proposed development including the mitigation measures set out in the environmental impact statement,
- (e) the submissions and observations received in relation to the likely effects on the environment of the proposed development, and
- (f) the report and recommendation of the person who conducted the oral hearing,

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 of property in the vicinity, would not be prejudicial to public health or safety, would be acceptable in terms of traffic safety and convenience, would not have significant effects on the environment and would, therefore, 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 14th day of August, 2008.

Reason: In the interest of clarity.

2. Prior to commencement of development, details of the phasing of the proposed development, in conjunction with the construction of the permitted liquefied natural gas terminal at Ralappane and Kilcolgan Lower, County Kerry, shall be submitted to, and agreed in writing with, the relevant local authorities.

Reason: In the interest of orderly development.

3. The section of the pipeline which crosses the identified fen to the west of the N69 at Doonard Upper shall be re-routed beyond the northern field boundary to avoid any intrusion into the area of the fen (drawing number PL-003). Details of the re-routing shall be submitted to, and agreed in writing with, Kerry County Council prior to commencement of development.

Reason: To protect the natural heritage of the area.

4. Prior to commencement of development, a geotechnical ground survey and detailed method statement for the construction of the pipeline in areas of peat shall be submitted to, and agreed in writing with, the relevant local authorities. No peat shall be removed off site.

Reason: In the interest of amenities, public health and safety, and to prevent water pollution.

5. All watercourse crossings shall be carried out in accordance with CIRIA technical guidance: Control of water pollution from linear construction projects (C649, 2006).

Reason: To protect the amenities of the area.

6. During works to the road crossings on the N69, R551 and R527 access for through traffic shall be maintained at all times.

Reason: In the interest of traffic safety and convenience.

7. The crossing of all roads, watercourses, watermains or sewers shall otherwise comply with the requirements of the relevant local authorities for such works.

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

8. Not less than four weeks prior to commencement of development of the hydro-static testing of the pipeline, the undertaker shall notify the relevant local authority and the Regional Fisheries Board of the date of commencement and duration of testing, and details of the location and volume of the proposed abstraction and discharge of water.

Reason: In the interest of public health.

9. Details of the proposed lighting columns at the above ground installations shall be submitted to and agreed in writing with the relevant local authorities. All lights shall be suitably shaded to prevent glare or light spillage outside the site.

Reason: To safeguard the amenities of the area.

10. Within six months of construction of the pipeline, as constructed drawings including details of the wall thickness along the entire length of the pipeline shall be submitted to the relevant local authorities for record.

Reason: In the interest of clarity and orderly development.

11. Prior to commencement of development, the undertaker shall submit to and agree in writing with the relevant local authorities a detailed Construction Management Plan. The Plan shall make provision for inclusion of all relevant mitigation measures proposed in the environmental impact statement and shall ensure that its scope extends to the following parameters:

- (a) surface water management during construction to prevent run-off from the site onto the public roads, unnatural flooding and/or the occurrence of any deleterious matter in the rivers Glencorbly, White and Glashanagark and the tributaries and watercourses of their catchments or other waters, including groundwater in accordance with CIRIA technical guidance: Control of water pollution from linear construction projects (C649, 2006),

- (b) control of adverse noise and disturbance by reference to construction working hours, noise limits and traffic management arrangements,
- (c) dust minimisation, including dust potentially generated from vehicles, measures to include appropriately located wheel wash facilities and appropriate good practice in the covering of laden and unladen vehicles,
- (d) management of public roads in the vicinity so that they are kept free of soil, clay, gravel, mud or other debris and general site management to the satisfaction of the local authorities,
- (e) preparation of a formal Project Construction and Demolition Waste Management Plan for submission to the relevant local authorities and agreement before commencement of development; any excess soils generated on the site which cannot be reused on site shall be disposed of by a licensed contractor or contractors at a suitable permitted facility or facilities, and
- (f) all other waste disposal in accordance with the requirements of the relevant local authorities.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be maintained for inspection by the relevant local authorities. The undertaker shall satisfy the requirements of the relevant local authority in relation to measures to be proposed to prevent pollution run-off into water courses.

Reason: In the interest of amenities, public health and safety and to protect the adjoining surface watercourses.

12. Prior to commencement of development, the undertaker shall submit to and agree in writing with the relevant local authorities a detailed traffic management plan. This management plan shall make provision for the inclusion of all relevant mitigation measures proposed in the environmental impact statement and shall ensure that its scope extends to the following parameters:

- (a) details of transport routes to the site. The following local roads shall not be used as part of the transport route during the construction of the proposed pipeline:
 - (i) The local road which runs between the N69 and R551 providing access to RDX 3 on Figure 7.4 of the environmental impact statement.
 - (ii) The southern section of the local road shown as providing access to RDX 6 as indicated on Figure 7.5 of the environmental impact statement.

- (iii) The northern section of the local road shown as providing access to RDX 8 as indicated on Figure 7.6 of the environmental impact statement.
- (iv) The southern section of the local road shown as providing access to RDX 16 as indicated on Figure 7.10 of the environmental impact statement.
- (b) construction traffic management related to access points onto the existing road network,
- (c) details of construction worker travel and transport arrangements. No construction or staff vehicles shall be allowed to park on public roads or roadside verges, and
- (d) proposals for restrictions on traffic movements at Tarbert Comprehensive School, which shall prohibit the movement of heavy goods vehicle traffic associated with the construction of the proposed development for a minimum period of 20 minutes before and 10 minutes after the opening and closing times of the school.

Reason: In the interest of traffic and pedestrian safety.

13. In the event that any blasting is required:

- (a) The vibration levels from the blasting shall not exceed a peak particle velocity of 12 millimetres per second, as measured at the nearest building.
- (b) Blasting shall not give rise to air overpressure values at noise sensitive locations exceeding 125 dB (Lin) max peak.
- (c) Blasting shall only take place between 1000 hours to 1700 hours, Monday to Friday. Prior to the firing of any blast, the undertaker shall give notice of his intention to the occupiers of all dwellings.

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

14. The undertaker shall facilitate the relevant local authorities in preserving, recording or otherwise protecting archaeological materials or features which exist within the site. In this regard, the undertaker shall notify the relevant local authorities in writing at least four weeks in advance of the commencement of development works on the site.

The undertaker shall also comply with the following requirements:-

- (a) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, including river crossings,
- (b) archaeological testing shall be carried out at the locations identified in the environmental impact statement at Cockhill, Carhoon and Knockabooley,
- (c) the archaeological excavation shall be carried out prior to commencement of development and no site preparation or construction work shall be carried out until the archaeologist's report has been submitted to and agreed in writing with the relevant local authority, and
- (d) provide satisfactory arrangements for the preservation in situ, recording and removal of any archaeological material which may be considered appropriate to remove. In this regard, a comprehensive report on the completed archaeological excavation shall be prepared and submitted to the relevant local authorities within a period of six months or within such extended period as may be agreed with the local authority.

Reason: In order to conserve the archaeological heritage of the site, it is considered reasonable that the undertaker should facilitate and assist the relevant local authorities in securing the preservation by record of any archaeological features or materials which may exist within it. In this regard, it is considered reasonable that the undertaker should be responsible for carrying out properly supervised archaeological excavations in circumstances where the permitted development works would be likely to result in the unavoidable disturbance or destruction of such features or materials.

15. A survey for breeding sites and resting places of badgers (setts), otters (holts and couches) and bats (all roost types) shall be carried out prior to construction works commencing. If any of these features are found, then appropriate mitigation measures shall be submitted to and agreed in writing with the relevant local authority prior to commencement of development. Any mitigation measures in relation to badger, otter or 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 local authority.

Reason: In the interest of wildlife protection.

16. Prior to commencement of development, the undertaker shall submit to and agree with the relevant local authority full details of the phased reinstatement of the site. All reinstatement works shall be completed within the first planting season following the commissioning of the pipeline.

Reason: To limit the impact of the development on the amenities of the area, to ensure appropriate reinstatement of the site and in the interest of public safety.

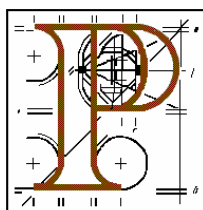
17. Prior to commencement of development, the undertaker shall lodge with the relevant local authorities a cash deposit, a bond of an insurance company, or other security to secure the satisfactory reinstatement of the site and the reinstatement and repair of roads and/or services as a result of the development, coupled with an agreement empowering the relevant local authority to apply such security or part thereof to the satisfactory completion of the reinstatement. The form and amount of the deposit shall be as agreed between the relevant local authorities and the undertaker or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory reinstatement of the site and in the interest of visual amenity and road safety.

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

Dated this day of 2009.

An Bord Pleanála



STRATEGIC INFRASTRUCTURE DEVELOPMENT

PLANNING AND DEVELOPMENT ACTS 2000 to 2007

An Bord Pleanála Reference Number: 08.GA0003

(Local Authorities: Kerry County Council and Limerick County Council)

APPLICATION for approval under section 182C(1) 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 14th day of August, 2008 by Shannon LNG Limited care of Arup Consulting Engineers of 15 Oliver Plunkett Street, Cork.

PROPOSED DEVELOPMENT: Construction of a natural gas pipeline with associated above ground installations (AGIs) to connect the Shannon LNG Regasification Terminal at Ralappane, County Kerry to the existing natural gas network at Leahys, County Limerick.

The proposed development comprises a new below ground steel natural gas pipeline (approximately 26 kilometres long, 98 bar, 750 millimetres nominal diameter) with associated marker posts and cathodic protection facilities and two new above ground installations, one at either side of the new pipeline. The new above ground installation at the Shannon LNG Regasification Terminal comprises above ground and below ground pipework and valves, pig trap, instrument building, instrument kiosk, odorant facilities, metering building, analyser building, electrical metering cabinets, lighting, ancillary equipment and facilities, site roads, security fencing, gates, earthworks, below ground and above ground drainage, utility systems, operational laydown areas, landscaping and all associated on-site infrastructure required to serve the proposed development.

The new above ground installation at the connection to the existing natural gas network at Leahys, County Limerick comprises above ground and below ground pipework and valves, pig trap, instrument buildings, metering and analyser building, analyser building, heater building, regulator building, heat exchangers, filters, metering equipment, pressure regulation/flow control equipment, electrical metering cabinets, lighting, ancillary equipment and facilities, entrance road and site roads, security fencing, gates, earthworks, below ground and above ground drainage including soakpits, utility systems, operational laydown areas, landscaping, works to existing public road to accommodate a new entrance and all associated on-site infrastructure required to serve the proposed development.

The proposed development is located in the townlands of Ralappane, Carhoonakineely, Carhoonakilla, Cockhill, Carhoona, Dooncaha, Doonard Upper, Tieraclea Upper and Kilmurrily, County Kerry and Ballygoghlan, Ballycullane Upper, Ballynagaul, Kinard, Ballygiltinan Lower, Killeany More, Flean More, Curra More, Lisready (Clare), Ballyroe, Knocknabooly West, Knocknabooly Middle, Knocknabooly East, Mounttrenchard, Ballynash (Bishop), Ballynash (Clare) and Leahys, County Limerick.

DECISION

GRANT approval under section 182D of the 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.

MATTERS CONSIDERED

In making its decision, An Bord Pleanála 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, 2007-2013 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 March, 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 at the Shannon above ground installation and the Shannon LNG Terminal, that the pipeline will connect to the national gas transmission network,
- (d) the detailed design of the proposed development including the mitigation measures set out in the environmental impact statement,
- (e) the submissions and observations received in relation to the likely effects on the environment of the proposed development, and
- (f) the report and recommendation of the person who conducted the oral hearing,

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 of property in the vicinity, would not be prejudicial to public health or safety, would be acceptable in terms of traffic safety and convenience, would not have significant effects on the environment and would, therefore, 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 14th day of August, 2008.

Reason: In the interest of clarity.

2. Prior to commencement of development, details of the phasing of the proposed development, in conjunction with the construction of the permitted liquefied natural gas terminal at Ralappane and Kilcolgan Lower, County Kerry, shall be submitted to, and agreed in writing with, the relevant local authorities.

Reason: In the interest of orderly development.

3. The section of the pipeline which crosses the identified fen to the west of the N69 at Doonard Upper shall be re-routed beyond the northern field boundary to avoid any intrusion into the area of the fen (drawing number PL-003). Details of the re-routing shall be submitted to, and agreed in writing with, Kerry County Council prior to commencement of development.

Reason: To protect the natural heritage of the area.

4. Prior to commencement of development, a geotechnical ground survey and detailed method statement for the construction of the pipeline in areas of peat shall be submitted to, and agreed in writing with, the relevant local authorities. No peat shall be removed off site.

Reason: In the interest of amenities, public health and safety, and to prevent water pollution.

5. All watercourse crossings shall be carried out in accordance with CIRIA technical guidance: Control of water pollution from linear construction projects (C649, 2006).

Reason: To protect the amenities of the area.

6. During works to the road crossings on the N69, R551 and R527 access for through traffic shall be maintained at all times.

Reason: In the interest of traffic safety and convenience.

7. The crossing of all roads, watercourses, watermains or sewers shall otherwise comply with the requirements of the relevant local authorities for such works.

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

8. Not less than four weeks prior to commencement of development of the hydro-static testing of the pipeline, the undertaker shall notify the relevant local authority and the Regional Fisheries Board of the date of commencement and duration of testing, and details of the location and volume of the proposed abstraction and discharge of water.

Reason: In the interest of public health.

9. Details of the proposed lighting columns at the above ground installations shall be submitted to and agreed in writing with the relevant local authorities. All lights shall be suitably shaded to prevent glare or light spillage outside the site.

Reason: To safeguard the amenities of the area.

10. Within six months of construction of the pipeline, as constructed drawings including details of the wall thickness along the entire length of the pipeline shall be submitted to the relevant local authorities for record.

Reason: In the interest of clarity and orderly development.

11. Prior to commencement of development, the undertaker shall submit to and agree in writing with the relevant local authorities a detailed Construction Management Plan. The Plan shall make provision for inclusion of all relevant mitigation measures proposed in the environmental impact statement and shall ensure that its scope extends to the following parameters:

- (a) surface water management during construction to prevent run-off from the site onto the public roads, unnatural flooding and/or the occurrence of any deleterious matter in the rivers Glencorbly, White and Glashanagark and the tributaries and watercourses of their catchments or other waters, including groundwater in accordance with CIRIA technical guidance: Control of water pollution from linear construction projects (C649, 2006),

- (b) control of adverse noise and disturbance by reference to construction working hours, noise limits and traffic management arrangements,
- (c) dust minimisation, including dust potentially generated from vehicles, measures to include appropriately located wheel wash facilities and appropriate good practice in the covering of laden and unladen vehicles,
- (d) management of public roads in the vicinity so that they are kept free of soil, clay, gravel, mud or other debris and general site management to the satisfaction of the local authorities,
- (e) preparation of a formal Project Construction and Demolition Waste Management Plan for submission to the relevant local authorities and agreement before commencement of development; any excess soils generated on the site which cannot be reused on site shall be disposed of by a licensed contractor or contractors at a suitable permitted facility or facilities, and
- (f) all other waste disposal in accordance with the requirements of the relevant local authorities.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be maintained for inspection by the relevant local authorities. The undertaker shall satisfy the requirements of the relevant local authority in relation to measures to be proposed to prevent pollution run-off into water courses.

Reason: In the interest of amenities, public health and safety and to protect the adjoining surface watercourses.

12. Prior to commencement of development, the undertaker shall submit to and agree in writing with the relevant local authorities a detailed traffic management plan. This management plan shall make provision for the inclusion of all relevant mitigation measures proposed in the environmental impact statement and shall ensure that its scope extends to the following parameters:

- (a) details of transport routes to the site. The following local roads shall not be used as part of the transport route during the construction of the proposed pipeline:
 - (i) The local road which runs between the N69 and R551 providing access to RDX 3 on Figure 7.4 of the environmental impact statement.
 - (ii) The southern section of the local road shown as providing access to RDX 6 as indicated on Figure 7.5 of the environmental impact statement.

- (iii) The northern section of the local road shown as providing access to RDX 8 as indicated on Figure 7.6 of the environmental impact statement.
- (iv) The southern section of the local road shown as providing access to RDX 16 as indicated on Figure 7.10 of the environmental impact statement.
- (b) construction traffic management related to access points onto the existing road network,
- (c) details of construction worker travel and transport arrangements. No construction or staff vehicles shall be allowed to park on public roads or roadside verges, and
- (d) proposals for restrictions on traffic movements at Tarbert Comprehensive School, which shall prohibit the movement of heavy goods vehicle traffic associated with the construction of the proposed development for a minimum period of 20 minutes before and 10 minutes after the opening and closing times of the school.

Reason: In the interest of traffic and pedestrian safety.

13. In the event that any blasting is required:

- (a) The vibration levels from the blasting shall not exceed a peak particle velocity of 12 millimetres per second, as measured at the nearest building.
- (b) Blasting shall not give rise to air overpressure values at noise sensitive locations exceeding 125 dB (Lin) max peak.
- (c) Blasting shall only take place between 1000 hours to 1700 hours, Monday to Friday. Prior to the firing of any blast, the undertaker shall give notice of his intention to the occupiers of all dwellings.

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

14. The undertaker shall facilitate the relevant local authorities in preserving, recording or otherwise protecting archaeological materials or features which exist within the site. In this regard, the undertaker shall notify the relevant local authorities in writing at least four weeks in advance of the commencement of development works on the site.

The undertaker shall also comply with the following requirements:-

- (a) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, including river crossings,
- (b) archaeological testing shall be carried out at the locations identified in the environmental impact statement at Cockhill, Carhoon and Knockabooley,
- (c) the archaeological excavation shall be carried out prior to commencement of development and no site preparation or construction work shall be carried out until the archaeologist's report has been submitted to and agreed in writing with the relevant local authority, and
- (d) provide satisfactory arrangements for the preservation in situ, recording and removal of any archaeological material which may be considered appropriate to remove. In this regard, a comprehensive report on the completed archaeological excavation shall be prepared and submitted to the relevant local authorities within a period of six months or within such extended period as may be agreed with the local authority.

Reason: In order to conserve the archaeological heritage of the site, it is considered reasonable that the undertaker should facilitate and assist the relevant local authorities in securing the preservation by record of any archaeological features or materials which may exist within it. In this regard, it is considered reasonable that the undertaker should be responsible for carrying out properly supervised archaeological excavations in circumstances where the permitted development works would be likely to result in the unavoidable disturbance or destruction of such features or materials.

15. A survey for breeding sites and resting places of badgers (setts), otters (holts and couches) and bats (all roost types) shall be carried out prior to construction works commencing. If any of these features are found, then appropriate mitigation measures shall be submitted to and agreed in writing with the relevant local authority prior to commencement of development. Any mitigation measures in relation to badger, otter or 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 local authority.

Reason: In the interest of wildlife protection.

16. Prior to commencement of development, the undertaker shall submit to and agree with the relevant local authority full details of the phased reinstatement of the site. All reinstatement works shall be completed within the first planting season following the commissioning of the pipeline.

Reason: To limit the impact of the development on the amenities of the area, to ensure appropriate reinstatement of the site and in the interest of public safety.

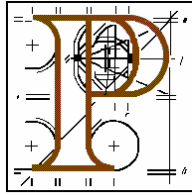
17. Prior to commencement of development, the undertaker shall lodge with the relevant local authorities a cash deposit, a bond of an insurance company, or other security to secure the satisfactory reinstatement of the site and the reinstatement and repair of roads and/or services as a result of the development, coupled with an agreement empowering the relevant local authority to apply such security or part thereof to the satisfactory completion of the reinstatement. The form and amount of the deposit shall be as agreed between the relevant local authorities and the undertaker or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory reinstatement of the site and in the interest of visual amenity and road safety.

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

Dated this day of 2009.

An Bord Pleanála



**ORDER
ENTITLED
“GAS ACT, 1976, AS AMENDED
SHANNON PIPELINE ACQUISITION ORDER 2009”**

An Bord Pleanála in exercise of the powers conferred on it by Section 32 of the Gas Act, 1976 and section 215A of the Planning and Development Act, 2000 after consideration of an Application entitled “Gas Act, 1976, as amended, Shannon Pipeline Acquisition Order, 2009” by Shannon LNG Limited for an Acquisition Order within the meaning of that Act, and having in accordance with Article 9 of the Second Schedule to that Act confirmed the deviation limits shown on the documents which accompanied the application and after consultation with the Minister for Agriculture, Fisheries and Food and the Minister for Community, Rural and Gaeltacht Affairs, being of the opinion that the application should be granted, order as follows:

1. This Order may be cited as the “Gas Act, 1976, as amended, Shannon Pipeline Acquisition Order, 2009”.
2. In this Order:-
 - (1) “Act” means the Gas Act, 1976 (Number 30 of 1976), as amended;
 - (2) “Applicant” means Shannon LNG Limited;
 - (3) “deviation/temporary works area” means the lands shown coloured green on the map or maps annexed hereto;
 - (4) “owner” means an owner of the relevant lands and/or the deviation/temporary works area;
 - (5) “pipeline” means the pipeline constructed or intended to be constructed pursuant to the Act on the relevant lands and includes any other works constructed in, on or over the relevant lands pursuant to this Order;
 - (6) “relevant lands” has the meaning assigned to it by Article 3 of this Order.
 - (7) The singular of any word in these definitions or elsewhere in this Order includes the plural and the masculine gender includes the feminine and neuter genders.
3.
 - (1) The right described in paragraph (2) of this Article over the lands described in the First Schedule to this Order (in this Order referred to as “the relevant lands”) is hereby granted to the Applicant.
 - (2) The right referred to in paragraph (1) of this Article is the right, subject to the restrictions and provisions contained in paragraph (3) of this Article to use the relevant lands for the construction, operation and maintenance thereon, therein or thereunder of a pipeline and such other works, services, facilities and other things as are necessary or expedient in relation thereto or are ancillary thereto or form part of such construction, operation or maintenance together with, strictly without prejudice to the rights under Section 31 of the Act, the following:
 - (a) the right to construct the pipeline, or any part or parts thereof, in part or parts of the deviation/temporary works area confirmed by this Order;

- (b) the right to use the deviation/temporary works area for the duration of the construction of the pipeline for such other works, services, facilities and other things as are necessary or expedient in relation to such construction or as are ancillary thereto or form part of such construction, operation and maintenance; and
 - (c) the right, within the deviation/temporary works area to do anything reasonably necessary for or ancillary or incidental to such construction (whether or not the relevant pipeline is being constructed within the deviation limits) and when constructed to maintain, repair or replace such pipeline and do anything reasonably necessary for or ancillary or incidental to such maintaining, repairing or replacing.
- (3) (a) In exercising the rights hereby granted, the Applicant shall take all reasonable precautions or other measures to avoid:
- (i) on the part of the Applicant, the obstruction of or interference with the user of the relevant lands and/or the deviation/temporary works area by the owner, his or their servants or agents,
 - (ii) unnecessary damage or injury to the relevant lands and/or the deviation/temporary works area by the Applicant, its servants or agents.
- (b) The Applicant shall:
- (i) make good any damage or injury caused, either directly or indirectly, by the exercise of the rights hereby granted, to any structure, drain or other thing which is the property of the owner,
 - (ii) insofar as it is reasonably practicable to do so, and as soon as may be, make good any damage or injury to the relevant lands and/or the deviation/temporary works area caused by the exercise of the rights hereby granted.
- (c) For so long as the pipeline constructed pursuant to the rights hereby granted, or any part of the said pipeline, is used, the Applicant shall keep the same in proper repair, order and condition.
- (d) If and when such pipeline or any such part ceases to be used by the Applicant, the Applicant shall:
- (i) give notice in writing thereof to the person who for the time being is an owner of the relevant lands,
 - (ii) take all such precautions and other measures, if any, as shall be required to ensure that such pipeline or part is rendered permanently safe, and

- (iii) as soon as may be after the requirements of subparagraph (ii) of this paragraph have been complied with by the Applicant, transfer to the person who for the time being is an owner of the relevant lands the right hereby granted to the Applicant.
- (e) The Applicant shall pay all rates and taxes which may be imposed in respect of the pipeline or the rights over land hereby granted and any rate, tax or insurance premiums payable by an owner by reason of the pipeline being in, on or under the relevant lands.
- (f) The Applicant shall indemnify and keep indemnified the owner, his servants, agents, licensees and invitees against injury, loss or damage which:
 - (i) is directly or indirectly attributable to the construction, operation, maintenance, repair or removal of the pipeline or any part thereof, and
 - (ii) is not the result of
 - (a) a malicious or reckless act or a reckless omission on the part of the owner or, if he is not the owner, the person suffering the injury, loss or damage, or
 - (b) a failure to comply with a provision specified in Article 4 (1) of this Order,

and in addition to the foregoing, the Applicant shall indemnify and keep indemnified the owner and his servants, agents licensees and invitees against any liability for any such injury, loss or damage suffered by a person other than the persons aforesaid, not being an injury or loss or damage which is the result of a malicious or reckless act or a reckless omission on the part of the person against whom the relevant proceedings are brought (or against or of whom a claim or demand is made): Provided that, if a person to whom the indemnity contained in this sub-paragraph applies, without the prior consent of the Applicant, settles or compromises any action, claim or demand to which the indemnity applies, he shall not be entitled to the benefit of the indemnity as regards that action, claim or demand.

- (4) An Bord Pleanála may require the Applicant to effect, and or so long as it thinks fit, to maintain a policy of insurance which it considers satisfactory indemnifying the Applicant against any claim made on foot of the liability imposed on it by subparagraph (3) (f) of this Article.
- 4. (1) This Order is made subject to the following provisions:
 - (a) an owner shall neither intentionally do nor intentionally cause or permit to be done on the relevant lands anything which could be reasonably regarded as calculated or likely to cause damage or injury to the pipeline;

- (b) an owner shall not, without the prior consent in writing of the Applicant, intentionally make or intentionally cause or permit to be made any material alteration to or any deposit of anything upon any part of the relevant lands so as to interfere with or obstruct the access thereto or to the pipeline or to lessen or in any way interfere with the support afforded to the pipeline by the relevant lands (including minerals) or so as materially to reduce the depth of soil above any part of the pipeline;
 - (c) an owner shall neither erect nor install nor recklessly permit to be erected or installed any building or structure or permanent apparatus nor shall he permit the carrying out of any works on, in or under the relevant lands or the making of any material change in the use of the relevant lands which would be likely to cause damage or injury to the pipeline;
 - (d) For the purpose of securing the safety of the pipeline, the owner shall comply with the provisions specified in the Third Schedule to this Order restricting the planting of trees and shrubs.
 - (2) Paragraph (1) of this Article shall not be construed as preventing the installation on the relevant lands of any service pipes, drains, wires or cables under the supervision and with the consent (which shall not be unreasonably withheld) of the Applicant or its agents.
5. Subject to Article 6 of this Order, the provisions of the Land Clauses Acts (other than Articles 1, 2, 3 and 6 of the Second Schedule to the Housing of the Working Classes Act, 1890) are incorporated in this Order and for the purposes of the Land Clauses Acts the Applicant shall be deemed to be the Promoter and the Order shall be deemed to be the Special Act and for the purposes of the Second Schedule to the Housing of the Working Classes Act, 1890 the Applicant shall be regarded as being the local authority, An Bord Pleanála shall be deemed to be the confirming authority and the Order shall be deemed to be the confirming Act.
6. (1) Where the purchase price or compensation payable under the Act to a person claiming any interest in the relevant lands and/or the deviation/temporary works area does not exceed the sum of €15,236.86 and the claimant produces prima facie evidence that he is a person having power to sell under the Land Purchase Acts or the Land Clauses Acts, and satisfies the Applicant that, for not less than six years immediately preceding the date on which the claim is made, he, or his immediate predecessor in title, has been personally, or through an agent, either in receipt of the rents or profits of the land concerned or in actual occupation thereof, the claimant may be dealt with by the Applicant as the absolute owner of the interest in respect of which he claims and such purchase price or compensation may be paid to him.
- (2) Where there is payable under the Act in respect of an interest in the relevant lands and/or the deviation/temporary works area a purchase price or compensation not exceeding the sum of €15,236.86 and the interest is subject to a mortgage or charge on foot of which an amount exceeding the purchase price or compensation is due, the amount of the purchase price or

compensation may be paid to the person entitled to the moneys payable on foot of the mortgage or charge, or if there is more than one such mortgage or charge, then to the person so entitled on foot of the mortgage or charge which is first in priority, and, notwithstanding any direction, proviso, or covenant to the contrary contained in any instrument, any amount so paid shall be received in reduction of the principal sum or interest owing in respect of the mortgage or charge to such person on the date of receipt.

(3) Where the Applicant, pursuant to paragraph (1) or (2) of this Article, pays a purchase price or compensation, the person to whom it is paid shall give the Applicant a receipt in the form set out in Part I of the Second Schedule to this Order.

(4) If-

(a) it appears to the Applicant that a person making any claim for purchase price or compensation in respect of any estate or interest in, the relevant lands and/or the deviation/temporary works area is not entitled to the estate or interest, or (ii) the title to any such estate or interest is not satisfactorily shown to the Applicant, and

(b) the purchase price or compensation does not exceed €25,394.76,

the Applicant may pay it into the Circuit Court and that Court shall thereupon have with respect thereto all the jurisdiction exercisable by the High Court under the Land Clauses Acts and the Applicant shall thereupon have with respect to the estate or interest all the rights and powers that it would have had, had the purchase price or compensation been paid into the High Court.

(5) For the purposes of this Order section 72 of the Land Clauses Consolidation Act, 1845, shall be construed and have effect as if “fifteen thousand two hundred and thirty six euro eighty six cent” were substituted therein for “twenty pounds”.

7. (1) Subject to paragraph (3) of this Article, the Applicant may at any time before ascertainment of the purchase price or compensation payable as regards the right being acquired by the Applicant under this Order exercise such right.

(2) In case the Applicant exercises a power conferred on it by paragraph (1) of this Article, the following provisions shall apply, namely;

(a) the Applicant shall pay interest on the purchase price or compensation payable in relation to the relevant right acquired by the Applicant under this Order in accordance with the provisions of Section 33 (2) (a) of the Gas Act 1976, as amended, and

(b) if the Applicant has made an unconditional offer in writing of any sum as such purchase price or compensation to the person to whom the purchase price or compensation is payable under the Act, and the offer is not accepted by such person, and the sum awarded by the official arbitrator to such person does not exceed the sum so offered, then no interest shall be payable on such purchase price or compensation.

- (3) Before exercising a power conferred on it by paragraph (1) of this Article the Applicant shall give to the occupier of the land in relation to which the powers proposed to be exercised at least one month's previous notice in writing of its intention to exercise the power, or, in the case of an occupied dwellinghouse, at least three months' previous such notice to the occupier thereof.
- (4) A notice required by this Article to be given may be served on a person by sending it by prepaid post in an envelope addressed to the person to whom it is to be given at his usual or last known address, and in case the notice is so served it shall be deemed to have been served on the person at the time at which the envelope would be delivered in the ordinary course of post, and in case the address of such person cannot be ascertained by reasonable enquiry, the Applicant may serve the notice by affixing it in a conspicuous position on or near the relevant lands and/or the deviation/temporary works area and in case the name of the person for whom the notice is intended cannot be ascertained by reasonable enquiry, the envelope containing the notice may be addressed to "the owner" or "the occupier" without naming him.
8. The Applicant may, for the purpose of enabling it to ascertain the ownership of the relevant lands and/or the deviation/temporary works area or any part thereof or interest therein give any person who is the occupier of any such land or part thereof, or who, either directly or indirectly receives rent in respect of any such land or part thereof, notice, in the form set out in Part II of the Second Schedule hereto, requiring him to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein, whether as owner in fee simple, mortgagee, lessee or otherwise and any person who, having been required by the Applicant by a notice in writing given in pursuance of this provision to give the Applicant any information, fails to give the information, or gives any information that he knows to be false in a material particular or recklessly gives information which is so false shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding €31.74.

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

Dated this day of 2009.

FIRST SCHEDULE

(The Relevant Lands)

Wayleave No	Description of Relevant Lands
CWL07A	All that land comprising 406 square metres in the Townland of Carhoona and County of Kerry which land is shown on the Drawing Number(s) S32-002 (CWL07A) annexed hereto and thereon coloured red.
CWL10	All that land comprising 4,144 square metres in the Townland of Carhoona and County of Kerry which land is shown on the Drawing Number(s) S32-002 and S32-003 (CWL10) annexed hereto and thereon coloured red.
CWL16	All that land comprising 4,508 square metres in the Townland of Tieraclea Upper and County of Kerry which land is shown on the Drawing Number(s) S32-003 and S32-004 (CWL16) annexed hereto and thereon coloured red.
CWL17	All that land comprising 10,612 square metres in the Townland of Tieraclea Upper and County of Kerry which land is shown on the Drawing Number(s) S32-004 (CWL17) annexed hereto and thereon coloured red.
CWL20	All that land comprising 8,652 square metres in the Townlands of Ballygoghlan and Ballycullane Upper and County of Limerick which land is shown on the Drawing Number(s) S32-005 (CWL20) annexed hereto and thereon coloured red.
CWL21	All that land comprising 1,554 square metres in the Townlands of Ballycullane Upper and County of Limerick which land is shown on the Drawing Number(s) S32-005 (CWL21) annexed hereto and thereon coloured red.
CWL25	All that land comprising 5,320 square metres in the Townlands of Ballycullane Upper and Ballynagaul and County of Limerick which land is shown on the Drawing Number(s) S32-005 (CWL25) annexed hereto and thereon coloured red.
CWL27	All that land comprising 2,156 square metres in the Townland of Ballynagaul and County of Limerick which land is shown on the Drawing Number(s) S32-006 (CWL27) annexed hereto and thereon coloured red.
CWL34	All that land comprising 1,666 square metres in the Townland of Kinard and County of Limerick which land is shown on the Drawing Number(s) S32-006 (CWL34) annexed hereto and thereon coloured red.

CWL36	All that land comprising 462 square metres in the Townland of Kinard and County of Limerick which land is shown on the Drawing Number(s) S32-007 (CWL36) annexed hereto and thereon coloured red.
CWL42	All that land comprising 3,192 square metres in the Townland of Flean More and County of Limerick which land is shown on the Drawing Number(s) S32-009 (CWL42) annexed hereto and thereon coloured red.
CWL45	All that land comprising 1,148 square metres in the Townland of Flean More and County of Limerick which land is shown on the Drawing Number(s) S32-009 (CWL45) annexed hereto and thereon coloured red.
CWL47	All that land comprising 8,694 square metres in the Townland of Flean More and County of Limerick which land is shown on the Drawing Number(s) S32-009 and S32-010 (CWL47) annexed hereto and thereon coloured red.
CWL57	All that land comprising 4,690 square metres in the Townland of Mounttrenchard and County of Limerick which land is shown on the Drawing Number(s) S32-012 (CWL57) annexed hereto and thereon coloured red.
CWL63	All that land comprising 6,118 square metres in the Townland of Ballynash (Clare) and County of Limerick which land is shown on the Drawing Number(s) S32-013 (CWL63) annexed hereto and thereon coloured red.
CWL65	All that land comprising 2,226 square metres in the Townland of Ballynash (Clare) and County of Limerick which land is shown on the Drawing Number(s) S32-013 (CWL65) annexed hereto and thereon coloured red.

SECOND SCHEDULE

Part I

GAS ACT, 1976, As Amended

SHANNON PIPELINE

ACQUISITION ORDER 2009

Receipt for Purchase Money or Compensation

I/We, _____ of _____ do hereby acknowledge that I/we have received from Shannon LNG Limited the sum of _____ euro, as purchase price or compensation for the right acquired by the said Shannon LNG Limited to use ALL THAT AND THOSE that parcel of land comprising _____ square metres and situated in the Townland(s) of _____ and in the County of _____ for the construction, operation and maintenance thereon, therein or thereunder of a gas pipeline and such other works, services, facilities and other things as are necessary or expedient in relation thereto or are ancillary thereto or form part thereof, which land is described in the First Schedule to the above Order and identified as Wayleave No. CWL _____ and shown on the Drawing(s) annexed thereto and thereon coloured red and thereon numbered S32-00 (CWL _____).

Dated this day of 200

Signature

SIGNED by the said
in the presence of:-

Name of Witness: _____

Address: _____

Occupation: _____

SECOND SCHEDULE

Part II

NOTICE

For the purpose of enabling it to ascertain the ownership of any land specified in the Gas Act, 1976, as amended, Shannon Pipeline, Acquisition Order 2009 Shannon LNG Limited, (“the Company”) hereby gives notice in accordance with Article 11(h) of the Second Schedule of the Gas Act, 1976, as amended, to you the person who is the occupier of the land or who, either directly or indirectly, receives rent in respect of the land, requiring you within two weeks from the date of this notice to state in writing to the Company the nature of your own interest therein and the name and address of any other person known to you as having an interest therein, whether as owner, in fee simple, mortgagee, lessee or otherwise. If within the said period of two weeks required by this notice you fail to give to the Company the information required, or give any information which you know to be false in a material particular, or recklessly give information which is so false you shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding €31.74.

Dated this _____ day of _____ 200

(SIGNED) _____

Secretary,
Shannon LNG Limited,
Clieveragh Business Park,
Listowel,
Co Kerry.

TO: _____

THIRD SCHEDULE

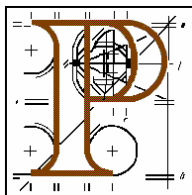
1. Not to plant on the land any poplar trees, willow trees, ash trees, beech trees, conifers, horse chestnut trees, lime trees, maple trees, sycamore trees, apple trees, or pear trees or any other trees of a similar size (whether deciduous or evergreen) within seven metres of the centreline of the pipeline.
2. Not to allow any shrubs or hedges planted on the relevant lands to grow to a height exceeding four metres.

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

Dated this day of 2009.

**ORDER
ENTITLED
“GAS ACT, 1976, AS AMENDED
SHANNON PIPELINE
ACQUISITION ORDER, 2009”**

An Bord Pleanála



GAS ACT, 1976 AS AMENDED

PLANNING AND DEVELOPMENT ACTS 2000 to 2007

An Bord Pleanála Reference Number: 08.DA0003

(Local Authorities: Kerry County Council and Limerick County Council)

APPLICATIONS received by An Bord Pleanála on the 1st day of August, 2008 from Shannon LNG Limited of Clieveragh Business Park, Listowel, County Kerry pursuant to sections 31 and 32 of the Gas Act, 1976 and section 215A of the Planning and Development Act, 2000 for the making of an acquisition order entitled “Gas Act, 1976, as amended, Shannon Pipeline Acquisition Order, 2009” and the confirmation of deviation limits as indicated in the documents lodged with the applications.

DECISION

In accordance with its powers under sections 31 and 32 of the Gas Act, 1976 and Article 9 of the Second Schedule thereto and section 215A of the Planning and Development Act, 2000 An Bord Pleanála hereby confirms without variations or amendments the deviation limits as indicated in the documents lodged with the applications following consultation with the Minister for Agriculture, Fisheries and Food and the Minister for Community, Rural and Gaeltacht Affairs and makes the acquisition order entitled “Gas Act, 1976, as amended, Shannon Pipeline Acquisition Order, 2009”.

REASONS AND CONSIDERATIONS

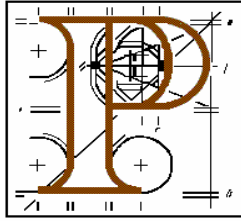
Having considered the objections made to the compulsory acquisition order and the report of the person who conducted the oral hearing into the objections and having regard to:

- (a) the provisions of the National Development Plan, 2007-2013 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 March, 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 at the Shannon above ground installation and the Shannon LNG Terminal which the pipeline will connect to the national gas transmission network,

it is considered that the acquisition of the lands in question by the applicant is necessary for the purpose stated in the order and the objections cannot be sustained having regard to this necessity and, further, it is considered that the deviation limits proposed are reasonable and appropriate.

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

Dated this day of 2009.



Board Direction

Ref: 08. DA0003

At a meeting held on the 16th of February 2009, the Board considered

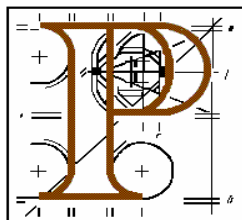
- (a) the objections made to the proposed development,
- (b) the report of the Inspector, who held the oral hearing and
- (c) the documents and submissions on file generally.

The Board decided to approve the proposed development without variations or amendments as shown on the attached copy of the Draft Order.

Board Member: _____ Date: 17th of February 2009

Angela Tunney

An Bord Pleanála

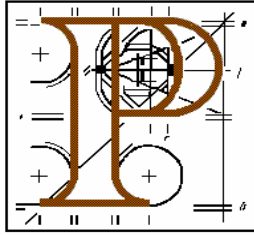


Board Direction

Ref: 04.GA0003

At a Board meeting held on 24th October 2008 the Board directed that an oral hearing be held in this case.

Board Member _____ Date 24th October 2008.
Brian Hunt



Board Direction

Ref: 08.GA0003

At a meeting held on the 16th of February 2009, the Board considered

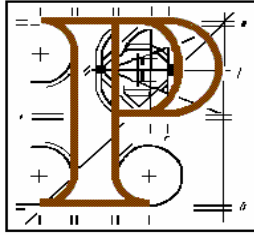
- (a) the objections made to the proposed development,
- (b) the report of the Inspector, who held the oral hearing and
- (c) the documents and submissions on file generally.

The Board decided to approve the proposed development with conditions, subject generally to the amendments shown in manuscript on the attached copy of the Draft Order.

Board Member:
Angela Tunney

_____ Date: 17th of February 2009

An Bord Pleanála



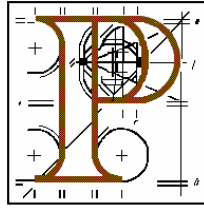
Board Direction

Ref: 04.GA0003

At a Board meeting held on 24th October 2008 the Board directed that an oral hearing be held in this case.

Board Member _____ Date 24th October 2008.
Brian Hunt

An Bord Pleanála



Inspector's Report

PL08.GA0003 - Application under Section 182C of Planning & Development Act 2000 (as amended).

PL08.DA0003 - Application for a Compulsory Acquisition Order under the Gas Act, 1976.

DEVELOPMENT: Natural gas pipeline from the Shannon LNG Terminal at Ralappane, County Kerry to the existing natural gas network at Leahys, County Limerick.

Type of Application: Strategic Infrastructure Development (PL08.GA0003)
Compulsory Acquisition Order (PL08.DA0003)

Applicant: Shannon LNG Ltd

Planning Authority: Kerry County Council
Limerick County Council

SUBMISSIONS & OBSERVATIONS

Prescribed Bodies: Kerry County Council
Limerick County Council
Commission for Energy Regulation
Department of Environment Heritage and Local Government
National Roads Authority
An Taisce
Department of Agriculture, Fisheries and Food

Other Health & Safety Authority

Observers: Tarbert Development Association
Ballylongford Enterprise Association Ltd
Kilcolgan Residents' Association & Safety Before
LNG
Catriona Griffin
Thomas O'Donovan

Objectors to CAO Kilcolgan Residents' Association & Safety Before
LNG

DATE OF SITE INSPECTION 20 & 21 November 2008

INSPECTOR: Anne Marie O'Connor

1.0 BACKGROUND

1.1 Pre-Planning Consultation With An Bord Pleanala

As provided for under section 182E of the Planning and Development Act 2000, (as amended by the Planning and Development (Strategic Infrastructure) Act 2006), the applicant, Shannon LNG Ltd, entered into discussions with An Bord Pleanala in relation to the proposed development (Ref. GC0003). Two meetings were held between An Bord Pleanala and Shannon LNG Ltd on 8 February 2008, and 19 June 2008. The Board informed the applicant of its decision that the proposed development of a gas pipeline to be laid from the Shannon LNG Terminal at Tarbert, County Kerry to Foynes, County Limerick would be strategic infrastructure within the meaning of section 182C(1) of the Act. The current application to An Bord Pleanala is made on foot of that decision.

1.2 Legislative Requirements

As required under section 182C(2) of the aforementioned Act, the application is accompanied by a certificate in relation to the pipeline provided by the Commission for Energy Regulation (CER) under section 26 of the Gas Act 1976, as amended.

1.3 Oral Hearing

An oral hearing in respect of this application was held at the Listowel Arms Hotel, Listowel, Co. Kerry on 1 & 2 December 2008. A copy of the proceedings of the hearing is appended to this report.

1.4 Related CAO Application

A compulsory acquisition order application has also been lodged with the Board under Section 32 of the Gas Act, 1976 (as amended). Pursuant to Section 31 of the Gas Act, 1976, Shannon LNG Ltd also applies to the Board for confirmation of the deviation limits within which it is considered that it may be necessary to construct the pipeline or related works.

2.0 SITE AND DEVELOPMENT DETAILS

2.1 The Application

Permission sought in accordance with Section 182(C) of the Planning and Development Act 2000, as amended by the Planning and Development (Strategic Infrastructure) Act 2006. Notice of the proposed planning application was published in the following newspapers:

- Irish Examiner – 06 August 2008

- The Kerryman – 06 August 2008
- The Limerick Leader - 06 August 2008
- Kerry's Eye – 07 August 2008

The application is accompanied by an Environmental Impact Statement (EIS). Planning permission is sought for a 10 year period.

2.2 Description of Proposed Development

The principal elements of the development can be described as follows.

- 26 km of new gas pipeline linking the permitted Shannon LNG Terminal at Ralappane, Co. Kerry to the existing natural gas network at Leahys, County Limerick.
- 2 no. above ground installations (AGI) at either end of the pipeline.

The Shannon AGI falls within the footprint of the permitted Shannon LNG Terminal which is an establishment to which the Major Accident Directive applies.

LNG is a natural gas which has been cooled to c. minus 160 degrees centigrade, at which point it becomes liquid. It will be imported to the permitted terminal by sea, where it will be stored and warmed at regasification facilities to convert it back into gas. The proposed pipeline will transmit this natural gas from the LNG Terminal to the Bord Gáis Éireann national gas transmission network just west of Foynes in Co. Limerick. It will involve a single pipe of 750mm diameter (nominal bore) with a steel wall thickness of 12.5 mm or 19.1 mm. The heavier wall thickness will be used near residences and at road crossings. The pipeline will be constructed of high strength carbon steel pipe with an external corrosive protection coating and a cathodic protection system. Concrete-coated line pipe can be used where the pipeline traverses wet ground or water courses to counteract the buoyancy pressure exerted by water.

The design pressure of 98bar is the pressure required at the LNG terminal to meet the injection pressure requirements of 85bar at the existing natural gas network. The maximum throughput in the pipeline will be 28.3 million standard cubic metres per day.

Although a specific route has been identified for the pipeline, planning permission is sought for a 100 metre corridor to allow for route refinement in the event that unforeseen features are discovered during the construction of the pipeline. The corridor normally centres on the pipeline (i.e. it extends 50 metres on either side of the line). A permanent 14 metre wayleave will be required along the pipeline route. The proposed pipeline will be laid in a 30 metre wide construction corridor, and will generally be laid at a depth of 1.2 metres, increasing to 1.6

metres where the pipeline will require additional protection, such as at road and river crossings.

AGIs will be constructed at the tie-in point to the Shannon LNG Terminal and the natural gas network. The main functions of the AGIs are pressure reduction, metering, odourisation and pigging (to monitor the internal condition of the pipeline).

Four different permanent marker types will be used to locate the pipeline and provide adequate warning for those working over ground after reinstatement, comprising:

- marker posts – located at every road, field boundary and river, to indicate the pipeline position;
- cathodic protection test posts – located at every road, to allow the Cathodic Protection system to be checked;
- aerial markers – located at every third field boundary, to facilitate aerial monitoring;
- aerial dish marker – located at major changes in pipeline direction, to facilitate aerial monitoring.

2.3 The Route

The proposed route of the pipeline commences at the permitted Shannon LNG Terminal site at Ralappane, some 4 km west of Tarbert on the north Kerry coast. The pipeline runs inland from Ralappane, before extending generally eastwards to the existing Bord Gáis Éireann national gas transmission network at the townland of Leahys, 1km west of Foynes in Co. Limerick. The route is relatively parallel to, and between 1.5 and 2 km inland of, the Shannon estuary. The pipeline is referred to in the application as the Shannon Pipeline. Approx. 8 km of the pipeline is located in County Kerry (Strip Maps 1-4), with the remaining 18 km in County Limerick (Strip Maps 5-14). The route lies to the south of the towns of Tarbert, Glin, and Loghill, and to the west of Foynes. It runs through an undulating landscape of farmland, dominated by pasture, with frequent sections of peat (much of which is described as thin) and alluvium, particularly in the eastern half of the route. As a consequence, much of the land is poorly drained, with extensive rush growth. Blocks of immature plantation woodland have been planted on higher ground. There are also short sections of shallow rock, and grit/shale rock along the route. These sections are indicated on the geomorphology maps submitted with the application.

The route of the proposed pipeline will traverse:

- 1 national road (N69)
- 2 regional roads (R551 and R524)
- 17 local roads of varying widths

- Glencorbly River
- White River (also known as the Owvane River)
- Glashanagark River (a small tributary of the White River).

The pipelines will cross the properties of 72 landowners over its length.

There are no environmentally designated sites within the corridor of the proposed pipeline. The route does, however cross a number of watercourses that flow northwards to discharge to the Shannon Estuary. The Estuary is a candidate Special Area of Conservation (Lower Shannon – site code 002165), and a proposed Special Protection Area for birds (Shannon-Fergus Estuary – site code 004077). The route also lies within 10 km of the Ballylongford Bay proposed Natural Heritage Area (site code 1332).

Two zones of constraint around archaeological sites recorded in the Record of Monuments and Places (RMP) are crossed by the proposed pipeline. A further eight recorded monuments are located close to, but outside the proposed route.

2.4 The AGI sites

The proposed Shannon AGI is located within the Terminal site. It has a stated area of 0.6 ha and currently comprises agricultural land which is laid to grass for pasture. The site is currently bounded by agricultural land on all sides, although the permitted LNG Terminal abuts the southeastern boundary. The AGI will contain two sets of facilities, the Shannon LNG Terminal facilities, needed to accommodate the valves and equipment to facilitate the connection to the proposed pipeline, and the Shannon Pipeline facilities. It will comprise an instrument building, an odorant facility (including tanks), a pig launcher and receiver (pig trap) for internal inspection of cleaning of the pipeline, gas analyser building, and remotely operated valves which will control the flow of gas into the proposed pipeline. It is proposed that metering facilities (contained within a separate metering building) will also be accommodated on the AGI site, although these will be part of the Terminal development and do not, therefore, fall within the development proposed by this application. The AGI site will be enclosed within a security fence. The compound will be remotely operated and will normally be unmanned. Vehicular access for maintenance purposes will be from the LNG Terminal.

The Foynes AGI compound is located at the western end of the proposed pipeline at Leahys. It has a stated area of 1.8 ha, and currently comprises agricultural land in use as pasture. A reservoir, which is bounded by mature trees, lies to the east, with agricultural land on all other sides. Wooded areas lie further to the north and east, between the site and the Estuary. The nearest house would be approximately 120 metres from the site. The existing Bord Gáis Éireann (BGE) network runs beneath the site along the southwestern site boundary. There are two parts to the

AGI, one for the Shannon Pipeline, and one for the BGE pipeline system. The Shannon Pipeline facilities comprise a pig trap, instrument building, and metering building which will meter the natural gas transfer to the BGE network. It is stated that the BGE facilities are typical of existing BGE buildings and equipment on the national gas network, comprising filters, meters, a heater building, instrument building, pressure regulator building and a flow control system. The AGI site will be enclosed within a security fence, and planting is proposed to provide screening. The AGI will normally be unmanned. A close-circuit television system will be installed which will be monitored at the Shannon end. Vehicular access for maintenance purposes will be from the adjacent minor road to the south west, which leads north for 700 metres to the N69.

2.5 The Construction Process

It is stated that the construction of the proposed pipeline will last approximately 9 months, during the months of March to November. It is intended that the pipeline will be constructed in the fourth year of the construction of the LNG Terminal. Certain parts of the construction programme will be dictated by the need to minimise the environmental impact at certain locations along the pipeline route. Site investigation including ecological survey work, excavating trial pits, drilling boreholes, and geophysical surveys will be carried out approx. one year in advance of the main construction works.

The pipeline will be constructed using a ‘spread’ technique. The pipeline route and any temporary working areas will be fenced off, and obstructions such as hedgerows, walls and vegetation, removed from the working width (known as the ‘spread’). This is approximately 30 metres in width. Topsoil will then be removed from the spread and stored on one side, within the spread, for re-use as backfill. Access will be along the working width. Pipe will be delivered to the working width from a storage depot on flat-bed articulated trucks, and off-loaded with mobile cranes. The pipes will be bended on site if required, and each length of pipe will be welded together, forming a pipe string, and lowered into the excavated trench using specialised lifting plant known as side-booms. All welds are tested before a coating is applied on site, and the entire pipeline is hydrostatically pressure tested on completion. A trench will then be excavated and the majority of excavated material stored for re-use as backfill. In areas where rock is close to the surface, some blasting may be necessary. The trench is finally backfilled and any field drainage and field boundaries reinstated to their original condition.

Two main methods will be employed at locations where the pipeline crosses roads, rivers, drainage ditches, service and utility crossings, involving either open cut trenches or trenchless technologies. The application states that the preferred method is open cut techniques, subject to the agreement with local authorities and the Shannon Regional Fisheries Board, and the suitability of ground conditions. It

is proposed that most watercourses will be crossed using in-river works by means of an open cut trench, with hydraulic excavators. In general, the watercourse will be dammed, and the water over-pumped for the duration of the work. Alternatively, a 'dry' open cut trench methodology may be used where water flow is maintained by diverting the river away from the proposed crossing location. Details of trenchless technologies are also provided.

The EIS states that one or more construction compound(s) will be established close to the pipeline route. The particular location(s) will be at the discretion of the construction contractor. No further details or indication of the location of the site compound are provided in the application. The compound(s) will include provision for services, cabins, offices, sanitary facilities, lockers, hard standings, stores, fitting shops, fabrication areas and parking space for vehicles. The facilities will also include those for welding inspection personnel, including a darkroom, film-viewing room and film store. There will be on-site security during nonworking hours. Smaller mobile facilities may also be established along the route, providing canteen and sanitary facilities. The compound(s) will be cleared away on completion, and the site(s) fully reinstated.

In relation to the construction of the AGI, a site compound for the Shannon AGI will be positioned within the Terminal site. At Foynes, there will be a temporary working area required alongside the proposed site. These will both include the provision of services, accommodation areas, cabins, sanitary facilities, mess facilities and hard standings.

2.6 Regulatory Framework

The Environmental Impact Statement (Volume 2, Chapter 1), notes the other regulatory framework governing the proposed development, as follows:

- Consent from the CER under section 39A of the Gas Act, 1976, as amended, to construct the proposed pipeline.
- Licence under section 254 of the Planning and Development Act, 2000, where the proposed pipeline crosses a public road along its route.
- Agreement of BGE to connect to the transmission network under section 10A of the Gas Act 1976.
- Licence from the CER to operate the pipeline under section 16(1) of the Gas Act (Interim) (Regulations) Act 2002, as amended.

2.7 The CAO

The CAO was originally sought in respect of 14 m wide wayleave on lands owned by 16 of the 72 landowners along the route. The wayleave is indicated in red on the submitted drawings. The proposed deviation limits (ie the area within which the eventual wayleave could be sited) are shown coloured green. During the

course of the application the applicant reached agreement with a further 11 of the landowners, and, as such, the CAO now relates to 5 landowners as set out in the amended schedule submitted by the applicant at the oral hearing, comprising wayleave numbers:

- CWL 07A (Drawing No. S32-002)
- CWL 17 (Drawing No. S32-004)
- CWL 34 (Drawing No. S32-006)
- CWL 42 (Drawing No. S32-009)
- CWL 65 (Drawing No. S32-013)

The documents submitted to the Board by the applicant in respect of the CAO include:

- Draft Order
- Book of Section 32 Acquisition Maps
- Book of Specification
- Book of Statement
- Book of Reference

An application to amend the book of reference under Article 10 of the Second Schedule of the Gas Act 1976 was also submitted to the Board on 1 December 2008 in relation to a change of ownership details for wayleave number CWL 65.

3.0 PLANNING HISTORY

Planning permission was granted by An Bord Pleanála under section 37G of the Planning and Development Act, 2000 (as amended), for a Liquefied Natural Gas (LNG) regasification terminal on the southern shore of the Shannon Estuary in the townlands of Ralappane & Kilcolgan Lower, County Kerry (**PL08.PA0002**). A copy of the Order dated 31 March 2008 is appended to this report.

Condition 7 of this permission reads:

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.*

4.0 POLICY AND GUIDANCE

4.1 National Policy

National Spatial Strategy 2002-2020

The NSS identifies Limerick-Shannon as a ‘Gateway’ and Tralee and Killarney as a ‘hub’. The Strategy identifies the need to enhance both the robustness and choice of energy supplies through improvements to the national grids for electricity and gas as a prime consideration, as is the strengthening of energy networks in the west, north west, border and north eastern areas of the country.

National Development Plan 2007-2013

The NDP sets out an Energy Programme for the plan period, which sets out a significant investment programme for energy over the Plan period. The Plan states that the ability of the economy to perform successfully depends on the supply of adequate, affordable and environmentally sustainable energy. In this respect, security of supply is identified as of paramount importance. Demand for energy is expected to grow by 1.6% p.a. over the Plan period, with annual demand for electricity and gas expected to grow by 3.1% and 6.5% respectively.

Delivering a Sustainable Energy Future for Ireland – Energy Policy Framework 2007-2020 (Energy White Paper)

This White Paper outlines the framework for energy policy until 2020. In relation to Actions to Ensure Security of Energy Supply, the following strategic goals are relevant:

- Strategic Goal 1: Ensuring that electricity supply consistently meets demand
- Strategic Goal 2: Ensuring the physical security and reliability of gas supplies to Ireland.
- Strategic Goal 3: Enhancing the Diversity of Fuels for Power Generation
- Strategic Goal 4: Delivering electricity and gas to homes and businesses over efficient, reliable and secure networks.
- Strategic Goal 6: Being Prepared for Energy Supply Disruptions.

The role of the private sector in investing in gas storage facilities and LNG is identified in respect of Goal 1. In relation to Goal 3, it is stated that in the absence of alternatives, Ireland’s dependence on natural gas for power generation would be 70% by 2020 without policy intervention. Such a high level of reliance on gas is generally seen as unsustainable from a security of supply perspective.

Natural gas will, however, continue to constitute a significant part of the power generation fuel mix for the foreseeable future. The Government remains committed to reducing over-reliance on natural gas in the power generation sector by proactively pursuing all realistic alternatives for Ireland.

LNG is specifically identified as a means of holding stocks and strategic reserves within the energy sector in relation to Strategic Goal 6.

The White Paper is also generally supportive of improving the competitiveness of energy supply.

National Climate Change Strategy 2007-2020

This Strategy acknowledges the role of gas in stabilising greenhouse gas emissions as required by the Kyoto Protocol.

4.2 Regional Policy

South East Regional Planning Guidelines 2004

The county of Kerry lies within the jurisdiction of the South East Regional Authority. The Regional Planning Guidelines are generally supportive of the extension of the gas network, particularly to the Tralee-Killarney hub, and to securing industrial development.

Mid West Regional Planning Guidelines 2004

The county of Limerick lies within the jurisdiction of the Mid West Regional Authority. The Regional Planning Guidelines are generally supportive of the expansion of the gas network throughout the region where feasible.

It is also stated (at Section 5.7) that “*development plans should facilitate the provision of energy networks in principle, provided that it can be demonstrated that –*

- *the development is required in order to facilitate the provision or retention of significant economic or social infrastructure;*
- *the route proposed has been identified with due consideration for social, environmental and cultural impacts;*
- *the design is such that will achieve least environmental impact consistent with not incurring excessive cost;*
- *where impacts are inevitable mitigation features have been included.”*

4.3 Development Plans

Kerry County Development Plan 2003-2009

Approximately one-third of the pipeline runs through County Kerry. A large area of land, comprising 188.8 ha and known as the Ballylongford Landbank, was rezoned 'Industrial' by Variation No. 7 to the County Development Plan (March 2007). The permitted LNG Terminal site is located within these lands. The site of the proposed Shannon AGI, and the western most part of the pipeline, also lies within this landbank and are zoned 'Industrial'. The vast majority of the pipeline route in Kerry is not subject to a zoning objective in the Kerry CDP.

Objectives ECO 2-1 and ECO 2-2 encourage economic and employment growth. The Plan also identifies the peripherality of Kerry as one of its greatest difficulties. The provision of proper external infrastructural linkages from the county to national and international infrastructural networks reduces the impact of peripherality and makes the county more attractive for the location of industry.

In relation to the protection of the natural environment and heritage of the County, Objective EN 10-1 states that the Council will take all necessary measures to prevent pollution.

Objectives ENV10-17, ENV10-18, ENV10-19, ENV10-20, and ENV10-21 seek to protect the conservation value of national and European designated areas. Planning applications must provide sufficient information showing how its proposals will impact on the habitat and indicating appropriate amelioration.

Objectives BH9-1 and BH9-3 seeks the preservation of all archaeological monuments included in the Record of Monuments and Places (RMP) and the protection of settings of archaeological sites or structures respectively.

Objective ZL 11-1 aims to protect the landscape of the county as a major economic asset as well as for its invaluable amenity value.

Local Area Plans

The *Tarbert Local Area Plan 2006* comments on the potential for port-related industrial uses provided by the bank of industrial land to the west of the town.

The *Ballylongford Local Area Plan 2007*, is contained within the North Kerry Settlements Local Area Plan. This Plan notes the proposal to develop an LNG Terminal at the Ballylongford land bank, and the associated potential for job creation.

Draft Kerry County Development Plan 2009-2015

Objective ECO 5-24 of the Draft Kerry CDP seeks to facilitate the provision of the infrastructure necessary to cater for the needs of industry in Ballylongford/Tarbert and through out the County. Objectives ECO 5-25 and ECO 5-26 support the development of the lands zoned for industrial development both in general (the former), and in the Tarbert/ Ballylongford area in particular (the latter).

Objective EN 11-1 seeks to take all necessary measures to prevent pollution in order to maintain the quality of the environment of County Kerry. Objective EN 11-2 requires that global warming and climate change are incorporated into the policies and development management system. EN11-20 seeks to protect air quality.

EN 11-21 - EN11-29 (inclusive) require the protection of environmentally designated areas and species, together with the biodiversity and landscape of the Council.

Objectives BH10-1 and BH10-3 seek the preservation of all archaeological monuments included in the Record of Monuments and Places (RMP) and the protection of settings of archaeological sites or structures respectively.

Limerick County Development Plan, 2005-2011

Approximately two-thirds of the pipeline runs through the jurisdiction of Limerick County Council. The proposed AGI at Leahy's townland is also located within County Limerick. The Development Plan provides development boundaries for 58 settlements throughout the County (listed in Appendix V). The proposed pipeline does not pass through any of these settlements, nor is the AGI at Leahys located within any such boundary.

Chapter 2 of the Limerick County Development Plan sets out an overall strategy. It includes a vision statement under which the County will adopt a positive and sustainable approach to balanced development, thereby enhancing the lives of people who live in, work in and visit the county, while protecting the natural and built environment. A number of strategic themes are put forward. Amongst these themes are Environment and Heritage and Shannon Estuary Development.

Chapter 8: Transport and Infrastructure comments that the availability of energy is of critical important to the development and expansion of County Limerick. A substantial investment programme is currently underway by Bord Gáis to enhance and extend the existing natural gas transmission network. Further extensions to the gas network into County Limerick will only occur if demand is shown to exist and is of a sufficient nature to ensure the economic viability of such an extension.

Policy INF 37: Energy Networks states:

It is the policy of the Council to facilitate the provision of energy networks in principle, provided that it can be demonstrated that;

- a) The development is required in order to facilitate the provision or retention of significant economic or social infrastructure;*
- b) The route proposed has been identified with due consideration for social, environmental and cultural impacts;*
- c) The design is such that will achieve least environmental impact consistent with not incurring excessive cost;*
- d) Where impacts are inevitable, mitigation features have been included; and*
- e) Protected areas – NHAs, SPAs and SACs, areas of archaeological potential and scenic importance, proximity to structures that are listed for preservation, national monuments, etc have been taken into account.*

The works are proposed within the Shannon Coastal Landscape Character Area. The restrictions set out in policy ENV14 are of limited relevance to the proposed development, although subsection (c) draws references the use of site-specific designs with careful attention to landscaping may be of relevance to the Foynes AGI.

Policies ENV 2 and ENV 3 seek to protect natural conservation sites and species identified for protection respectively. ENV 4 seek the conservation and protection of features of natural interest outside of protected site such as appropriate woodlands and hedgerows, wetlands and uplands and places of high bio-diversity interest. Policy ENV24 seek the preservation of all sites and features of historical and archaeological interest.

Polices ENV22 and ENV23 seek to protect air quality and prevent public noise nuisance respectively through the regulation of industrial and construction activities.

Chapter 9 of the Limerick County Development Plan is entitled “the Shannon Estuary”. This is of limited relevance to the current application.

5.0 SUBMISSIONS

5.1 Planning Authorities

The following submissions were received from the relevant County Managers. There is no requirement for applications made under section 182C to go before the elected members of the planning authority.

Kerry County Council

The applicant notified Kerry County Council, by letter dated 12 August 2008, of its intention to apply to An Bord Pleanála for permission in respect of a Strategic Infrastructure Development. The response of Kerry County Council was received by the Board on 6 October 2008, and can be summarised as follows:

- The proposal is in accordance with the provisions of the Development Plan and the proper planning and sustainable development of the area.
- **Landscape:** Both AGI will be located unobtrusively in the landscape. The construction impacts of the pipeline will reduce as the restored land blends with the existing vegetation. The landscape in which the proposal is situated is not highly sensitive or scenic, the image value of the estuary will not be altered, and the proposed development is not located on land with an amenity designation. While visible from locations designated as Views and Prospects, it is considered that the development does not have a significant impact on these designations. There will not be a significant visual impact arising from the development and the mitigation measures proposed will militate any visual impact.
- **Roads:** The planning authority will not agree to the closure of the N69 or R551 (between Ballylongford and Tarbert). One way traffic (as a minimum) must be allowed at all times.
- **Water:** The pipeline crosses public water mains at two locations. These pipelines must have at least 1.2m of cover between the bottom of the watermain and the top of the gas pipeline. The cost of replacing a temporary pipeline for these areas and the permanent connection to the watermain must be borne by the developer. There is a watercourse within 300m to the north of the proposed corridor at Tireaclea North which supplies part of Tarbert and also parts of County Limerick. Under no circumstances shall this spring be interfered with.
- **Air/ Climate:** No adverse impacts.
- **Noise/ Vibration:** No significant impacts. Mitigation measures proposed during blasting will minimise any adverse amenity effects.
- **Ecology:** No significant adverse impacts.
- **Soils/ Geology:** Along much of the route reinstatement will be straightforward and there will be no significant post construction impacts.
- **Water:** No significant adverse impacts.
- **Archaeological, Architectural and Cultural Heritage:** No visual impact on the archaeological landscape as the land will be reinstated. The three areas identified in the EIS where previously unrecorded monuments or features may exist need to be assessed through test excavation. Archaeological monitoring of topsoil recommended.
- **Human Beings:** Proposed development will not have an adverse impact and potentially may have positive impacts on human beings and the

community at large through employment, population growth and community development.

- **Material Assets:** In general it is considered that the development will have a negligible impact on agricultural lands in the vicinity, and that the depreciation of property in the area will be negligible if any.
- **Conclusion:** The proposed development is of major strategic importance nationally. A clear justification for the project has been provided by the EIS. The site for the AGI is zoned for industrial development with clear objectives contained in the CDP 2003. While the proposed development is subject to IPPC licensing by the EPA, it is considered that emissions will not be such as can not be addressed by condition through the licensing procedure.

It is recommended that permission be **granted** subject to the following conditions:

1. Development to be in accordance with application details and all mitigation measures of the Environmental Impact Statement.
2. Archaeological monitoring.
3. All road crossings shall be carried out under licence from the relevant roads authority.
4. Developer to liaise with the Water Services section of Kerry County Council in relation to the construction of pipelines adjacent to public watermain and to put in place appropriate measures to prevent interruption to the water supply.

Limerick County Council

The applicant notified Limerick County Council, by letter dated 12 August 2008, of its intention to apply to An Bord Pleanála for permission in respect of a Strategic Infrastructure Development. The response of Limerick County Council was received by the Board on 6 October 2008. The planning authority requests that the following issues be taken into consideration in determining the proposed development:

- The site is located within the Shannon Coastal Zone landscape Character area as per Policy ENV14 of the County Development Plan. The site does not traverse any National Heritage Area or other European designated sites.
- **Roads:** Proposed development is likely to have a very significant impact on road safety, traffic management and road condition/ maintenance both during the course of construction and the period thereafter. The level of detail is limited in terms of temporary parking and construction sites. The applicant should consult with the Transportation Department regarding (a) a detailed traffic management plan (including construction sites, temporary parking, and delivery routes); (b) details of all drainage systems

including replacement and maintenance during and after construction; and (c) a detailed pavement condition survey (including structures such as bridges and culverts) along the routes affected.

- **Water:** No objection to the application. The proposed pipeline does not intersect any existing local authority water or wastewater services. The pipeline crosses an existing 100mm group water supply watermain at Ballycullane, Glin, and an existing 75mm group water supply watermain passes through the proposed AGI at Foynes. Details in relation to the protection of these watermains should be agreed with the relevant group water supply scheme secretaries.
- **Archaeology:** Trenchless construction should be kept to a minimum and avoided in areas of potential archaeology. Mitigation measures set out in the EIS are acceptable. The results of any archaeological findings should be published.
- **Architectural Heritage:** No impact.
- **Fire Safety:** Requirement for fire safety certificate.
- **Development Contribution:** A special contribution will be required to cover costs associated with repair of damage to the public road. Further information is required to make this calculation.
- **Other:** All openings in hedgerows should be reinstated following construction.

Other than those detailed above, no further conditions have been submitted.

5.2 Prescribed Bodies

The submission from the **Commission for Energy Regulation** (CER) considers the Shannon LNG project an important development for the Irish gas industry, particularly in terms of security of supply. The Commission has received an application for Consent to Construct the pipeline under Section 39A of the Gas Act 1976. A final decision on the granting of this Consent will be made after the Board's decision in relation to planning permission. Request that the CER attend the An Bord Pleanála public hearing in order to address any issues relevant to the Commission. Having reviewed that application, the Commission is satisfied that the proposed pipeline does not present any safety or operational concerns. It will, however, be conducting a detailed technical analysis of the proposed pipeline, and may require changes to the technical design or impose conditions relating to the operation of the pipeline.

A submission was received from the **Department of Environment Heritage and Local Government** (DEHLG) in respect of archaeology and nature conservation.

A number of conditions are recommended in respect of archaeology including pre-development testing of the three areas found during the field inspection to

have surface anomalies that may indicate archaeological remains; geophysical survey followed, if necessary, by archaeological test trenches in the area where the planning corridor runs through the zone of constraint of a monument (SMR KE003-024); archaeological monitoring of all top soil stripping and ground disturbance works associated with all water crossings; recording any material found; and report describing the results of all archaeological investigations.

In relation to nature conservation it is noted that the pipeline is not within or adjacent to any European site, Natural Heritage Area (NHA) or proposed NHA. It is not expected that the development will have a significant adverse effect on the Lower River Shannon candidate Special Area of Conservation (cSAC) due to its location, the nature of the works, and the expected compliance of contractors with the waste management legislation. A planning condition requiring a resurvey for breeding sites and resting places of the otter and bat species is recommended.

The submission received from the **National Roads Authority** (NRA) states that the Authority has no objection in principle to the proposal subject to the safety and standard of the national route being maintained through appropriate best practice construction methods.

The **An Taisce** submission considers that the proposal is in contravention of the EIA Directive, which requires an integrated assessment of a plan or project. The proposal is connected to the Shannon LNG terminal, which has been subject only to preliminary notification of decision to grant permission, as it is currently under review in accordance with the provisions of Article 10a of the EIA Directive. The consideration of this project as a stand-alone proposal is inappropriate without integrated assessment of the entirety of the Shannon LNG project. Even if it were considered appropriate to consider this application as a separate and sequential one to the terminal, such consideration is premature pending determination of the current Review proceedings.

The **Health & Safety Authority** (HSA) was notified by the Board in view of the proximity of the proposed development to the proposed Shannon LNG Terminal which is an establishment to which the Major Accident Directive applies. The submission received can be summarised as follows:

- Pipelines are specifically excluded from the scope of the Major Hazard Regulations (SI 74 of 2006), except for those within the establishment (i.e. the LNG terminal).
- On-site pipeline and associated AGI were considered in the previous advice given to the Board concerning the provision of an establishment (Jan 2008).
- It is the view of the Authority that the installation of underground pipelines is a suitable development in the vicinity of the establishment. The risk zones as identified in the submitted QRA are included.

The **Department of Agriculture, Fisheries and Food** responded that it had no observations to make in relation to the Compulsory Acquisition Order.

5.3 Observers

The **Tarbert Development Association** welcomed the decision of An Bord Pleanála to grant planning permission for the LNG terminal. The concerns/queries posed by the association can be summarised as follows:

- Can Bord Gáis send gas through the pipeline to secure supplies to customers connected to the pipeline from the national grid if Shannon LNG run out of gas?
- The issue of ‘spurs’ or ‘take-off lines’ should be dealt with in the planning process. Who will authorise these?
- Manuals for the operation and maintenance of the pipeline should be made available to the communities along the route.
- The proper reinstatement of road crossings is vital. A maintenance period of at least 2 years should be required by condition.
- The construction of the pipeline is likely to be carried out at the same time as the Terminal. This could create traffic problems in Tarbert if a Traffic Management Plan is not in place prior to the commencement of construction.
- Any newly-discovered archaeological sites should be promptly notified to local historical and heritage societies.

The **Ballylongford Enterprise Association Ltd**, likewise welcome the proposal as it is viewed as a logical follow on from the granting of permission for the LNG terminal. The following observations are made:

- All necessary safety precautions should be put in place to ensure the safety of the workers and people living near the pipeline.
- Gas spurs should be put on the pipeline to allow for future connections to local towns such as Listowel, Tralee, Ballylongford, Ballybunion, Tarbert and local industries such as Tarbert Island power station.
- A monitoring committee should be put in place to monitor works in progress and afterwards.

A submission was received from **Kilcolgan Residents Association & Safety Before LNG**, objecting to the proposed development. Signed submissions by Kathy Sinnott MEP and Tony Lowes for Friends of the Earth are also attached. The contents of the submission can be summarised as:

- It is highly questionable how Shannon Development could guarantee to a developer that planning permission could be obtained within 2 years for lands that, at the time, were zoned Rural General and Secondary Special Amenity.

- The land at Kilcolgan would normally been subjected to a Strategic Environmental Assessment (SEA) before rezoning as the proposed LNG project would have a significant effect on the environment and given its status as a SEVESO II site.
- The alternative pipeline corridor that would pass closest to the ESB station (and earmarked for conversion to gas) would be less than 20 km in length and would not qualify for fast track planning under the 2006 Act.
- No blueprint exists for any connection to the ESB station by the pipeline.
- It is rumoured that a separate planning application may be put forward for another pipeline from Foynes to the ESB station in Tarbert. An independent SEA is needed to provide a logical overall environmental assessment of the impacts of the current proposed oil and gas storage developments coming in dribs and drabs into the public sphere. Development in this manner does not constitute orderly development.
- The use of sea water to heat and regasify LNG would affect marine life and water quality. This issue was not assessed in the previous application as it relates to a permit given by the EPA. If the EPA recommends a more environmentally-sensitive approach, another planning application would be required for the modification of the terminal. This will never happen and the solution will be a mitigation approach which will not be a planning process undertaken from first principles.
- The state implemented the 2006 Act, under which LNG terminals and pipelines are defined as strategic infrastructure, under pressure from the gas industry. This abuse of state powers is believed to be unconstitutional.
- The pipeline is new environmental information that should subject the whole project to reassessment. Project splitting contravenes EU laws. Equally, all licensing permits should be obtained before planning permission is applied for to provide more complete environmental information at the planning stage as obliged under European law, and confirmed by the ruling of the European Court in respect of the wind farm at Derrybrien, Co. Galway (case C-215/06 Commission of the European Communities v Ireland).
- An assessment should be made on uneconomical access to the gas network and determine if this will affect supply of natural gas to the rest of Kerry and the construction of gas infrastructure in the county.
- The need for a compulsory acquisition order for a pipeline is questioned. An objection is raised to the offers which are less than the open market value of the land. A private company should not be allowed to apply for the compulsory acquisition of private land.
- The pipeline will destroy Ralappane House, a building now under consideration as a protected structure.
- An assessment of the emissions from the AGI should be included into the planning for the terminal. The AGI and pipeline infrastructure will increase risks to nearby residents, contrary to Art.12 of the Seveso II

Directive. Risks from the pipeline were not included in the original assessment of the LNG terminal. Electrostatic risk increases with moving gas.

- As the EIS was not available on the internet for a lengthy period of time, the right to make another submission at a later stage is formally requested.
- The HSA is not going to assess the project under its Seveso II obligations.
- The Board should await the outcome of the High Court challenge to the Strategic Infrastructure Act 2006.
- The Minister for the Environment has publicly stated that the planning authorities have chosen the best pipeline route for this application. The observer has written to the Minister requesting whether or not alternative routes can now be objectively assessed at the planning stage.
- A planning application has been submitted for an offshore LNG facility off the coast of Dublin, proving that alternative sites for LNG storage do exist and are being actively pursued in the Irish Sea.
- The All-Island Strategy document for gas storage, “Study on Common Approach to Natural Gas Storage and Liquefied Natural Gas on an All Island Basis” was published after planning permission for the terminal was granted. The planning authority should have awaited the publication of this document before making a decision. This report contains information on high potential alternative storage sites and strategies including the North Celtic and Irish Sea Basins, the depleted Kinsale gas fields, and other storage options such as salt caverns and re-gasification vessels. This study should be taken into consideration in this application.
- Other development planned for the landbank such as the SemEuro oil storage facility are being kept on hold until the LNG application is completed. There must be a clearer definition of the types of development that should be allowed than being based on the probability of an accident as provided solely by the developer. SemEuro has been in consultation discussions with An Bord Pleanála since March 2007. The Board is not acting in an objective manner as it is refusing to declare the application no longer valid. This allows it to avoid releasing the documents to the general public.
- An Bord Pleanála has allowed itself to develop too close a relationship with the applicant and is now guilty of “agency capture”. It implicitly encouraged the developer to issue “wayleave offers” to the landowners, which is a tacit approval by the Board for the pipeline route chosen and is totally in contravention of the obligation to allow meaningful public participation in the planning process. A mockery is being made of the planning process and members of the public on whose land the development is taking place are being bullied into accepting a decision that they feel has already taken place.

- The oral hearing should be held locally, and funding provided to the objector to engage independent LNG and pipeline safety experts in the interests of fairness.
- An independent assessment on the effects on soils is needed.
- New information has been discovered since the oral hearing which needs to be taken into consideration for the whole project:
 - a. No risk assessment has been completed for an LNG spill on water.
 - b. The Marine Risk Assessment by Shannon Foynes Port Company highlighted the transformation of the southern shores of the Shannon Estuary into an oil and gas storage hub without any SEA being undertaken.
 - c. The draft Kerry County Development Plan is retrospectively trying to endorse the LNG terminal.
 - d. The construction of LNG terminals within 5,000 feet of residences, schools, hospitals, elderly housing complexes, businesses and developments has been prohibited in the state of Massachusetts. LNG tankers are also prohibited from passing within 1500 feet of populated shorelines. No further development should take place within 3 km of the terminal.
 - e. The original application took no account of the effect of traffic on Tarbert village; how primary and secondary schools are to open and close at the same time to facilitate construction traffic; not all lands are owned by the applicant and the issue of the sterilisation of land; the plan for a gas-powered ESB station on the site has not been properly environmentally assessed.
- The European Petitions Committee has formally informed the KRA that it has asked both the European Commission and the European Parliament Committee on the Environment to conduct preliminary investigation of the various aspects of the LNG terminal in relation to EU Directives. It is submitted that at least nine EU Directives are being contravened: the Wastewater Directive, Emissions Trading Directive, Environmental Liability Directive, Seveso II Directive, Gas Directive, EIA Directive, SEA Directive, Habitats Directive, and IPPC Directive. The Board is requested to that all of these directives into consideration.
- It is requested that the Board take on board all of the submissions (including the proceedings of the oral hearing) on the LNG terminal (PA0002).
- The pipeline route has been forced on landowners who cannot understand the consequences of the sale of lands without legal advice or protection from the government. Landowners are being forced to sell out against their will for fear of obtaining virtually nothing at all if the application for compulsory acquisition is successful. The Gas Acts and Strategic Infrastructure Act should not be used to compulsorily acquire private land for a project that is not in the national interest.

- This LNG project is encouraging more dependence on imported fossil fuels, contrary to Ireland's obligations under Kyoto.
- The development will pose a risk to a primary drinking-water supply in the Kilcolgan area.
- No meaningful consultation was carried out with the local community.
- The development would industrialise a previously unspoilt landscape.
- The quality of life of people in the region of this development will continue to be severely damaged and the long-term impacts will be catastrophic.

The submission received from **Catriona Griffin**, a local resident, can be summarised as:

- The pipeline should go to the ESB station at Tarbert, which is likely to be converted to gas use in the future.
- Ecological impacts from removal of hedgerows, crossing of river courses, and noise, dust and traffic from the construction process.
- Concern that water supplies from wells will be affected.
- Insufficient details are provided in the EIS regarding reinstatement.
- No indication of how many jobs will go to local people. No local employment has been created to date.
- Effects on human beings have been largely ignored. Local residents will have to noise, dust, traffic and blasting. It is totally unacceptable that the application is for a 10 year period.
- There is no mention of accidents, emergency procedures or possible danger associated with the pipeline. Details of accidents involving LNG facilities are appended.
- Permission for the terminal has already been granted and the pipeline is a fait accompli.

The submission received from **Thomas O'Donovan**, a local resident, can be summarised as:

- The applicant's motivation in entering the energy market is profit. With the phasing out of coal and oil it is possible that the gas industry will monopolise the Irish market having little or no competition.
- Liquid natural gas is a fossil fuel, the burning of which has dire consequences for humanity and the fragile local and wider environment.
- The route of the pipeline would be through large areas of boggy ground. Local people are worried that more bogslides are a probability adversely affecting their drinking water again with dead zones in rivers another possibility.
- Present and future rainfall is another factor that could lead to more unforeseen ecological disasters.
- Gas is a pollutant and a serious health risk to people and the natural environment.

6.0 ASSESSMENT - Proposed Development

Having examined the file and planning history, considered the prevailing local, regional and national policies, inspected the site and assessed the proposal and all of the submissions, including those made at the oral hearing, I consider the key issues in this case to be the following:

1. Adequacy of the Environmental Impact Statement
2. Principle of Development
3. Need
4. Alternative Routes and Sites
5. Legal and Procedural Issues
6. Health & Safety
7. Ground Conditions
8. Natural Heritage
9. Ground and Surface Water
10. Archaeology and Architectural Heritage
11. Road Issues
12. Visual Impact
13. Community Gain
14. Development Contributions
15. Other matters

6.1 Adequacy of the Environmental Impact Statement

The EIS which accompanies this application was prepared under the requirements for a strategic gas infrastructure development set out in section 182C of the Planning and Development Act, 2000 (as amended). It comprises three volumes:

- Volume 1: Non Technical Summary;
- Volume 2 (the main report including appendices);
- Volume 3: Figures.

The EIS describes the proposed development, the need for the development and alternatives considered, construction activities and planning and policy context. The effects of the proposal on the environment are assessed under the following headings: landscape and visual; roads and traffic; noise and vibration; air quality and climate; ecology; geology and soils; hydrology and hydrogeology; material assets; archaeological architectural and cultural heritage; and human beings. A

section entitled ‘Other impacts and interactions’ assesses the cumulative effects and interaction of effects.

Section 1 of the EIS also outlines the submissions received by the applicant in response to extensive pre-application consultations with local authorities, government departments, the public, other service providers, various statutory bodies and non-governmental organisations, and local community groups and interested parties.

Section 2, sets out the need for the proposal and the alternative routes and locations for the AGI which were considered. I shall return to the merits of the alternatives considered below. I am, however, satisfied that an adequate assessment of the alternatives available was carried out.

In terms of each of the aforementioned environmental criteria, the EIS provides a description of: the methodology used in the assessment; the existing environment; potential impacts of the proposed development; mitigation measures; and residual impacts. The main impacts of the proposed development are considered to relate to the construction phase, although the operational phase is also assessed.

The information in the EIS was supplemented by the oral and written submissions presented to the Board at the Oral Hearing.

I consider that the EIS complies with the requirements of article 94 and Schedule 6 of the Planning and Development Regulations, 2001 and provides a useful aid to the decision making process. In particular, I found that the strip maps, aerial views, habitat, and geomorphology mapping greatly assisted in the comprehension of the written text.

6.2 Principle of Development

The purpose of the proposed pipeline is to transport natural gas from the permitted LNG Terminal to the existing Bord Gáis Éireann natural gas network just west of Foynes in Co. Limerick. The applicant has argued that natural gas entering the pipeline from the LNG terminal will provide increased security and diversity of supply to Ireland in accordance with the *National Development Plan 2007-2013* and the strategic goals set out in the government’s Energy White Paper ‘*Delivering a Sustainable Energy Future for Ireland 2007-2020*’. Both of these documents identify security of supply as of paramount importance to the national interest. I note that this argument was accepted by the Board in relation to the LNG terminal application (PL08.PA0002), and I consider that it also applies in this instance.

In terms of national and regional planning policy, I note that the *National Spatial Strategy 2002-2020*, *South East Regional Planning Guidelines 2004* (Kerry), and

the *Mid West Regional Planning Guidelines 2004* (Limerick), are supportive of extending the gas network throughout the respective regions, and to the Tralee/Killarney Hub in particular. The observers in support of the development also consider that gas spurs should be put on the pipeline to allow for future connections to local towns such as Listowel, Tralee, Ballylongford, Ballybunion, Tarbert and local industries such as Tarbert Island power station. I shall return to the issue of the Tarbert power station in relation to the alternatives below. In relation to the general expansion of the gas distribution network, I note that the proposed development, in itself, does not provide for an extension of the gas distribution network. In response to this issue, the applicant did indicate at the oral hearing it would be technically feasible to distribute natural gas to towns in the region from the Shannon pipeline, and that such spurs could be fed from either the LNG terminal or, if the direction of gas flow was reversed, from the national gas network. It would, however, be up to Bord Gáis and the CER to assess the feasibility of extending the distribution network to serve the towns. The *Mid West Regional Planning Guidelines* generally state that development plans should facilitate the provision of energy networks subject to certain criteria, and this is reflected in Policy INF37 of the Limerick County Development Plan (which I shall return to below). Overall, I do not consider that either the National Spatial Strategy or the relevant Regional Planning Guidelines are of particular relevance to the proposed development.

The site of the Shannon AGI is located within a large area of land, comprising 188.8 ha and known as the Ballylongford landbank, which was rezoned 'Industrial' by Variation No. 7 to the Kerry County Development Plan (March 2007). The permitted LNG Terminal site is also located within these lands. The purpose of the variation was *"to facilitate consideration of suitable development on these lands in accordance with the provisions of section 5.2.9 of the Kerry County Development Plan 2003-2009, which states: 'lands have been identified at Ballylongford/ Tarbert as suitable for development as a premier deep water port and for major industrial development and employment creation'"*. I note that the Board previously considered that the LNG terminal accorded with the objectives of the Kerry County Development Plan, 2003-2009, and I am satisfied that the principle of the AGI and pipeline to link the terminal to the national gas network is similarly acceptable in this respect. The Draft Kerry CDP 2009-2015 also seeks to facilitate the provision of the infrastructure necessary to cater for the need of industry in Ballylongford/ Tarbert and throughout the County (Objective ECO 5-24).

Policy INF 37 of the Limerick County Development Plan, 2005-2011 outlines the Council's policy to facilitate the provision of energy networks, and the supporting text states that the Council will support the current investment programme to reinforce the national grid in order to meet international supply standards and to take account of rising demand. Whilst it would appear that this policy was adopted in the context of the existing Bord Gáis investment programme to extend the national transmission network, it is clearly supportive of initiatives to improve

energy supplies. I am generally satisfied, therefore, that the no conflict exists with the Limerick Development Plan in this respect. The other criteria relate to various environmental and other impacts, which are also considered in this assessment.

6.3 Need

The issue of the need for an LNG facility has been accepted by the Board in its decision to grant permission for the Terminal, which (inter alia) had 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,*
- (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.*

The EIS submitted in respect of the Terminal application clearly outlined the requirement for a gas pipeline connection from the terminal site to the national gas network, stating that this would be the subject of a separate planning application. Furthermore, Condition 7 of that permission requires that “*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*” (full text at Section 3 above). Given that the natural gas stored at the Terminal must be used to supply the national grid, and the restrictions on the transfer of the gas, I consider that the need for the AGI and pipeline has been firmly established.

The proposed pipeline has a stated capacity of 28.3 million cubic meters (1 billion cubic feet) per day. The applicant stated at the oral hearing that it is anticipated that initial gas flows will be in the region of 11.3 million cubic meters per day (400 million cubic feet), rising on a peak demand basis, to 17 million cubic meters (600 million cubic feet). The pipeline design, therefore, makes provision for some possible future expansion. I note from the original LNG terminal application that the terminal will be developed in two or more phases. In the first phase, one or two of the LNG tanks, the vaporisation equipment and support facilities would be installed to handle an expected throughput of 11.3 million standard cubic metres per day, but with sufficient capacity to enable a peak regasification rate of 17 million standard cubic metres per day. Ultimately, the additional tanks and additional vaporisation equipment and support facilities

would enable the facility to handle up to 28.3 standard cubic metres per day. I am satisfied, therefore, that the capacity of the pipeline is appropriate for the permitted Terminal facility.

6.4 Alternative Routes and Sites

Three alternative routes were considered between the LNG terminal and the existing BGE network:

- Route Corridor 1 – extends eastwards along the south side of the Shannon Estuary between the LNG Terminal and the existing gas network in the vicinity of the Craggs AGI.
- Route Corridor 2 – leaves the LNG Terminal and crosses the Shannon Estuary at Tarbert, before running eastwards along the north side of the Estuary to the existing Shannakea Beg AGI.
- Route Corridor 3 – extends directly north-eastwards from the terminal, crossing the Estuary and running eastwards to the existing Shannakea Beg AGI.

In addition, a route corridor along the length of the Shannon Estuary was also considered, but was ruled out at an early stage due to ecological designations, engineering difficulties and economic costs.

It is stated that Route Corridor 1 represents the shortest feasible route on the south side of the Estuary, and is the preferred route and the subject of the EIS; Route Corridor 2 represents the shortest route between the LNG Terminal and the existing gas network while also passing close to Tarbert Island power station; and Route Corridor 3 represents the shortest route between the LNG Terminal and the existing gas network while also passing close to Moneypoint Power Station. Route Corridor 1 was selected as the preferred route corridor as it did not require a crossing of the Shannon Estuary, with the associated environmental and economic costs, and engineering difficulties.

The observers have argued that the pipeline should go to the ESB station at Tarbert which, it is stated, is likely to be converted to gas use in the future. In response the applicant stated at the oral hearing that Tarbert power station is currently fuelled by oil. If it does, however, convert to gas, it is technically feasible to connect the power station using a spur from the Shannon pipeline. I note that Route Corridor 2 would facilitate a direct connection to the power station. This route also, however, involves crossing of the Estuary, and it is difficult to envisage how the pipeline would serve the power station without crossing the estuary except as a spur from the main pipeline. I estimate that a spur from Route Corridor 1 to the power station would extend to some 4 km. This distance could be shortened if the proposed pipeline was moved closer to the town of Tarbert, which the route otherwise seeks to avoid. Likewise, any

connection to the Moneypoint power station, which is currently fuelled by coal, could not avoid crossing the estuary. The applicant has stated that it is not aware of any plans or even speculation to convert Moneypoint to natural gas. As a commercial entity, however, it would welcome the opportunity to connect power stations to the Shannon pipeline.

I am in agreement with the applicant that Route Corridor 1 generally represents a reasonable route along the southern side of the Estuary, and that there are significant environmental difficulties associated with crossing the Shannon Estuary which is a candidate SAC and a proposed SPA. I do not consider that the route should be altered to facilitate any future connection to Tarbert power station, which can be reasonably connected to the main pipeline by means of a short spur.

Four possible site options for the location of the Foynes AGI were also considered:

- Site A - the most northerly site; it is adjacent to a wooded area and would be accessed from the minor road to the west, some 200 metres from the N69 (Limerick/Tarbert Road).
- Site B – the preferred location, as described at Section 2.4 above.
- Site C - located to the south of Sites A and B c.150 metres back from the local road; some 1.5 km from the N69.
- Site D – located to the south of Foynes, c.500 metres east of the N69. The site is surrounded by very hilly topography, with a significant slope running northwards across the site.

I am generally in agreement with the assessment of these sites as set out in Section 2.3.4 of the EIS, and consider that the selection of the site at Leahys (Site B) as the location for the new AGI to be reasonable.

6.5 Legal and Procedural Issues

Both An Taisce and the Kilcolgan Residents' Association (KRA) have argued that the proposal is in contravention of the EIA Directive as it does not represent an integrated assessment of the entirety of the Shannon LNG project. It is submitted that to consider the pipeline as a separate planning application constitutes project splitting, and that an EIS for two separate projects is not the same as having one EIS for the complete project. The applicant strongly refuted this contention during the oral hearing, stating that project splitting relates to an attempt by a developer to carve up a project in such a manner that no EIS is prepared. Reference was made to the decision of European Court of Justice in the case of *Commission v. Ireland* (case number C-392/96) which defined project splitting as an attempt to escape from the obligation to carry out any impact assessment of the proposed development. In relation to the LNG terminal and pipeline, it was stated

that an EIS was prepared for the LNG terminal application, and that a separate EIS has been prepared for the pipeline. Consequently, it was argued that the issue of project splitting does not arise in this application.

The applicant has further argued that the issue of project splitting was previously considered by the Board in the LNG terminal application. In this respect I note that Chapter 18 of Volume 2 of the Environmental Impact Statement which accompanied the terminal application is entitled “Ancillary Projects”. The three possible routes between the application site and the existing Bord Gais network are shown in that EIS (Volume 4, Figure 18.1), and were detailed in the Inspector’s Report. These routes generally accord with the alternatives described at Section 6.4 above. I am also satisfied that the current EIS adequately addresses the cumulative impacts of the current proposal (the AGI and pipeline) and the Terminal development, and am in agreement with the previous Inspector that the making of the two applications separately cannot reasonably be considered a ploy to avoid environmental impact assessment.

The KRA also made reference at the oral hearing to the decision of the European Court of Justice in the *Commission v. Ireland* decision (Derrybrien) which was handed down by the Court of Justice on 3rd July of this year (Oral hearing Transcript, Day 2, pages 58-59). However, the observer’s arguments in relation to this issue appear to be somewhat confused, and I do not consider that the findings of the ECJ in relation to that case apply in this instance.

At the oral hearing, the KRA also stated that a decision on the application could not be made by the Board until a number of other complaints and/or procedures had been resolved (Oral hearing Transcript, Day 2, pages 56, 96, 97, 103-108). I do not, however, consider these matters to be relevant to the consideration of the planning merits of the proposed development.

6.6 Health & Safety

The issue of health and safety is clearly the main concern of the Kilcolgan Residents’ Association & Safety Before LNG, and is also raised by Catriona Griffin, and Thomas O’Donovan. It was apparent at the oral hearing that these concerns primarily relate to the LNG terminal itself, and specifically to the risk of an accident beyond the shore line (i.e. the movement of ships up the estuary), and the potential for accidents caused deliberately by sabotage or terrorism. It was argued that these issues were not dealt with by the HSA in its assessment of the terminal development, and that safety considerations were in danger of ‘falling between the cracks’. These issues, however, relate to the previous application for the terminal development, rather than the proposed pipeline and associated AGI, which are the subject of the current application. In this respect, I note that the Board’s Reason and Considerations in respect of the terminal application

considered that, subject to compliance with the specified conditions, the proposed development would ‘not be prejudicial to public health or safety’.

Gas pipelines are specifically excluded from the scope of the Major Hazard Regulations (SI 74 of 2006). However, the proposed AGI and pipeline are located within the distance from establishment (the LNG terminal) specified in Schedule 8 of the Planning and Development Regulations, 2001. As such, the Health and Safety Authority (HSA) was notified of the application and was requested to supply technical advice on the effects of the proposed development on the risk or consequences of a major accident in accordance with article 215 of the Planning and Development Regulations, 2001, as amended by the Planning and Development Regulations, 2006.

A written submission was received by the Board on 7 October 2008, which was read into the record at the oral hearing by Patrick Conneely, Senior Inspector with the HSA. Mr Conneely stated that on-site pipeline and the associated AGI were considered in the previous advice given to the Board concerning the provision of an establishment (PL08.PA0002, January 2008). At the oral hearing the HSA confirmed that the original advice to the Board was based on the quantitative risk assessment (QRA) submitted by the applicant in respect of the terminal application. That QRA included the AGI and the pipeline even though it was not part of the original planning application. Consequently, the three risk zones (Zone 1 to 3) specified in the QRA, and the types of development suitable within each zone, are based on the existence of the pipeline and AGI. It is the view of the Authority that the installation of underground pipelines is a suitable development in the vicinity of the establishment (Oral Hearing Transcript, Day 1, Pages 144 – 151).

A written submission from the Commission for Energy Regulation (CER) was received by the Board on 6 October 2008 which stated that the Commission was satisfied that the proposed pipeline does not present any safety or operational concerns, but that the Commission would be conducting a detailed technical analysis of the proposed pipeline, and may require changes to the technical design or impose conditions relating to the operation of the pipeline. The CER stated that it had received a request for consent to construct the proposed pipeline under Section 39 of the Gas Act 1976 on 5 September 2008. It emerged at the oral hearing that a QRA for the pipeline was subsequently submitted to the CER in the week preceding the oral hearing. The submission further states that the criteria for deciding whether to give consent or not, or what conditions to apply, are set out in the Gas (Interim) (Regulation) Act 2002 (Criteria for Determination of Consents) Regulations 2002 (SI 264), and were further strengthened by the Energy (Miscellaneous Provisions) Act 2006. These include safety and security of natural gas systems, compliance with relevant codes of operations, and the suitability of the applicant. The scope of conditions that may be attached include compliance with safety and efficiency codes, environmental protection conditions, and a time period for construction. The CER’s representative at the oral hearing,

Denis Cagney, stated that the emphasis on the review of the S.39 application is very much on the overall safety and integrity of the gas system and of its inter-operability with other systems, and would involve taking advice from technical consultants, particularly in regard to the safety aspect of the pipeline (Oral Hearing Transcript, Day 1, Pages 141 – 144). I note that the written submission of the CER to the Board predates the submission of the QRA to the Commission and, as such, was not informed by the QRA. Furthermore, Mr Cagney provided no additional information to the oral hearing which could have been informed by the QRA. The HSA made no reference to the QRA in giving evidence to the oral hearing, and when asked if there should be a new risk assessment based purely on the current application, Mr Conneely reiterated that everything in the establishment, including the AGI and pipeline, was factored into the technical advice given in relation to the previous application for the provision of an establishment.

On the second day of the oral hearing the KRA wished to make a detailed submission in relation to the aforementioned QRA which had been submitted to the CER in respect of the application for consent to construct the pipeline. Having made their submissions and answered questions posed by the observers, both Mr Cagney and Mr Conneely had left the hearing by the time this issue was raised by the KRA. The applicant argued that there is no statutory requirement on the applicant to submit a QRA with the planning application, and that the QRA is not relevant because it is not a material consideration that the Board can have regard to. In considering this matter, I was cognisant that the QRA had not been submitted to the Board, and it did not inform the advice of either the HSA, which was based on the QRA submitted in respect of the previous application, or the CER. I determined, therefore, that the QRA did not form part of the application, and that it was a matter for the Board to decide if sufficient information had been submitted to allow it to make a decision.

The KRA also argued that there is an increase in electrostatic risk with moving gas. The applicant has responded that there is no increase electrostatic shock potential to persons in the proximity of the buried pipeline.

Natural Gas is a colourless, odourless fuel, the main component of which is methane (80-95%) with the remainder comprising varying amounts of ethane, propane, butane and other hydrocarbons. An odourant is added to facilitate immediate recognition in the event of leakage. The pipeline itself is coated both externally and internally to protect it from corrosion. The EIS states that the pipeline will be designed, constructed, tested, operated and maintained in accordance with the Irish Standard I.S.328:2003 Code of Practice for Gas Transmission Pipelines and Pipeline Installations. A copy of this code was provided by the applicant at the oral hearing and is on the file. I note that the code applies to the design, construction, inspection, testing, operation and maintenance of steel pipelines for the transmission of gas. Although the upper pressure limit is not defined, it is stated that in current general practice it ranges

up to 100 bar. The proposed pipeline will operate at 98 bar, compared to the existing BGE network which operates at 85 bar. The applicant explained at the oral hearing that the pipeline design pressure of 98 bar is the pressure required to deliver gas into the national gas network (i.e. to overcome the pressure to move the gas from one system to the other).

Although the pipeline avoids any population centres, it does run close to a number of one-off houses along its route. In this respect, the code sets out standards for wall pipe thickness depending on the proximity distance from the pipeline to normally occupied buildings. Heavy wall material (19.1 mm) is required within 57 m of a dwelling, and I am satisfied that it is possible to ensure that any extant planning permissions for new dwellings are covered by means of a suitable condition. The pipeline will be buried underground for its entire length, to a minimum depth of cover of 1.2 metres. The depth of cover will be increased to a minimum of 1.6 metres where additional protection is required, such as at road and river crossings. Four different permanent marker types will be used to locate the pipeline and provide adequate warning for those working over ground after reinstatement. After commissioning, the operation of the pipeline will be continuously monitored 24 hours a day from the Shannon LNG Terminal at Ralappane. Detailed specifications for the construction, operation and maintenance of the proposed pipeline are outlined in Section 3.3 of the EIS. Having considered all of the details and submissions I am satisfied that the pipeline itself can be constructed, maintained and operated in accordance with the IS328 code (as required by the CER), in a similar fashion to the existing Bord Gáis network across the country, and does not present any significant health and safety concerns.

The remaining issue in relation to health and safety, therefore, relates to the acceptability of a pipeline within the vicinity of a major accident establishment, and the impact that an accident at the establishment could have on the pipeline (with resulting effects along the pipeline route). In this respect, I note that the HSA has advised that the pipeline and AGI are suitable development within the vicinity of the LNG terminal, and that both the Shannon AGI and the Foynes AGI have remotely operated valves which will control the flow of gas into the pipeline. Having considered the written submission of the HSA and their submission to the oral hearing, I am satisfied that sufficient information is before the Board to enable it to make a decision in relation to health and safety., and I have no objection to the proposed development in this respect.

The lack of an emergency plan in the case of an LNG accident was also raised by the KRA. Kerry County Council responded that a major emergency plan exists for the Cork/Kerry region, and that the Council would communicate with the developer to ensure that any future emergency plan for the proposed development was in accordance with the regional plan. I do not, however, consider that the details of an emergency plan are relevant to the consideration of this application.

6.7 Ground Conditions

Ground conditions along the route corridor principally comprise boulder clay, with significant areas of alluvium and peat to along to eastern part of the route corridor.

Boulder clay is generally considered to provide stable conditions for the construction of the proposed pipeline. Although bedrock tends to occur below the level of the pipeline, it is envisaged that blasting may be required in the Tullyglass-Kinard area, just south of Glin (Strip & Geomorphology Map 6).

The alluvial areas are largely located in the floodplains of larger streams and rivers, particularly the White River. It is acknowledged that these areas can pose difficulties for construction including poor movement for construction plant, trench side instability, and a typically high water table. It is proposed, therefore, to use a construction method known as well pointing, where individual or groups of small wells, typically less than two inches in diameter, are inserted into the ground in parallel to the pipeline route. Pumping from these is carried out in advance of excavation to lower the groundwater table to below the basin excavation of the trench, thereby eliminating the problem of water ingress during excavation and increasing the stability of the soil. It is stated that this is a very simple and very routine method of construction.

There are also a number of expanses of blanket bog peat along the eastern half of the pipeline route, mainly to the east of the Glencorbly River. The aggregate length of peat crossing is 5.7 km, of which the longest individual crossing length is just over 1 km. I note that none of the areas of peat crossed have been designated as conservation or habitat areas. The EIS recognises that peat represents about the most difficult natural material in which to construct pipelines. It is stated that in all but a few parts the peat is relatively thin (< 1-1.5m), occurs on slopes of less than 5°, and has largely been reclaimed for agriculture or forestry. Given these factors, it is contended that the peat areas within the route corridor are intrinsically stable and not susceptible to bog slides. It is stated that below 5° there are virtually no recorded incidents or instances of slides or instability taking place in blanket bog.

A methodology for the construction of the proposed pipeline in peat areas was set out at the oral hearing (Oral Hearing Transcript, Day 1, page 93-95). It is proposed to remove and store the top layer of peaty topsoil (c. 0.2m deep) and the layer of peat (c. 1 m deep), separately in dedicated areas. It is stated that the volume of peat, which will be stored temporarily adjacent to the pipeline trench, comes to 62,985 cubic metres. A temporary road, approximately 5 metres wide, will be constructed using imported stone fill and will be used by all construction traffic. The pipe trench will then be fully excavated to a depth of 2.5 metres, and the excavated material stored on the opposite side of the trench to the peat. The

pipe will then be laid on a bed of imported sand or pea-gravel, the trench backfilled, and the spread width reinstated. Mitigation measures such as the use of bog mats and continuous shoring in areas of poor traffickability, the use of inherently stable materials for backfilling, and pre-construction ground investigations to ground stability are set out in Section 11.6.2 of the EIS. I note that the EIS states that peat can be stockpiled in blocks and watered to prevent it drying out, and the blocks replaced in reverse order. The applicant pointed out at the oral hearing that significantly deeper depths of peat, up to 5 to 6 metres, were successfully dealt with on the Bord Gáis Éireann Mayo-Galway Pipeline which was constructed in 2006 through the boglands of north Mayo using a similar methodology.

Having considered the above, I am of the opinion that no peat needs to be removed off site to facilitate the proposed development, and that the existing natural surface of the peat can be preserved if appropriate mitigation measures are implemented. These issues can be controlled by suitable conditions. I am similarly satisfied that the limited depth and slope of the peat areas mean that the likelihood of a bogslide is not significant.

6.8 National Heritage

The pipeline corridor does not cross any Natura 2000, or otherwise designated conservation areas. The nearby Shannon Estuary is, however, a candidate Special Area of Conservation (Lower Shannon – site code 002165), and a proposed Special Protection Area for Birds (Shannon-Fergus Estuary – site code 004077). The route also lies within 10 km of the Ballylongford Bay proposed Natural Heritage Area (site code 1332).

A number of the north flowing watercourses crossed by the pipeline corridor do, however, discharge to the Shannon Estuary. In this respect I note that the DoEHLG does not expect that the proposed development will impact on designated sites in the area.

The proposed route corridor also crosses three rivers, two of which are salmonid rivers (the White River and the Glencorbly River). Brown trout was also recorded in the Glashanagark River. A number of smaller watercourses are also traversed which support coarse fish species, and some of which have been identified as prime salmonid spawning waters. It is proposed to use an open cut method of crossing for all of the watercourses along the route. I shall deal with this issue in more detail at Section 6.9 below. The applicant has also made reference to the use of CIRIA guidance documents *Control of Water Pollution from Construction Sites* (2001) and *Control of Water Pollution from Linear Construction Projects* (C649, 2006) as the basis of preventing contamination of surface water from the runoff of suspended solids during the construction phase. I am satisfied that this

guidance represents best practice both in terms of preventing pollution of the watercourses themselves, and the designated sites into which they flow.

Badger feeding activity was noted in a number of locations along the route and four setts were found (at Carhoona/ Cockhill, Map 2 and adjacent to the Glashanark River, Map 12). Badgers will have to be excluded from the identified sites prior to the commencement of works. In addition, a brown long-eared bat roost was recorded in a small derelict building to the north of the pipeline corridor at Tieraclea Upper (Map 4), and surveys indicated that the adjacent hedgerow which runs south towards the corridor is used extensively by feeding bats. No evidence of otters was found. The protected species Irish hare and red squirrel were recorded along the route. The DoEHLG recommends that a resurvey for breeding sites and resting places of otters and bats should be undertaken prior to construction, and that appropriate mitigation for the loss of a badger sett must be undertaken. I consider that a condition to this effect would be reasonable and appropriate.

A good example of a rich fen is located along the route adjacent to the N69 Tarbert-Listowel road in Doonard Upper (Map 3, Figure 10.3). The importance of protecting the area of fen was raised by An Taisce at the oral hearing. The EIS states that this habitat is potentially suitable for a butterfly species (Marsh Fritillary) listed in the appendices to the EU's Habitats and Species Directive (Annex II). A supplementary Survey conducted in November 2008 was submitted by the applicant at the oral hearing but the species was not recorded. It is proposed to re-survey prior to the commencement of development. I note that the intended route the pipeline crosses the northeastern corner of the fen, although the corridor and spread width cover a more significant area. The EIS considers the habitat to be of 'high value, locally important' as per the evaluation criteria set out in the NRA Guidelines for Assessment of Ecological Impacts of National Road Schemes. The impact of the proposed development is considered to be moderate negative, with any impacts being long term and possibly permanent. Given the extent and duration of the impact, I am of the opinion that the pipeline should be re-routed slightly beyond the northern field boundary to avoid any intrusion into the area of fen. It would appear that such a re-routing could be accommodated within the 100 metre route corridor. The Board will also note that a Compulsory Acquisition Order has not been sought in for a wayleave in respect of the land in this part of the route.

Two further small areas of fen are also identified to the east (Map 6). The plant species upon which the Marsh Fritillary feeds was not, however, identified at these locations.

The proposed route of the pipeline also crosses an area identified as oak-birch-holly woodland adjacent to the Glencorbly River. It is noted, however, that the proportion of oak is relatively low, having been replaced by ash and alder. Whilst the construction of the pipeline would invariably require the felling of trees in this

area, I note that the woodland extends to the north and south of the proposed crossing. As such, it is difficult to see how the river could be crossed in this general location without some impact in this regard. I do not consider that a refusal of planning permission on these grounds would be warranted given the value of the habitat, and am satisfied that the proposed crossing point is acceptable subject to the mitigation measures set out in Section 10.10.1 of the EIS.

I am satisfied that, subject to the proposed mitigation measures and suitable conditions, the proposed development will not significantly affect the natural heritage of the area.

6.9 Ground and Surface Water

White River is the largest river crossed, and is c.12 m wide at the proposed crossing. Both the White and Glencorby rivers are relatively shallow in the vicinity of the proposed crossing. The proposal also crosses two tributaries of the Glashnagark river, both of which are relatively narrow and shallow streams. It is proposed that all pipeline construction will take place in summer under low flow conditions. The applicant has pointed out that although rivers in the area can experience very large variations in flow, the nature of the catchment area of the rivers is such that typically they all experience very low flow conditions during dry weather periods during the summer. A trench will be dug across the river or stream course, and the pipeline laid in the trench. The water course will be diverted through either sections of steel pipe (pluming), or a separate adjacent channel formed to divert the stream around the point of construction. Once the construction is taking place and the stream or riverbed has been reinstated, the river or stream will be diverted back into its original course. The applicant stated at the oral hearing that the rivers could be crossed quite simply without any need for trenchless technology due to their minor nature. I accept that, given the nature of the watercourses to be crossed, and the lack of any designated conservation areas at these locations, open cut crossings of these watercourses is acceptable subject to appropriate mitigation.

The main potential impact in relation to surface water relates to the possibility of water pollution from surface water runoff during construction. The EIS provides a series of general mitigation measures. The use of siltation traps downstream to trap any sediment or particulate material was also proposed at the oral hearing. As stated above, it is also proposed that the CIRIA guidance documents in relation to the control of water pollution will be followed. Trench dewatering also has potential impacts on both surface waters and groundwater. I am satisfied, however, that it is possible to limit any potential adverse impacts by means of appropriate mitigation measures as set out in the EIS, and as required by suitable planning conditions.

In relation to the hydrostatic testing of the entire pipeline, I note that a total of 4,300 cubic metres of water will be required over an approximate period of 10 hours. It is proposed to extract the water from the White River, which has a stated flow in the order of 5,000 cubic metres per hour (April 2008). The water will be tested in advance of being returned to the abstraction source, via a settlement tank(s) following the hydrostatic testing. I note that neither the local authority (Limerick County Council) nor the Fisheries Board have raised an objection to this element of the proposal, and I similarly have no objection in this respect.

The disturbance of field drains on agricultural land also has the potential to lead to wet patches or flooded fields during wet weather. The proposed reinstatement of the site, however, means that any such effects would be short term in duration, and I am satisfied that the proposed development will not result in any significant or long term flooding.

The potential for the proposed development to affect private and public water supplies in the area was raised by the observers to the appeal. The applicant has argued that the construction and operation of gas pipelines does not normally affect individual or group groundwater supply abstractions such as wells, boreholes and springs, because the pipeline is installed at shallow depth compared to the source of recharge to the abstraction (which is generally by infiltration of rain water into the ground over a large area). It is proposed that an inventory of extant wells, boreholes and springs will be prepared prior to the commencement of construction in order to ensure that the construction of the pipeline will not result in physical damage to any water supply abstraction or associated pipe work; and to protect against the risk of pollution.

6.10 Archaeology and Architectural Heritage

The archaeological assessment identifies a number of sites of archaeological potential within the planning corridor. The applicant has stated that the route of the pipeline was rerouted to avoid a newly discovered standing stone in Leahy's townland, although the archaeological value of the stone is not certain. The pipeline crosses the zone of constraint around the site of a ringfort/rath at Tieraclea upper (RMP KE003-024), and the perimeter of the zone of constraint of a Holy Well at Cockhill (RMP KE003-018). The Holy Well itself is some 80m from the pipeline. The church at Carhoona (RMP KE003-008) is located c.80 m from the proposed route of the pipeline, with the possible enclosure surrounding the church at a lesser distance of some 40m. A further eight recorded monuments are close to, but outside of the planning corridor. The applicant and DoEHLG are in agreement regarding the pre-development testing of the three areas found during the field inspection to have surface anomalies that may indicate archaeological remains. The applicant stated at the oral hearing that a geophysical survey has been undertaken where the planning corridor runs through

the zone of constraint of the aforementioned ringfort/rath at Tieraclea upper (KE003-024), and is negative on archaeological deposits.

I note that the DoEHLG also recommends that a pre-development survey is undertaken at river crossings. I note, however, that metal detection and visual surveys of 15 water crossings were also undertaken as part of the EIS assessment and that no archaeological remains were recorded. I am satisfied, therefore, that a monitoring condition is sufficient at river crossings.

The mitigation measures specified in the EIS also state that the Archaeological Code of Practice agreed between Bord Gáis and the DoEHLG for the construction of pipelines will be followed.

In relation to architectural heritage, the observers have expressed concern that the pipeline will destroy Ralappane House, which it is stated, is currently under consideration as a protected structure. Ralappane House is a farmhouse, located some 300m from the proposed Shannon AGI, and c.100m from the proposed route of the pipeline (Ref. Strip Map 1). Given the separation distance, neither the house nor its curtilage will be affected by either the pipeline itself, or the 30m wide construction spread. There is also no evidence that the building is being considered as a protected structure, and the building is not contained within the National Inventory of Architectural Heritage for County Kerry. The applicant argued at the oral hearing that there will be no longer-term impacts on Ralappane House once the pipeline is constructed and the route reinstated, and I am in agreement with this assessment.

I am satisfied that the proposed development will not, therefore, be unacceptable in relation to archaeology or architectural heritage.

6.11 Road Issues

The proposed pipeline traverses some 20 roads along its route comprising the N69, R551 (Ballylongford to Tabert), R524 (Athea to Glin), and 17 local roads of varying widths. The applicant proposes that the construction method for each crossing will be assessed on its merits, ranging from the use of trenchless technology which would not require the closure of the road, to closure of one lane, or the temporary closure of a local road if necessary. It is pointed out that the permission of the local authority will be required for a road closure, and that details would be agreed with the local authorities as part of a traffic management plan. I am of the opinion, however, that trenchless drilling techniques should be employed for the crossings of the national and regional roads, particularly given that the construction period in the summer months will coincide with the tourist season in the area which affects the N69 between Tarbert and Listowel in particular. I am otherwise satisfied that any impacts from road closures will be

very short in duration and will not result in a significant disruption to the road network.

The main issue in respect of traffic relates to the cumulative impacts of the construction of both the terminal and the pipeline simultaneously. The applicant stated at the oral hearing that it is envisaged that the pipeline will be constructed in the fourth, and final, year of the construction of the terminal. It was argued that at this stage the main construction elements of the terminal would be largely complete, with work mainly comprising the installation of electrical instrumentation, testing and pre-commissioning phase. As such, the terminal development would be beyond the peak for construction traffic. The EIS sets out the predicted traffic movements associated with the distinct activities which move sequentially along the pipeline route. The largest number of HGV trips, for example, is generated by the delivery of sand and/or gravel for bedding and surround to the pipeline, totalling 104 HGV movements per day. The peak predicted number of car/LGV movements is estimated as 522 per day. By comparison, at the height of the construction period, the peak hour traffic generated by main terminal development is estimated as 454 vehicles per hour (EIS, Volume 2, Tables 6.9 and 6.11 submitted in respect of the LNG Terminal application).

In this respect I also note that the applicant proposed a range of road improvements in Tarbert as part of the terminal application, and that Condition 8 of the Board's decision to grant planning permission for the terminal development requires that all necessary public infrastructure works shall be completed prior to the commencement of the main construction elements of the development. Condition 11 also makes provision for remedial works to the L1010 coast road in the event that works are identified are to be carried out by the local authority. It was stated by the applicant at the oral hearing that the upgrade of the coast road will occur before the main construction phase of the terminal and will be completed well in advance of the construction of the pipeline. The issue of road safety in the vicinity of the comprehensive school on the coast road at Tarbert was raised as an issue in relation to construction traffic generated by the LNG terminal during the planning application for that development. Condition 9 of the Board's decision prohibits the movement of heavy goods vehicle traffic, associated with the construction of the terminal, at the school for a minimum period of 20 minutes before and ten minutes after the opening and closing times of the school. A similar restriction is proposed by in the EIS in relation to the current proposal and can be required by condition.

The EIS sets out the proposed transport route and access details for the construction phase of the pipeline at Figures 7.2 to 7.12 of the EIS. The transport routes include both regional and local roads of varying quality in terms of width and alignment which, for the most part, do not generally experience heavy traffic flows. I do, however, have concerns regarding the transport routes to a number of specific access points. Road Crossing No.3 (RDX3) (Fig. 7.4) is accessed via the

local road which runs between the Tarbert-Ballylongford coast road and R551. It is a particularly narrow single carriageway with no verges, and two sharp bends in the southern section (see Photo No.4). Given the proximity to RDX 4, I recommend that this section of road is omitted from the construction transport route by condition. RDX 6 and RDX 8 (Fig. 7.5 & 7.6) are accessed via a similar narrow stretch of local road with a number of sharp bends. I recommend that these crossings should only be accessed from the north (RDX 6) and south (RDX 8) respectively. The transport route to RDX 16 (Fig. 7.10) from the south is similarly problematic due to the extremely tight and unusual turnoff for Loghill at Ballyhahill. This junction is extremely narrow and has the appearance of turning into the yard of the building on the corner, rather than the junction of two roads. The southern part of the route also has a number of sharp bends. I recommend, therefore, that this crossing should only be accessed from the north. Whilst these restrictions may cause difficulties in terms of the possibility of establishing a 'one way' system to and from the road crossings, I consider that the limitations of the road network are such that these restrictions are necessary in terms of traffic safety.

It is also proposed that an area will be reserved for construction related car parking at every road crossing. I also consider that a condition should be attached preventing parking on public roads or roadside verges adjacent to the access points.

Given the limited duration of the proposed haulage operations on any one section of road, and the phasing of the pipeline in relation to the main construction of the LNG terminal, I am of the opinion that the impact in this regard can otherwise be adequately addressed by means of a Traffic Management Plan.

6.12 Visual Impact

In relation to the visual impact, concern has been expressed by the observers that the proposed development will industrialise a previously unspoiled landscape. The applicant has argued that the visual impact during and after construction will be temporary in nature, and that the landscape will be fully reinstated, including walls, hedgerows, and other field boundaries. It is further considered that both AGI will be located unobtrusively in the landscape.

I note that the proposed development lies within the Shannon Coastal Landscape Character Area. The pipeline route and the Foynes AGI, however, lie on the landward side of the N69 which runs along the estuary. The Shannon AGI will be located on the site of the permitted LNG Terminal, and given the scale and resulting from that development. The Foynes AGI includes a number of buildings, the largest of which is the metering building which is 5.3 m high, 30 m long, and 10 m wide. The site is, however, well located in that it has limited visibility from the public road, with extensive wooded areas between the site and

the Estuary. A concern was expressed at the oral hearing regarding light pollution from the 6m high lighting columns proposed at the AGI sites. The applicant responded that there will be no lighting during the normal operation of the AGI as the sites will be unmanned. Lighting will only be turned on if maintenance is required at the AGI.

Provided the mitigation measures regarding reinstatement are implemented I do not consider that the impact of the proposed development will be significant in relation to visual amenity.

6.13 Community Gain

Section 182D(6) makes provision for the attachment of a condition requiring the construction or financing of a facility or service in the area in which the proposed strategic gas infrastructure would be situated as community gain.

Whilst neither Kerry nor Limerick County Council originally made a submission in respect of community gain, an agreement between the applicant and the local authorities was submitted at the oral hearing. It is proposed that the developer shall make a once-off community contribution of €104,000 based on a contribution of €4,000 per kilometre of pipeline. The fund would be administered by Kerry County Council and Limerick County Council, in proportion to the length of the pipeline in their respective areas, for the benefit of the local communities primarily for educational purposes. No proposals in respect of specific facilities, services or community groups have, however, been proposed by any of the parties.

I note that Condition 37 of the planning permission in respect of the LNG Terminal development required the payment of an Annual Community Contribution of €200,000 per annum for the duration of the development, to be administered by the planning authority in conjunction with the Community Liaison Committee for the benefit of the local community.

Given that there will be no residual visual impact upon completion of the construction phase, and that landowners whose lands are traversed by the pipeline will be separately compensated, I consider that the main impact on the local community will be in respect of traffic, noise, and temporary road closures for the extent of the construction phase in any particular area. The impact on any individual community in terms of both magnitude and duration would, therefore, not be significant. Having considered these factors, I am not convinced that the payment of compensation in the form of a payment towards community gain is warranted in this instance.

6.14 Development Contributions

Limerick County Council has requested that a special development contribution be attached to cover the costs associated with the repair of damaged public roads.

Section 182C of the Act (Strategic Gas Infrastructure applications) makes no specific provision for the Board to attach a condition requiring the payment of a contribution of the same kind as the planning authority could require to be paid under section 48 or 49 development contribution schemes. I note that such a provision is made under Section 37 (g)(7)(d)(i)(ii) of the Act in relation to Section 37 (7th Schedule) applications. I consider, therefore, that it is outside of the remit of the Board to attach such a condition.

Notwithstanding the above, I consider that a bond to ensure the satisfactory reinstatement and completion of the works would be more appropriate.

6.15 Other Matters

The submission on behalf of Limerick County Council remarks on the lack of detail regarding **temporary parking and construction areas**. The applicant has stated that the location of construction compounds is not known as yet, but that they are likely to entail a number of portacabins with associated facilities, carparking and laydown areas for equipment and consumables that will be used during the construction of the pipeline. Given the linear nature of the proposal, I am of the opinion that the location, scale, access etc, of any construction and/or storage compounds needs to be controlled. In this respect there appears to be adequate potential for the location of such areas at either the terminal and/or the Foynes AGI sites and a very strong argument would have to be advanced for any contrary proposals.

The observers have also commented on **disturbance** from noise, dust, traffic and blasting during the period of construction. The duration of works in any given location will, however, be limited due to the nature of the project. The EIS states that the duration of what could be termed a slight noise impact will be less than 3 weeks at any location. I am satisfied, therefore, that appropriate requirements, such as restrictions on hours of construction, noise control and ameliorative measures for the control of dust, such as water sprinkling for heavy vehicles and arrangements for storage of materials and other work practices can be addressed by condition.

In relation to the impact of the proposed Foynes AGI on **residential amenity**, I note that there are three houses in the immediate vicinity of the site. The closest is located at a distance of some 120m. The AGI site will be enclosed within a security fence, and planting is proposed to provide screening. The site will be unmanned and, as such, there will be little disturbance in terms of traffic. It is

estimated that noise from the AGI will be less than 35 dB(A) at the nearest house., which is below the standard night time threshold of 45 dB(A). The separation distance, and proposed use of the lighting as described above, means that there will be no significant impact on the adjoining properties in this regard. These issues can be further controlled by condition.

The requirement for blasting in the Kinard area will result in some noise disturbance for four houses in the vicinity. It is estimated that the noise level at these houses (at a separation distance of at least 120 m) will be in the range of 60 to 70 dB(A) for approximately 16 days. I am satisfied that the impacts in terms of both noise and vibrations can be mitigated by appropriate conditions.

The proposed pipeline will require a **wayleave** of 14 metres along the pipeline route. No built development will be permitted in this zone. However, given the rural nature of the land along the route I have no objection to the resulting restrictions.

I note that a **10 year planning permission** was granted by the Board in respect of the LNG terminal. Given the relationship between the current proposal and the terminal, I consider that a 10 year permission is acceptable in this instance.

The timescale for the **reinstatement** works has also been raised by the objectors. The applicant has stated that much of the reinstatement should be completed in the same year as the construction takes place. However, complete top-soiling and re-seeding require reasonably dry and suitably warm weather and any works which can not be completed within the same year will be completed as early as practical the following year. I consider this to be reasonable.

The pipeline and associated facilities will be **decommissioned** at the end of its useful life. It is proposed that the pipeline will be emptied of natural gas, purged (usually with nitrogen) and left capped and cathodically protected. If required, sections of the pipeline will be removed or grouted and the ground fully reinstated. I am satisfied that these provisions are adequate and appropriate.

I also note that Kerry County Council's submission mistakenly states that the proposed development comprises or is for the purposes of an activity requiring an Integrated Pollution Prevention and Control (**IPPC**) **Licence**. It was clarified at the oral hearing that the IPPC Licence refers to the LNG Terminal and not to the proposed pipeline and AGI.

I do not consider that the observers request that a condition be attached requiring the applicant to obtain all other **environmental permits/ licences** is necessary.

7.0 COMPULSORY ACQUISITION ORDER

As set out in Section 2.6 above, a compulsory acquisition order is now sought for a 14 m wide wayleave on lands owned by 5 of the 72 landowners along the route, agreement having been reached between the applicant and the remainder of the landowners. These plots are referenced as CWL07A, CWL17, CWL34, CWL42 and CWL65 in the submitted book of reference. The Board will note that in the case of CWL65, an application was made for an amendment to the name of the landowner in the book of reference under article 10 of the Gas Act 1976. The landowner in that case is has now been established as Mr Patrick O'Connor (as opposed to Mr Michael O'Connor), and it is stated that the required notice was served on Patrick O'Connor on 1 December 2008.

The wayleave sought is indicated in red on the submitted drawing, and the proposed deviation limits (ie the area within which the eventual wayleave would be sited) are shown coloured green.

There are no outstanding objections to the making of the CAO on behalf of affected landowners. The objection from the Kilcolgan Residents' Association & Safety Before LNG to the proposed CAO relates to (a) landowners being in some way forced to enter into an agreement with the applicant, or not understanding the consequences of their actions, or (b) that the Gas Acts and Strategic Infrastructure Act should not be used to compulsorily acquire private land for a project that is not in the national interest. Neither of these issues, however, is within the jurisdiction of the Board in considering whether or not to grant the CAO.

Having considered the application and the objections detailed above, I am satisfied that the acquisition of the lands outlined in the Compulsory Acquisition Order is necessary for the purpose stated in the Order. I have also considered the proposed deviation limits, and note that they occur at specific locations only, and do not extend more than 20m on either side of the wayleave. These limits lie within the 100 m wide planning corridor which has been assessed by the EIS. I have, therefore, no objection to the proposal in this respect.

8.0 RECOMMENDATION – Proposed Development

In light of the above, I recommend that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below.

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 at the Shannon above ground installation and the Shannon LNG Terminal which the pipeline will connect to the national gas transmission network,
- (d) the mitigation measures set out in the environmental impact statement,
- (e) the report of the person who conducted the oral hearing,

it is considered that, subject to compliance with the conditions as 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, 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 14th of August 2008, as amended by submissions made to the oral hearing. In particular, the undertaker shall ensure that all proposed environmental mitigation measures are implemented except as may otherwise be required in order to comply with the conditions of this order.

Reason: In the interest of clarity.

2. Within 6 weeks of the commencement of development details of the phasing of the proposed development in conjunction with the construction of the permitted liquefied natural gas terminal at Ralappane and Kilcolgan Lower, County Kerry shall be submitted to, and agreed in writing by the relevant local authorities

Reason: In the interests of orderly development.

3. The section of the pipeline which crosses the identified fen to the west of the N69 at Doonard Upper shall be re-routed beyond the northern field boundary to avoid any intrusion into the area of the fen (Drawing No.PL-0003). Details of the re-routing shall be submitted to, and agreed in writing by, Kerry County Council prior to the commencement of development.

Reason: To protect the natural heritage of the area.

4. Prior to the commencement of development a geotechnical ground survey and detailed method statement for the construction of the pipeline in areas of peat shall be submitted to, and agreed in writing by the relevant local authority. No peat shall be removed off site.

Reason: In the interest of amenities, public health and safety, and to prevent water pollution.

5. The road crossings of the N69, R551 and R524 shall be by trenchless techniques only.

Reason: In the interests of traffic safety and convenience.

6. All watercourse crossings shall be carried out in accordance with CIRIA technical guidance: Control of water pollution from linear construction projects (C649, 2006).

Reason: To protect the amenities of the area.

7. The crossing of all roads, watercourses, watermains or sewers shall otherwise comply with the requirements of the local authority for such works.

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

8. Within 4 weeks of the hydro-static testing of the pipeline the undertaker shall notify the relevant local authority and the Regional Fisheries Board of the date of commencement and duration of testing, and details of the location and volume of the proposed abstraction and discharge of water.

Reason: In the interest of public health.

9. Details of the proposed lighting columns at the above ground installations shall be submitted to and agreed in writing with the local authority. All lights shall be suitably shaded to prevent glare or light spillage outside the site.

Reason: To safeguard the amenities of the area.

10. Prior to the commencement of development, details of the wall thickness along the entire length of the pipeline shall be submitted to, and agreed in writing with the relevant local authority.

Reason: In the interest of public safety.

11. Detailed plans for all temporary facilities, including temporary car parking facilities, construction and storage compounds, and proposals for reinstatement as appropriate on completion of the construction phase shall be submitted to, and agreed in writing by, the relevant local authority prior to the commencement of development. The principal compounds shall be located at the sites of the Shannon LNG terminal/ above ground installation or Foynes above ground installation only.

Reason: In the interest of road safety and to safeguard the amenities of the area.

12. Prior to commencement of development, the undertaker shall submit and agree in writing with the relevant local authority a detailed Construction Management Plan. The Plan shall make provision for inclusion of all relevant mitigation proposed in the environmental impact statement as amended by the submissions made by the undertaker to the oral hearing and shall in any event ensure that its scope extends to the following parameters:

- (a) surface water management during construction to prevent runoff from the site onto the public roads, unnatural flooding and/or the occurrence of any deleterious matter in the rivers Glencorbly, White and Glashanagark and the tributaries and watercourses of their catchments or other waters including groundwater in accordance with CIRIA technical guidance: Control of water pollution from linear construction projects (C649, 2006);
- (b) control of adverse noise and disturbance by reference to construction working hours, noise limits and traffic management arrangements;
- (c) dust minimisation including dust potentially generated from vehicles, measures to include appropriately located wheel wash facilities and appropriate good practice in the covering of laden and unladen vehicles;
- (d) management of public roads in the vicinity so that they are kept free of soil, clay, gravel, mud or other debris and general site management to the satisfaction of the local authorities;
- (e) preparation of a formal Project Construction and Demolition Waste Management Plan for submission to the relevant local authorities and agreement before commencement of development; any excess soils generated on the site which cannot be reused on site shall be disposed of

by a licensed contractor or contractors at a suitable permitted facility or facilities;

- (f) all other waste disposal in accordance with the requirements of the relevant local authorities.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be maintained for public inspection by the relevant local authorities. The undertaker shall satisfy the requirements of the relevant local authority in relation to measures to be proposed to prevent pollution run-off into water courses.

Reason: In the interest of amenities, public health and safety, and to protect the adjoining surface watercourses.

- 13. No construction work shall take place within 100 metres of any occupied house before the hour of 0700 Mondays to Fridays or 0800 on Saturdays, after the hour of 1900 Mondays to Fridays or 1630 on Saturdays and at any time on Sundays or Public Holidays.

Reason: In the interests of residential amenity.

- 14. Prior to commencement of development, the undertaker shall submit and agree in writing with the relevant local authority a detailed Traffic Management Plan. The Plan shall make provision for inclusion of all relevant mitigation proposed in the environmental impact statement as amended by the submissions made to the oral hearing and shall in any event ensure that its scope extends to the following parameters:

- (a) details of transport routes to the site. The following local roads shall not be used as part of the transport route during the construction of the proposed pipeline:
 - a. the local road which runs between the N69 and R551 providing access to RDX 3 on Figure 7.4 of the environmental impact statement
 - b. the southern section of the local road shown as providing access to RDX 6 as indicated on Figure 7.5 of the environmental impact statement
 - c. the northern section of the local road shown as providing access to RDX 8 as indicated on Figure 7.6 of the environmental impact statement
 - d. the southern section of the local road shown as providing access to RDX 16 as indicated on Figure 7.10 of the environmental impact statement
- (b) construction traffic management related to access points onto the existing road network;

- (c) details of construction worker travel and transport arrangements. No construction or staff vehicles will be allowed to park on public roads or roadside verges;
- (d) proposals for restrictions on traffic movements at Tarbert Comprehensive School, which shall prohibit the movement of heavy goods vehicle traffic associated with the construction of the proposed development 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.

15. In the event that any blasting is required:

- (a) The vibration levels from the blasting shall not exceed a peak particle velocity of 12 millimetres per second.
- (b) Blasting shall not give rise to air overpressure values at noise sensitive locations exceeding 125 dB (Lin) max peak.
- (c) Blasting shall only take place between the hours of 1000 to 1700 Monday to Friday. Prior to the firing of any blast, the undertaker shall give notice of his intention to the occupiers of all dwellings and the operators of all equine facilities 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, riding schools and stud farms adjacent to the site.

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

16. The undertaker shall facilitate the local authorities in preserving, recording or otherwise protecting archaeological materials or features which exist within the site. In this regard, the undertaker shall notify the local authorities in writing at least four weeks in advance of the commencement of development works on the site.

The undertaker shall also comply with the following requirements:-

- (a) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, including river crossings;
- (b) archaeological testing shall be carried out at the locations identified in the environmental impact statement at Cockhill, Carhoon and Knockabooley;

the archaeological excavation and underwater assessment shall be carried out prior to the commencement of development, and no site preparation or construction work shall be carried out until the archaeologist's report has been submitted to and agreed in writing with the relevant local authority;

- (c) provide satisfactory arrangements for the preservation *in situ*, recording, and removal of any archaeological material which may be considered appropriate to remove. In this regard, a comprehensive report on the completed archaeological excavation shall be prepared and submitted to the relevant local authority within a period of six months or within such extended period as may be agreed with the local authority.

Reason: In order to conserve the archaeological heritage of the site, it is considered reasonable that the undertaker should facilitate and assist the local authorities in securing the preservation by record of any archaeological features or materials which may exist within it. In this regard, it is considered reasonable that the undertaker should be responsible for carrying out properly supervised archaeological excavations in circumstances where the permitted development works would be likely to result in the unavoidable disturbance or destruction of such features or materials.

- 17. A landscaping scheme for the proposed above ground installations shall be submitted to and agreed with the relevant local authorities prior to the commencement of development.

Reason: In the interest of visual amenity.

- 18. A survey for breeding sites and resting places of badgers (setts), otters (holts and couches), and bats (all roost types) shall be carried out prior to construction works commencing. If any of these features are found, then appropriate mitigation measures shall be submitted to and agreed in writing with the relevant local authority, prior to commencement of development. Any mitigation measures in relation to badger, otter or 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 local authority.

Reason: In the interest of wildlife protection.

- 19. Prior to commencement of development, the undertaker shall submit to and agree with the relevant local authority, full details of the phased reinstatement of the site. All reinstatement works shall be completed within 3 months of the first use of the pipeline.

Reason: To limit the impact of the development on the amenities of the area, to ensure appropriate reinstatement of the site and in the interests of public safety.

20. Prior to commencement of development, the undertaker shall lodge with the local authorities a cash deposit, a bond of an insurance company, or other security to secure the satisfactory reinstatement of the site and the reinstatement and repair of roads and/or services as a result of the development, coupled with an agreement empowering the relevant local authority to apply such security or part thereof to the satisfactory completion of the reinstatement. The form and amount of the deposit shall be as agreed between the local authorities and the undertaker or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory reinstatement of the site and in the interests of visual amenity and road safety.

9.0 RECOMMENDATION – CAO

I recommend that the Board should grant the compulsory acquisition order and confirm the deviation limits without modification for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having considered the objections made to the compulsory acquisition order and the report of the person who conducted the oral hearing into the objections, and having regard to:

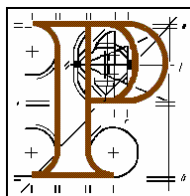
- (a) The provisions of the National Development Plan in relation to security of energy supply,
- (b) the strategic goals of the government White Paper, entitled “Delivering a Sustainable Energy Future for Ireland”, published in 2007, which seek to ensure secure and reliable electricity and gas supplies, 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 at the Shannon above ground installation and the Shannon LNG Terminal which the pipeline will connect to the national gas transmission network,

it is considered that the acquisition of the lands in question by the applicant is necessary for the purpose stated in the order and the objections cannot be sustained having regard to this necessity and further it is considered that the deviation limits proposed are reasonable and appropriate.

Anne Marie O'Connor
Senior Planning Inspector

21 January 2009

An Bord Pleanála



PROCEEDINGS OF ORAL HEARING

PL08.GA0003
PL08.DA0003

Application under Section 182C of Planning & Development Act 2000 (as amended) & Compulsory Acquisition Order under the Gas Act, 1976.

DEVELOPMENT:	Natural gas pipeline from the Shannon LNG Terminal at Ralappane, County Kerry to the existing natural gas network at Leahys, County Limerick..
Type of Application:	Strategic Infrastructure Development (GA0003) Compulsory Acquisition Order (DA0003)
Applicant:	Shannon LNG Ltd
Planning Authority:	Kerry County Council Limerick County Council

SUBMISSIONS & OBSERVATIONS

Prescribed Bodies:	Yes
Observers:	Yes

DATE OF SITE INSPECTION	20 & 21 November 2008
DATE OF ORAL HEARING	1 & 2 December 2008

INSPECTOR:	Anne Marie O'Connor
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ATTENDANCE

Applicant <i>Shannon LNG Ltd</i>	
Jarleth Fitzsimons	Barrister
Paddy Power	Managing Director, Shannon LNG
Brendan Mangan	ARUP (Route selection)
Ria Lyden	ARUP (Cumulative Impact)
Leon Bowdoin	Shannon LNG (Design, Operations, Maintenance and Health & Safety)
Ger Breen	ARUP (I.S. 328 and Construction)
John Redding	ARUP (Geology, Soils, Hydrology, and Hydrogeology)
Daniel Garvey	ARUP (Landscape and Visual, Air Quality, and Climate)
Tony Lynch	ARUP (Traffic)
Carl Dixon	Dixon Brosnan Environmental Consultants (Ecology)
Rose Cleary	Project Archaeologist
Colin Doyle	ANV (Noise & Vibration)
Michael Biggane	Shannon LNG (Human Beings)
Eoghan Lynch	ARUP (Project Director)
Andrew Franks	ERM (Safety/ Risk)
Samy Ibrahim	Shannon LNG (Project Manager)
Paul Brady	Shannon LNG (Project Manager)
Martin Regan	Shannon LNG (Commercial)
Mario Tavolieri	Shannon LNG (Pipeline Engineer)
Nicola Daly	Matheson Ormsby Prentice Solicitors
Sinead Carr	Shannon LNG (Solicitor)
Alison Hough	Barrister
Local Authorities	
Michael McMahon	Director of Services, Kerry County Council
Paul Stack	Senior Engineer, KCC
Declan O'Malley	Senior Executive Planner, KCC
Kieran O'Gorman	Senior Executive Engineer, Limerick County Council
Gráinne O'Keeffe	Executive Planner, LCC
Prescribed Bodies	
Denis Cagney	Commission for Energy Regulation
Patrick Conneely	Health & Safety Authority
Catherine McMullen	An Taisce
Observers (Planning Application)	
Tarbert Development Association	Joan Murphy Mr. Fox

Ballylongford Enterprise Association	Noel Lynch Tim McElstrom
Kilcolgan Residents Association & Safety Before LNG	Johnny McElligott Raymond O'Mahony Peter North
Catriona Griffin	
Thomas O'Donovan	
Padraig O'Sullivan	
Observers (CAO)	
Kilcolgan Residents Association & Safety Before LNG	Johnny McElligott

SUBMISSIONS TO THE ORAL HEARING

Applicant	Statement of Evidence by: <i>Brendan Mangan</i> <i>Paddy Power</i> <i>Ria Lyden</i> <i>Brendan Mangan</i> <i>Leon Bowdoin</i> <i>Ger Breen</i> <i>John Redden</i> <i>Daniel Garvey</i> <i>Tony Lynch</i> <i>Carl Dixon</i> <i>Rose Cleary</i> <i>Colin Doyle</i> <i>Michael Biggane</i> Survey for Marsh Fritillary
Kerry County Council	Statement by Paul Stack
Kilcolgan Residents Association & Safety Before LNG	Oral Hearing Submission (incl. Appendix I & II)

1.0 INTRODUCTION

This hearing was held on the 1 and 2 December 2008 at the Listowel Arms Hotel, Listowel, Co. Kerry.

The hearing was generally conducted in the following order:

- Brief description of the proposed development by the applicant
- Applicant's submission
- Prescribed Bodies & HSA
- Local Authorities
- Observers

- f) Cross-questioning
- g) Closing Submissions (in the reverse order)

The applicant's submission on Day 1 of the hearing was paused approximately midway through in order to hear the submission on behalf of the HSA and Commission for Energy Regulation (CER), and to facilitate cross-questioning of the representatives by the observers.

2.0 APPLICANT'S DESCRIPTION OF DEVELOPMENT

The applicant's introduction to the development was presented by Paddy Power, managing director of Shannon LNG Ltd. Under the following headings:

- The need for the project
- Project overview
- Alternatives considered
- Project description
- Benefits to Ireland from the Shannon Pipeline.

The applicant then called the following expert witness to present evidence on their stated areas of expertise:

1. ***Paddy Power*** – This submission highlighted the need for LNG to provide security of supply in the energy sector and to meet Ireland's projected demand for gas. The LNG pipeline is consistent with and supports national, regional, and local policies. Natural gas is more environmentally friendly than alternative fuels for power generation such as coal, oil and turf. It would be technically feasible to connect the Tarbert Power Station to the pipeline using a spur if the station converted to gas in the future (it is currently powered by oil). It was stressed that the pipeline would not have been routed any differently even if a connection to Tarbert was included in the current application. The applicant is not aware of any plans or even speculation to convert Moneypoint Power Station from coal to gas. It is hoped that Bord Gáis and the CER might assess the feasibility of distributing natural gas to towns in the region from the pipeline. It would be premature, however, to speculate as to the location of any such future spurs.
2. ***Ria Lyden*** – This submission addressed the potential cumulative impacts. It is expected that the construction of the pipeline will coincide with the final years of the four year period of construction of the LNG terminal. The proposed upgrade of the Tarbert to Ballylongford coast road will occur before the main construction phase of the terminal and will be completed well in advance of the construction of the pipeline.
3. ***Brendan Mangan*** – This submission outlined the criteria for route selection as set out in the EIS. Details of construction in areas of peat are also outlined. It is stated that significantly deeper depths of peat (up to 5 to 6 meters) were successfully dealt with on the Bord Gáis

Mayo-Galway pipeline which was constructed in 2006 through the boglands of north Mayo.

4. **Leon Bowdoin** – This submission deals with design, operations, maintenance and health & safety. It is stated that the pipeline will be constructed, operated and maintained in accordance with the I.S. code 328: Code of Practice for Gas Transmission Pipelines and Pipeline Installations. All Bord Gáis pipelines constructed to date are in compliance with this design standard. The Shannon pipeline will implement a Health & Safety management system which includes the setting of objectives and targets, measuring progress, and reporting results. Audits will be employed to ensure its controls are effective. A Quantitative Risk Assessment (QRA) was carried out on the proposed pipeline and was submitted to the CER, the agency tasked with overseeing the safety of gas pipelines in Ireland. As a result of strict conformance to the IS 328 Standard, and the application of prudent design, routing and material selection, the QRA shows that risks to individuals along the pipeline are within the levels that are broadly acceptable as insignificant.
5. **Ger Breen** – This submission sets out the background and scope of the above mentioned I.S. 328. It is argued that the CER stated in its Decision Paper entitled *Safety Gas Guidelines* (December 2007) that I.S. 328 is suitable and relevant to the activities falling within the scope of this document. If Shannon LNG did not comply with this Standard, it is most unlikely that the CER would permit the construction or operation of the pipeline. An overview of the construction process was also contained in this submission, including road and river crossings, and temporary construction compounds and parking.
6. **John Redding** – This submission deals with geology, soils, hydrology, and hydrogeology. Details of construction in alluvial and peat areas are specifically addressed. It is stated that slope instability is not an issue in any of the peat areas crossed by the pipeline because of the shallowness of the ground slope in these areas. It is intended that pipeline construction will take place during summer to take advantage of the depressed groundwater levels and low-flow conditions in streams and rivers. Pre-development ground investigations are proposed to inform the construction techniques. The construction will not affect ground water abstractions such as wells, boreholes and springs because the pipeline is installed at shallow depth compared to the groundwater level, and because there is no interference with the source of recharge to the abstraction. An inventory of extant supply abstraction will be prepared to ensure that no damage will result, and to protect against the risk of pollution.
7. **Daniel Garvey** – This submission addresses the issues of landscape and visual impact, air quality, and climate as set out in the EIS. The pipeline will operate as an almost completely closed system. No significant adverse impacts are predicted for people or the natural environment. In relation to the impact of the proposed development on the setting of Ralappane House, it is stated that once the pipeline route

has been reinstated, there will be no longer term impact on the building, which is located some 100 m south of the pipeline corridor. Mitigation measures will be employed to reduce dust from construction.

8. **Tony Lynch** – This submission assesses that traffic impact of the proposed development as set out in the EIS. During the construction phase additional traffic will be generated at each of the road crossings for a short period of time. A detailed traffic Management Plan will be prepared in advance of construction.
9. **Carl Dixon** – This submission deals with terrestrial and freshwater ecology. A Survey for Marsh Fritillary on the fen at Doonard Upper was submitted. Although the species (a butterfly) was not recorded, it could potentially utilise the habitat in the future. The area of the fen to be removed should be kept to a minimum and should be resurveyed prior to the commencement of works. Badger setts and bat roosts were found within the route corridor, and the Irish hare and red squirrel were also identified. Most of the species which use the hedgerows affected are common and are relatively mobile. Although there will be short term displacement of these species, they will generally persist in the wider landscape and will be able to decolonise the replaced hedgerows as they develop.
10. **Rose Cleary** – This submission deals with archaeology. The route selection was guided by national policy of avoidance of archaeological remains and preservation in situ. A geophysical survey has been undertaken where the planning corridor runs through the zone of constraint of the aforementioned ringfort/rath at Tieraclea upper (KE003-024), and is negative on archaeological deposits. Pre-construction testing is recommended at three locations. An underwater archaeological survey including metal detection was submitted as part of the EIS. No archaeological remains were detected. Information regarding all newly discovered sites can be conveyed to local historical and heritage societies.
11. **Colin Doyle** – This submission addresses the issue of noise and vibration as set out in the EIS.
12. **Michael Biggane** – This submission addresses the impact of the proposed development on human beings and proposes the payment of a contribution of €4,000 per km of the pipeline in respect of community gain. It is the experience in Ireland that a significant proportion of people engaged in pipeline construction are local. A range of consultation exercises were carried out with farming organisations and individual landowners regarding the CAO.

3.0 LOCAL AUTHORITIES

The submission by Paul Stack on behalf of *Kerry County Council* refers to the Managers Report, and states that the proposed development is not considered to contravene the County Development Plan 2003, and is in accordance with

all relevant international, national and regional policies and the provisions of the CDP. It is recommended that planning permission is granted subject to conditions. The Council confirmed that the reference to an IPPC licence in their written submission to the Board was in respect of the LNG terminal, and not the current development before the Board.

Kieran O’Gorman and Gráinne O’Keefe, on behalf of **Limerick County Council**, read into the record the written submission previously submitted to the Board. It is requested that issues outlined by the various internal departments in relation to roads, water services and archaeology are taken into consideration in determining the application.

4.0 PRESCRIBED BODIES

Denis Cagney, Director of Gas with the **Commission for Energy Regulation** confirmed that the Commission received a request from Shannon LNG to construct the pipeline under Section 39 of the 1976 Gas Act as amended on 5th September 2008. The application is currently under review which involves advice from technical consultants, particularly in regard to the safety aspect of the pipeline, environmental consultants, and also submissions received. One such submission has been received from the Kilcolgan Residents' Association. The most recent development in the review is the receipt of the Quantitative Risk Assessment last week, a copy of which has been posted on the Shannon LNG website, and a copy has also been forwarded or is being forwarded to Kilcolgan Residents' Association. A final decision is anticipated about February or March of next year.

The criteria for deciding whether to give consent to construct or not or what conditions to apply are set out in Statute (SI 264 of 2002). The emphasis is very much on the overall safety and integrity of the gas system and of its interoperability with other systems. Since those criteria were set out, the Commission’s responsibility in the areas of gas safety have been considerably strengthened under the Energy Miscellaneous Provisions Act of 2006 and a safety framework has been developed. Shannon LNG will have to comply fully with this framework and will have to make their own safety case.

The question of whether the CER should hold a public hearing under the gas legislation will be determined objectively in its own right. A decision in respect of the substantive issues from the CER's perspective will be reached in the CER decision.

Mr Cagney of the **Health and Safety Authority** read into the record the written submission sent to the Bord on October 6th, which sets out the HSA’s position clearly.

Catherine Mc Mullen made a submission on behalf of **An Taisce**. Attention was drawn to the section of rich fen and flush in the townland of Dunnard Upper. The Board was asked to consider if there was any alternative to going through it and destroying it.

5.0 OBSERVERS

5.1 Tarbert Development Association

The submission by Joan Murphy stated that the proposed development was vital to the LNG project as the Board had specified that the gas from the terminal could only be sent by pipeline. Since its formation 50 years ago, the Association has worked extremely hard to try to bring development to the region known as the landbank. The proposed development will be beneficial in terms of job creation and will serve the national interest in terms of reducing carbon emissions.

Mr Fox reiterated support for the proposed development. He stated that although people had some initial concerns, they are more than satisfied that the vast majority of their complaints or their concerns were addressed by the Board at the time of the terminal application.

5.2 Ballylongford Enterprise Association Limited

The submission by Noel Lynch considers the proposed development a natural follow-on to the LNG terminal. It will bring welcome benefits to the community and the economy.

5.3 Catriona Griffin

Ms Griffin and her family live less than 900 metres from the LNG storage tanks. She believes that this oral hearing, like the oral hearing last January, is merely an illusion of going through the motions, and giving the appearance of public participation. Nothing said at the oral hearing will make any difference to the outcome of the planning application.

Catriona Griffin withdrew from the oral hearing after lunch on Day 2 on the grounds that the hearing was a complete waste of time, money and energy.

5.4 Thomas O'Donovan

Mr O'Donovan considered that tourism and fishing in the area would be decimated as a result of the proposed development as the Shannon is slowly becoming an industrial zone. Minister Eamon Ryan has stated that his goal is that energy needs should be supplied by renewable, sustainable, natural sources such as wind, tidal, solar, geothermal and hydroelectric. Fossil fuels are a major cause of climate change. The proposed development will not result in local employment as labour can be sought from other countries. The pipeline would have a detrimental impact on the Tarbert reservoir which supplies drinking water to the locality. Concern was also expressed regarding emissions of natural gas from the pipeline.

5.5 Kilcolgan Residents' Association & Safety Before LNG

Mr McElligott began by reading into the record a submission from an expert witness Mr. Steve Goldthorpe, an energy analyst from New Zealand. This evidence was objected to by Mr Fitzsimmons for the applicant on the grounds that it constituted hearsay, and in particular that the person who is purporting to provide the opinion is not being tendered for cross-examination. Mr McElligott referred to an email sent to the Board on Sunday 30th November (the day before the hearing) in which Mr Goldthorpe offered to give evidence to the hearing via audio or video communication technology. The Inspector agreed with the applicant's objection. It was suggested to McElligott that he could incorporate the points made by Mr. Goldthorpe, into his own submission, but that he could be questioned on the material. Mr McElligott then moved on to outline a Section 5 referral to Kerry County Council on whether changes to the Shannon LNG project constitute work on the original project, which is or is not development, and is or is not exempted development. It is argued that:

1. The commencement of archaeological investigation constitutes the commencement of development. Any modifications (i.e. the proposed pipeline) to this project, therefore, constitutes a project to which the European Court of Justice ruling of July 3 2008 (Derrybrien) applies because this project has been executed in part.
2. The proposed pipeline constitutes a material change to the permitted LNG terminal, as it is an integral part of the project. This is an example of project splitting, which is contrary to the EIA Directive.
3. No EPA licences have been granted for the LNG terminal. It is contended that there is no integrated assessment of this project. The European Commission has recently decided to refer Ireland to the European Court of Justice for the failure of Irish legislation to fully ensure the assessment of interactions between different factors as required by Directive 85/337/EEC.
4. The extension of the LNG project represents a broadening of the public affected by this project, and therefore renders, among others, conditions 37 and 38 of the original planning permission unenforceable as the local communities between Kilcolgan and Foynes have been disenfranchised and excluded from any benefits or protections.
5. Conditions 41 to 45 of the LNG terminal decision are missing, and this planning permission is therefore invalid as unenforceable.
6. An Bord Pleanála made its decision in respect of the LNG terminal application without obtaining any HSA expertise on any risk assessment of an LNG spill on water from LNG tankers travelling in the estuary. The proposed pipeline means that gas will be able to leave the site so that the transport of LNG to the site on the estuary will now be able to realistically take place. This represents a material change to the original project, and an assessment of the risks and consequences of an LNG spill on water from a moving vessel on the estuary needs to be analysed.

Reference was made to the observer's objection to the Section 39 application before the CER for consent to construct the pipeline. Concern was expressed that no one body is taking control of the assessment of an LNG spill on water from a moving tanker. The CER will assess some of the safety aspects under the S.39 application, the HSA assessed some of the safety aspects, but not "moving danger" or deliberate harm. It was argued that An Bord Pleanála should coordinate health and safety issues with the advice of the HSA.

Mr McElligott read into the record an article in the Sunday Independent which quoted an internal CER memo stating that gas prices will sore by about 15 percent if Corrib and Shannon LNG start production.

Mr McElligott called an expert witness, Peter North, a consulting chemical engineer. Mr North made the following points:

- he could find no real argument with the justification of the need for LNG as outlined by Mr Power.
- the consideration of the location of the LNG facilities was cursory with not enough emphasis on con-location, proximity to markets, security and capital or operating costs analyses.
- users other than the applicant should be allowed to use the terminal and pipeline.
- the EIS appears to have covered most of the areas reasonably thoroughly, with some minor exceptions. A weather station should have been located on the site for a year or more, to gather data for local airflow modelling.
- The QRA submitted to the CER depends solely on reference to generic analysis and published data sets and not site or system specific. It is in that regard inadequate. Mr North then began to make a detailed submission in relation to the aforementioned QRA which had been submitted to the CER in respect of the application for consent to construct the pipeline. Having made their submissions and answered questions posed by the observers, both Mr Cagney and Mr Conneely had left the hearing by the time this issue was raised by the KRA. The applicant argued that there is no statutory requirement on the applicant to submit a QRA with the planning application, and that the QRA is not relevant because it is not a material consideration that the Board can have regard to. The Inspector determined that the QRA had not been submitted as part of the application and did not, therefore, form part of the application. It was a matter for the Board to decide if sufficient information had been submitted to allow it to make a decision. Mr McElligott stated that the oral hearing was not capable of having a proper safety assessment without the QRA. It was asserted that the Board was leaving itself open to legal challenge on this matter.

Mr McElligott then continued making the following points:

- There has still been no LNG marine risk assessment because the HSA's remit stops at the water's edge
- No strategic environmental assessment, SEA, has been undertaken. A number of other future developments on the land bank, which would

contribute to cumulative impacts, such as a power station and oil tank farm were referenced. A SEA should be carried out for the entire area.

- No consideration has been given to the consequences of an LNG accident or the consideration of an emergency plan.
- The all island strategy document for gas storage study on common approach to natural gas storage and liquified natural gas on an all island basis, November 2007, representing an official government policy document has been ignored by An Bord Pleanala in addressing the question of alternative sites.
- The interactions between the decision making bodies such as An Bord Pleanala, the EPA, the CER, the HSA and the government body dealing with the foreshore licence are inadequate. The procedural requirements of the EIA directive are not being respected. This is compounded by the level of project splitting in this development.

The Inspector advised that the purpose of the oral hearing was not to reopen the hearing into the terminal, and that submissions should address the current application.

Mr McElligott set out a number of legal and complaints procedures which were ongoing and the decision of which should be awaited before making a decision on the planning application. It was asserted that An Bord Pleanala is also legally obliged to await the outcome of the S.39 application to the CER before making any decision.

It is argued that any permission granted by An Bord Pleanala should be conditional on:

- obtaining any other Permits from the EPA and CER,
- the carrying out of a strategic assessment of the whole project, and of development in the area as a whole.
- gas is not to be for export to the U.K.

5.6 Padraig O'Sullivan

Mr O'Sullivan lives in Ballybunion. Any concerns he had were more than answered during the course of the oral hearing. The proposed development will benefit the local area in terms of economic development and jobs.

6.0 CROSS-QUESTIONING

In cross-questioning and general discussion on this issue the following points were noted.

- The original advice from the HSA to the Board in respect of the terminal application was based on the QRA submitted in respect of the planning application for the LNG terminal. The QRA included the AGI and the pipeline even though it was not part of the original planning application. There is a graphic in that QRA which shows the

risk around the AGI, which is minimal/ very low. The risk contours are based on the existence of the pipeline and the AGI, both of which were factored into the HSA's technical advice.

- The HSA gave no advice to the Board concerning the transport of ships or movement of ships up the estuary, into the estuary and up the estuary as far as the jetty (apart from the immediate approach to the jetty), or damage or accidents caused deliberately.
- The HSA calculate risk on a location basis, i.e. at a specific location.
- The pipeline is not considered too big and too high pressure for the Irish supply requirements. Initial gas flows are anticipated in the region of 400 million cubic feet per day, possibly rising as high as 600 million cubic feet. Some possible future expansion is also allowed for in the pipeline design. The concept behind the project is to supply gas into Ireland.
- Shannon LNG has no involvement with any other gas or any gas deposits in Ireland, and to the applicant's knowledge neither does Hess have any interest in gas deposits in Ireland.
- The pressure in the pipeline will be marginally higher than the pressure in the grid in order to move the gas from one system to the other.
- The construction phase will extend from March to November. It will be constructed in the fourth and final year of the construction of the terminal.
- There is approximately 8 kilometres of the pipeline in Kerry and 18 in County Limerick.
- The applicant estimates the risk to the pipeline or along the pipeline as less than 10^{-6} . Taking into account the error inaccuracy, Mr North contends that the probability ranges between 10^{-4} and 10^{-9} .
- The main function of the pipeline is to bring gas from the terminal to the national grid. Initially, during start-up and prior to the facility being completely commissioned, there will be a need for gas at the terminal, and it is envisioned that that gas would come from BGE to help commission the various individual pieces of equipment so that gas would be flowing initially from the system to the terminal. Once the terminal is up and running, it is expected that the gas will be transmitted in the opposite direction.
- If spurs were put on the pipeline, the pipeline would be capable of taking gas from either end, and delivering it to those spur points in the middle.
- There is no application of any sort on behalf of Shannon LNG Limited to fell trees.
- The gas emissions that may occur during testing will be minimum, negligible emissions of natural gas would quickly dissipate and no significant impacts will arise.

- The site area of the AGI at the Foynes end of the pipeline is 1.8 hectares, and the equivalent site area of the AGI at the terminal end of the pipeline is 0.6 hectares.
- There will be no lighting during the normal operation of the AGI. Lighting will only be turned on if maintenance is required at the AGI. The height of the lamp standards is 6 metres.
- Dewatering is carried out prior to the excavation of the trench in alluvial areas. This is done by well pointing, where individual or groups of small wells, typically less than two inches in diameter, are inserted into the ground in parallel to the pipeline route. Pumping from these is carried out in advance of excavation to lower the groundwater table to below the basin of the trench. This removal of the groundwater from the trench eliminates both the problem of water ingress during excavation, and also increases the stability of the soil so that the excavation can take place in the dry, and the pipeline can be installed into the trench without water being present within the trench. This is a very simple and very routine method of construction.
- The applicant has purposefully tried to contain the route to ground slopes of less than 5 degrees in peat areas. The cut-off of 5 degrees was determined through a historical review of bog slides in peat, looking at bog slides going back to the mid 1800s. Below that slope angle there are virtually no recorded incidents or instances of slides or instability taking place in blanket bog.
- Stream or rivers will be kept completely isolated from the construction process. Siltation traps installed downstream to trap any sediment or particulate material that finds its way into the water course.
- The river crossings involved are quite minor in nature, and can be crossed quite simply without any need for trenchless technology.
- The construction compound would entail a number of portacabins with associated facilities, car parking and lay down areas for equipment and consumables that will be used during the construction of the pipeline. It is quite likely that the compound can be accommodated within the terminal site, but this cannot be confirmed at this stage.
- As the construction of the pipeline is shallow by nature (only 2.5 metres deep), there are no issues with interfering with the groundwater.
- The applicant and local authorities reached agreement regarding the payment of a once-off community contribution of €104,000, based on a contribution of €4000 per km pipeline. The fund would be administered by Kerry County Council and Limerick County Council for the benefit of the local communities along the route of the pipeline development and is primarily to contribute to community projects of an educational nature.
- The water services department of Kerry County Council do not consider that there will be any interference with the quality of the water associated with the spring well adjacent to Tarbert. This well

makes a small contribution to the main water supply in the area. There should be no issues with existing watermains.

- A major emergency plan exists for the Cork-Kerry region. The local authority will coordinate with any other major plan prepared by specific industry or development. When the proposed development is in place the local authority will communicate with the developers to co-ordinate the emergency plan for the development with the regional plan.
- The local authority does not consider that an exclusion zone around that AGI site would affect the proposed intention to rezone lands for industrial use.
- Limerick County Council stated that there are no plans to significantly upgrade the N69, other than resurfacing programmes which are ongoing. The representative was not aware of any plans for a road from Foynes to the N21.

7.0 CLOSING SUBMISSIONS

Kilcolgan Residents' Association & Safety Before LNG

- The whole planning application has been handled in a cavalier, superficial and illegal manner.
- The selected route has not been justified sufficiently.
- There should be a dual carriageway bypass of Tarbert.
- The road between Ballylongford and the land bank should be closed to any commercial traffic
- A strategic environmental assessment should be carried out of energy projects in the southern shores of the Shannon Estuary.
- A condition should be attached requiring the applicant to obtain all other environmental permits.
- There has been no determination made of how the pipeline would link in with the ESB stations at Moneypoint and at Tarbert.
- A declaration of a mandatory exclusion zone around this development is required.
- The emergency plan should be known before any planning permission is given.
- Options to relocate residents should be provided.
- Farmers or land owners should get a yearly rent for use of land equivalent to what is done in other energy projects such as wind farms.
- All locals should have first options on jobs, if possible.
- There should be at least two local residents on the committees that distribute any funds.
- The applicants should be required to prove they have the money to build the development.

Thomas O'Donovan

- The route and the destruction of the rural countryside would have a very deleterious effect on the quality of life and the natural drinking water in particular. A lot of environmental dangers seem to be glossed over in the rush to supply jobs to the area.

Ballylongford Development Association

- Nothing that has been said at this oral hearing has changed our view that this will be a very good development for our area. The fact that there are thousands of kilometres of pipelines safely installed around the country, and have been in place for many years without incident, confirms that this is a very safe and a relatively risk free development.

Tarbert Development Association

- Any concerns have been addressed over the course of the oral hearing.

Applicant

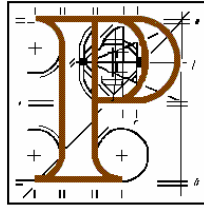
- Shannon LNG Ltd is now applying to the Bord for an acquisition order in respect of five wayleaves only.
- It is quite clear from the implementing legislation that plans and programmes which are subject to SEA include, for example, county development plans or national hazardous waste management plans or other programmes of that ilk. What is not included within the ambit of strategic environmental assessment are individual projects, such as a proposal to develop a 26 km pipeline in relation to strategic gas infrastructure. The point being made in relation to an SEA as applicable to this particular project is misconceived.
- The purported falling between stools where one or more regulatory body is dealing with various consents in respect of a project was the subject of a number of cases before the courts, in particular the Supreme Court case of *Martin v. An Bord Pleanala*, number 2 (May 2007).
- The issues relating to the QRA are matters more relevant to the CER and its consideration of the Section 39(a) application than to An Bord Pleanala and its consideration of the planning application. The applicant has, however, assessed the safety aspects of the pipeline, with particular reference to Irish Standard 328, in the Environmental Impact Statement for the avoidance of doubt.
- The QRA is required by the CER as part of its assessment of the design of the pipeline. There is, therefore no basis for the argument that that safety will fall between any stools in relation to the pipeline project.
- The European Court of Justice has clearly defined project splitting as an attempt to escape from the obligation to prepare an environmental impact statement. The applicant has now prepared two separate environmental impact statements, one in relation to the terminal planning application and one in relation to the pipeline. The issue of project splitting does not therefore arise in this application.

- The decision of the European Court of Justice in relation to Derrybrien does not apply to this case because there no retrospective approval is sought.

Anne Marie O'Connor
Senior Planning Inspector

21 January 2009

An Bord Pleanála



Inspector's Report

PL08.GA0003 - Application under Section 182C of Planning & Development Act 2000 (as amended).

PL08.DA0003 - Application for a Compulsory Acquisition Order under the Gas Act, 1976.

DEVELOPMENT: Natural gas pipeline from the Shannon LNG Terminal at Ralappane, County Kerry to the existing natural gas network at Leahys, County Limerick.

Type of Application: Strategic Infrastructure Development (PL08.GA0003)
Compulsory Acquisition Order (PL08.DA0003)

Applicant: Shannon LNG Ltd

Planning Authority: Kerry County Council
Limerick County Council

SUBMISSIONS & OBSERVATIONS

Prescribed Bodies: Kerry County Council
Limerick County Council
Commission for Energy Regulation
Department of Environment Heritage and Local Government
National Roads Authority
An Taisce
Department of Agriculture, Fisheries and Food

Other Health & Safety Authority

Observers: Tarbert Development Association
Ballylongford Enterprise Association Ltd
Kilcolgan Residents' Association & Safety Before
LNG
Catriona Griffin
Thomas O'Donovan

Objectors to CAO Kilcolgan Residents' Association & Safety Before
LNG

DATE OF SITE INSPECTION 20 & 21 November 2008

INSPECTOR: Anne Marie O'Connor

1.0 BACKGROUND

1.1 Pre-Planning Consultation With An Bord Pleanala

As provided for under section 182E of the Planning and Development Act 2000, (as amended by the Planning and Development (Strategic Infrastructure) Act 2006), the applicant, Shannon LNG Ltd, entered into discussions with An Bord Pleanala in relation to the proposed development (Ref. GC0003). Two meetings were held between An Bord Pleanala and Shannon LNG Ltd on 8 February 2008, and 19 June 2008. The Board informed the applicant of its decision that the proposed development of a gas pipeline to be laid from the Shannon LNG Terminal at Tarbert, County Kerry to Foynes, County Limerick would be strategic infrastructure within the meaning of section 182C(1) of the Act. The current application to An Bord Pleanala is made on foot of that decision.

1.2 Legislative Requirements

As required under section 182C(2) of the aforementioned Act, the application is accompanied by a certificate in relation to the pipeline provided by the Commission for Energy Regulation (CER) under section 26 of the Gas Act 1976, as amended.

1.3 Oral Hearing

An oral hearing in respect of this application was held at the Listowel Arms Hotel, Listowel, Co. Kerry on 1 & 2 December 2008. A copy of the proceedings of the hearing is appended to this report.

1.4 Related CAO Application

A compulsory acquisition order application has also been lodged with the Board under Section 32 of the Gas Act, 1976 (as amended). Pursuant to Section 31 of the Gas Act, 1976, Shannon LNG Ltd also applies to the Board for confirmation of the deviation limits within which it is considered that it may be necessary to construct the pipeline or related works.

2.0 SITE AND DEVELOPMENT DETAILS

2.1 The Application

Permission sought in accordance with Section 182(C) of the Planning and Development Act 2000, as amended by the Planning and Development (Strategic Infrastructure) Act 2006. Notice of the proposed planning application was published in the following newspapers:

- Irish Examiner – 06 August 2008

- The Kerryman – 06 August 2008
- The Limerick Leader - 06 August 2008
- Kerry's Eye – 07 August 2008

The application is accompanied by an Environmental Impact Statement (EIS). Planning permission is sought for a 10 year period.

2.2 Description of Proposed Development

The principal elements of the development can be described as follows.

- 26 km of new gas pipeline linking the permitted Shannon LNG Terminal at Ralappane, Co. Kerry to the existing natural gas network at Leahys, County Limerick.
- 2 no. above ground installations (AGI) at either end of the pipeline.

The Shannon AGI falls within the footprint of the permitted Shannon LNG Terminal which is an establishment to which the Major Accident Directive applies.

LNG is a natural gas which has been cooled to c. minus 160 degrees centigrade, at which point it becomes liquid. It will be imported to the permitted terminal by sea, where it will be stored and warmed at regasification facilities to convert it back into gas. The proposed pipeline will transmit this natural gas from the LNG Terminal to the Bord Gáis Éireann national gas transmission network just west of Foynes in Co. Limerick. It will involve a single pipe of 750mm diameter (nominal bore) with a steel wall thickness of 12.5 mm or 19.1 mm. The heavier wall thickness will be used near residences and at road crossings. The pipeline will be constructed of high strength carbon steel pipe with an external corrosive protection coating and a cathodic protection system. Concrete-coated line pipe can be used where the pipeline traverses wet ground or water courses to counteract the buoyancy pressure exerted by water.

The design pressure of 98bar is the pressure required at the LNG terminal to meet the injection pressure requirements of 85bar at the existing natural gas network. The maximum throughput in the pipeline will be 28.3 million standard cubic metres per day.

Although a specific route has been identified for the pipeline, planning permission is sought for a 100 metre corridor to allow for route refinement in the event that unforeseen features are discovered during the construction of the pipeline. The corridor normally centres on the pipeline (i.e. it extends 50 metres on either side of the line). A permanent 14 metre wayleave will be required along the pipeline route. The proposed pipeline will be laid in a 30 metre wide construction corridor, and will generally be laid at a depth of 1.2 metres, increasing to 1.6

metres where the pipeline will require additional protection, such as at road and river crossings.

AGIs will be constructed at the tie-in point to the Shannon LNG Terminal and the natural gas network. The main functions of the AGIs are pressure reduction, metering, odourisation and pigging (to monitor the internal condition of the pipeline).

Four different permanent marker types will be used to locate the pipeline and provide adequate warning for those working over ground after reinstatement, comprising:

- marker posts – located at every road, field boundary and river, to indicate the pipeline position;
- cathodic protection test posts – located at every road, to allow the Cathodic Protection system to be checked;
- aerial markers – located at every third field boundary, to facilitate aerial monitoring;
- aerial dish marker – located at major changes in pipeline direction, to facilitate aerial monitoring.

2.3 The Route

The proposed route of the pipeline commences at the permitted Shannon LNG Terminal site at Ralappane, some 4 km west of Tarbert on the north Kerry coast. The pipeline runs inland from Ralappane, before extending generally eastwards to the existing Bord Gáis Éireann national gas transmission network at the townland of Leahys, 1km west of Foynes in Co. Limerick. The route is relatively parallel to, and between 1.5 and 2 km inland of, the Shannon estuary. The pipeline is referred to in the application as the Shannon Pipeline. Approx. 8 km of the pipeline is located in County Kerry (Strip Maps 1-4), with the remaining 18 km in County Limerick (Strip Maps 5-14). The route lies to the south of the towns of Tarbert, Glin, and Loghill, and to the west of Foynes. It runs through an undulating landscape of farmland, dominated by pasture, with frequent sections of peat (much of which is described as thin) and alluvium, particularly in the eastern half of the route. As a consequence, much of the land is poorly drained, with extensive rush growth. Blocks of immature plantation woodland have been planted on higher ground. There are also short sections of shallow rock, and grit/shale rock along the route. These sections are indicated on the geomorphology maps submitted with the application.

The route of the proposed pipeline will traverse:

- 1 national road (N69)
- 2 regional roads (R551 and R524)
- 17 local roads of varying widths

- Glencorbly River
- White River (also known as the Owvane River)
- Glashanagark River (a small tributary of the White River).

The pipelines will cross the properties of 72 landowners over its length.

There are no environmentally designated sites within the corridor of the proposed pipeline. The route does, however cross a number of watercourses that flow northwards to discharge to the Shannon Estuary. The Estuary is a candidate Special Area of Conservation (Lower Shannon – site code 002165), and a proposed Special Protection Area for birds (Shannon-Fergus Estuary – site code 004077). The route also lies within 10 km of the Ballylongford Bay proposed Natural Heritage Area (site code 1332).

Two zones of constraint around archaeological sites recorded in the Record of Monuments and Places (RMP) are crossed by the proposed pipeline. A further eight recorded monuments are located close to, but outside the proposed route.

2.4 The AGI sites

The proposed Shannon AGI is located within the Terminal site. It has a stated area of 0.6 ha and currently comprises agricultural land which is laid to grass for pasture. The site is currently bounded by agricultural land on all sides, although the permitted LNG Terminal abuts the southeastern boundary. The AGI will contain two sets of facilities, the Shannon LNG Terminal facilities, needed to accommodate the valves and equipment to facilitate the connection to the proposed pipeline, and the Shannon Pipeline facilities. It will comprise an instrument building, an odorant facility (including tanks), a pig launcher and receiver (pig trap) for internal inspection of cleaning of the pipeline, gas analyser building, and remotely operated valves which will control the flow of gas into the proposed pipeline. It is proposed that metering facilities (contained within a separate metering building) will also be accommodated on the AGI site, although these will be part of the Terminal development and do not, therefore, fall within the development proposed by this application. The AGI site will be enclosed within a security fence. The compound will be remotely operated and will normally be unmanned. Vehicular access for maintenance purposes will be from the LNG Terminal.

The Foynes AGI compound is located at the western end of the proposed pipeline at Leahys. It has a stated area of 1.8 ha, and currently comprises agricultural land in use as pasture. A reservoir, which is bounded by mature trees, lies to the east, with agricultural land on all other sides. Wooded areas lie further to the north and east, between the site and the Estuary. The nearest house would be approximately 120 metres from the site. The existing Bord Gáis Éireann (BGE) network runs beneath the site along the southwestern site boundary. There are two parts to the

AGI, one for the Shannon Pipeline, and one for the BGE pipeline system. The Shannon Pipeline facilities comprise a pig trap, instrument building, and metering building which will meter the natural gas transfer to the BGE network. It is stated that the BGE facilities are typical of existing BGE buildings and equipment on the national gas network, comprising filters, meters, a heater building, instrument building, pressure regulator building and a flow control system. The AGI site will be enclosed within a security fence, and planting is proposed to provide screening. The AGI will normally be unmanned. A close-circuit television system will be installed which will be monitored at the Shannon end. Vehicular access for maintenance purposes will be from the adjacent minor road to the south west, which leads north for 700 metres to the N69.

2.5 The Construction Process

It is stated that the construction of the proposed pipeline will last approximately 9 months, during the months of March to November. It is intended that the pipeline will be constructed in the fourth year of the construction of the LNG Terminal. Certain parts of the construction programme will be dictated by the need to minimise the environmental impact at certain locations along the pipeline route. Site investigation including ecological survey work, excavating trial pits, drilling boreholes, and geophysical surveys will be carried out approx. one year in advance of the main construction works.

The pipeline will be constructed using a ‘spread’ technique. The pipeline route and any temporary working areas will be fenced off, and obstructions such as hedgerows, walls and vegetation, removed from the working width (known as the ‘spread’). This is approximately 30 metres in width. Topsoil will then be removed from the spread and stored on one side, within the spread, for re-use as backfill. Access will be along the working width. Pipe will be delivered to the working width from a storage depot on flat-bed articulated trucks, and off-loaded with mobile cranes. The pipes will be bended on site if required, and each length of pipe will be welded together, forming a pipe string, and lowered into the excavated trench using specialised lifting plant known as side-booms. All welds are tested before a coating is applied on site, and the entire pipeline is hydrostatically pressure tested on completion. A trench will then be excavated and the majority of excavated material stored for re-use as backfill. In areas where rock is close to the surface, some blasting may be necessary. The trench is finally backfilled and any field drainage and field boundaries reinstated to their original condition.

Two main methods will be employed at locations where the pipeline crosses roads, rivers, drainage ditches, service and utility crossings, involving either open cut trenches or trenchless technologies. The application states that the preferred method is open cut techniques, subject to the agreement with local authorities and the Shannon Regional Fisheries Board, and the suitability of ground conditions. It

is proposed that most watercourses will be crossed using in-river works by means of an open cut trench, with hydraulic excavators. In general, the watercourse will be dammed, and the water over-pumped for the duration of the work. Alternatively, a 'dry' open cut trench methodology may be used where water flow is maintained by diverting the river away from the proposed crossing location. Details of trenchless technologies are also provided.

The EIS states that one or more construction compound(s) will be established close to the pipeline route. The particular location(s) will be at the discretion of the construction contractor. No further details or indication of the location of the site compound are provided in the application. The compound(s) will include provision for services, cabins, offices, sanitary facilities, lockers, hard standings, stores, fitting shops, fabrication areas and parking space for vehicles. The facilities will also include those for welding inspection personnel, including a darkroom, film-viewing room and film store. There will be on-site security during nonworking hours. Smaller mobile facilities may also be established along the route, providing canteen and sanitary facilities. The compound(s) will be cleared away on completion, and the site(s) fully reinstated.

In relation to the construction of the AGI, a site compound for the Shannon AGI will be positioned within the Terminal site. At Foynes, there will be a temporary working area required alongside the proposed site. These will both include the provision of services, accommodation areas, cabins, sanitary facilities, mess facilities and hard standings.

2.6 Regulatory Framework

The Environmental Impact Statement (Volume 2, Chapter 1), notes the other regulatory framework governing the proposed development, as follows:

- Consent from the CER under section 39A of the Gas Act, 1976, as amended, to construct the proposed pipeline.
- Licence under section 254 of the Planning and Development Act, 2000, where the proposed pipeline crosses a public road along its route.
- Agreement of BGE to connect to the transmission network under section 10A of the Gas Act 1976.
- Licence from the CER to operate the pipeline under section 16(1) of the Gas Act (Interim) (Regulations) Act 2002, as amended.

2.7 The CAO

The CAO was originally sought in respect of 14 m wide wayleave on lands owned by 16 of the 72 landowners along the route. The wayleave is indicated in red on the submitted drawings. The proposed deviation limits (ie the area within which the eventual wayleave could be sited) are shown coloured green. During the

course of the application the applicant reached agreement with a further 11 of the landowners, and, as such, the CAO now relates to 5 landowners as set out in the amended schedule submitted by the applicant at the oral hearing, comprising wayleave numbers:

- CWL 07A (Drawing No. S32-002)
- CWL 17 (Drawing No. S32-004)
- CWL 34 (Drawing No. S32-006)
- CWL 42 (Drawing No. S32-009)
- CWL 65 (Drawing No. S32-013)

The documents submitted to the Board by the applicant in respect of the CAO include:

- Draft Order
- Book of Section 32 Acquisition Maps
- Book of Specification
- Book of Statement
- Book of Reference

An application to amend the book of reference under Article 10 of the Second Schedule of the Gas Act 1976 was also submitted to the Board on 1 December 2008 in relation to a change of ownership details for wayleave number CWL 65.

3.0 PLANNING HISTORY

Planning permission was granted by An Bord Pleanála under section 37G of the Planning and Development Act, 2000 (as amended), for a Liquefied Natural Gas (LNG) regasification terminal on the southern shore of the Shannon Estuary in the townlands of Ralappane & Kilcolgan Lower, County Kerry (**PL08.PA0002**). A copy of the Order dated 31 March 2008 is appended to this report.

Condition 7 of this permission reads:

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.*

4.0 POLICY AND GUIDANCE

4.1 National Policy

National Spatial Strategy 2002-2020

The NSS identifies Limerick-Shannon as a ‘Gateway’ and Tralee and Killarney as a ‘hub’. The Strategy identifies the need to enhance both the robustness and choice of energy supplies through improvements to the national grids for electricity and gas as a prime consideration, as is the strengthening of energy networks in the west, north west, border and north eastern areas of the country.

National Development Plan 2007-2013

The NDP sets out an Energy Programme for the plan period, which sets out a significant investment programme for energy over the Plan period. The Plan states that the ability of the economy to perform successfully depends on the supply of adequate, affordable and environmentally sustainable energy. In this respect, security of supply is identified as of paramount importance. Demand for energy is expected to grow by 1.6% p.a. over the Plan period, with annual demand for electricity and gas expected to grow by 3.1% and 6.5% respectively.

Delivering a Sustainable Energy Future for Ireland – Energy Policy Framework 2007-2020 (Energy White Paper)

This White Paper outlines the framework for energy policy until 2020. In relation to Actions to Ensure Security of Energy Supply, the following strategic goals are relevant:

- Strategic Goal 1: Ensuring that electricity supply consistently meets demand
- Strategic Goal 2: Ensuring the physical security and reliability of gas supplies to Ireland.
- Strategic Goal 3: Enhancing the Diversity of Fuels for Power Generation
- Strategic Goal 4: Delivering electricity and gas to homes and businesses over efficient, reliable and secure networks.
- Strategic Goal 6: Being Prepared for Energy Supply Disruptions.

The role of the private sector in investing in gas storage facilities and LNG is identified in respect of Goal 1. In relation to Goal 3, it is stated that in the absence of alternatives, Ireland’s dependence on natural gas for power generation would be 70% by 2020 without policy intervention. Such a high level of reliance on gas is generally seen as unsustainable from a security of supply perspective.

Natural gas will, however, continue to constitute a significant part of the power generation fuel mix for the foreseeable future. The Government remains committed to reducing over-reliance on natural gas in the power generation sector by proactively pursuing all realistic alternatives for Ireland.

LNG is specifically identified as a means of holding stocks and strategic reserves within the energy sector in relation to Strategic Goal 6.

The White Paper is also generally supportive of improving the competitiveness of energy supply.

National Climate Change Strategy 2007-2020

This Strategy acknowledges the role of gas in stabilising greenhouse gas emissions as required by the Kyoto Protocol.

4.2 Regional Policy

South East Regional Planning Guidelines 2004

The county of Kerry lies within the jurisdiction of the South East Regional Authority. The Regional Planning Guidelines are generally supportive of the extension of the gas network, particularly to the Tralee-Killarney hub, and to securing industrial development.

Mid West Regional Planning Guidelines 2004

The county of Limerick lies within the jurisdiction of the Mid West Regional Authority. The Regional Planning Guidelines are generally supportive of the expansion of the gas network throughout the region where feasible.

It is also stated (at Section 5.7) that “*development plans should facilitate the provision of energy networks in principle, provided that it can be demonstrated that –*

- *the development is required in order to facilitate the provision or retention of significant economic or social infrastructure;*
- *the route proposed has been identified with due consideration for social, environmental and cultural impacts;*
- *the design is such that will achieve least environmental impact consistent with not incurring excessive cost;*
- *where impacts are inevitable mitigation features have been included.”*

4.3 Development Plans

Kerry County Development Plan 2003-2009

Approximately one-third of the pipeline runs through County Kerry. A large area of land, comprising 188.8 ha and known as the Ballylongford Landbank, was rezoned 'Industrial' by Variation No. 7 to the County Development Plan (March 2007). The permitted LNG Terminal site is located within these lands. The site of the proposed Shannon AGI, and the western most part of the pipeline, also lies within this landbank and are zoned 'Industrial'. The vast majority of the pipeline route in Kerry is not subject to a zoning objective in the Kerry CDP.

Objectives ECO 2-1 and ECO 2-2 encourage economic and employment growth. The Plan also identifies the peripherality of Kerry as one of its greatest difficulties. The provision of proper external infrastructural linkages from the county to national and international infrastructural networks reduces the impact of peripherality and makes the county more attractive for the location of industry.

In relation to the protection of the natural environment and heritage of the County, Objective EN 10-1 states that the Council will take all necessary measures to prevent pollution.

Objectives ENV10-17, ENV10-18, ENV10-19, ENV10-20, and ENV10-21 seek to protect the conservation value of national and European designated areas. Planning applications must provide sufficient information showing how its proposals will impact on the habitat and indicating appropriate amelioration.

Objectives BH9-1 and BH9-3 seeks the preservation of all archaeological monuments included in the Record of Monuments and Places (RMP) and the protection of settings of archaeological sites or structures respectively.

Objective ZL 11-1 aims to protect the landscape of the county as a major economic asset as well as for its invaluable amenity value.

Local Area Plans

The *Tarbert Local Area Plan 2006* comments on the potential for port-related industrial uses provided by the bank of industrial land to the west of the town.

The *Ballylongford Local Area Plan 2007*, is contained within the North Kerry Settlements Local Area Plan. This Plan notes the proposal to develop an LNG Terminal at the Ballylongford land bank, and the associated potential for job creation.

Draft Kerry County Development Plan 2009-2015

Objective ECO 5-24 of the Draft Kerry CDP seeks to facilitate the provision of the infrastructure necessary to cater for the needs of industry in Ballylongford/Tarbert and through out the County. Objectives ECO 5-25 and ECO 5-26 support the development of the lands zoned for industrial development both in general (the former), and in the Tarbert/ Ballylongford area in particular (the latter).

Objective EN 11-1 seeks to take all necessary measures to prevent pollution in order to maintain the quality of the environment of County Kerry. Objective EN 11-2 requires that global warming and climate change are incorporated into the policies and development management system. EN11-20 seeks to protect air quality.

EN 11-21 - EN11-29 (inclusive) require the protection of environmentally designated areas and species, together with the biodiversity and landscape of the Council.

Objectives BH10-1 and BH10-3 seek the preservation of all archaeological monuments included in the Record of Monuments and Places (RMP) and the protection of settings of archaeological sites or structures respectively.

Limerick County Development Plan, 2005-2011

Approximately two-thirds of the pipeline runs through the jurisdiction of Limerick County Council. The proposed AGI at Leahy's townland is also located within County Limerick. The Development Plan provides development boundaries for 58 settlements throughout the County (listed in Appendix V). The proposed pipeline does not pass through any of these settlements, nor is the AGI at Leahys located within any such boundary.

Chapter 2 of the Limerick County Development Plan sets out an overall strategy. It includes a vision statement under which the County will adopt a positive and sustainable approach to balanced development, thereby enhancing the lives of people who live in, work in and visit the county, while protecting the natural and built environment. A number of strategic themes are put forward. Amongst these themes are Environment and Heritage and Shannon Estuary Development.

Chapter 8: Transport and Infrastructure comments that the availability of energy is of critical important to the development and expansion of County Limerick. A substantial investment programme is currently underway by Bord Gáis to enhance and extend the existing natural gas transmission network. Further extensions to the gas network into County Limerick will only occur if demand is shown to exist and is of a sufficient nature to ensure the economic viability of such an extension.

Policy INF 37: Energy Networks states:

It is the policy of the Council to facilitate the provision of energy networks in principle, provided that it can be demonstrated that;

- a) The development is required in order to facilitate the provision or retention of significant economic or social infrastructure;*
- b) The route proposed has been identified with due consideration for social, environmental and cultural impacts;*
- c) The design is such that will achieve least environmental impact consistent with not incurring excessive cost;*
- d) Where impacts are inevitable, mitigation features have been included; and*
- e) Protected areas – NHAs, SPAs and SACs, areas of archaeological potential and scenic importance, proximity to structures that are listed for preservation, national monuments, etc have been taken into account.*

The works are proposed within the Shannon Coastal Landscape Character Area. The restrictions set out in policy ENV14 are of limited relevance to the proposed development, although subsection (c) draws references the use of site-specific designs with careful attention to landscaping may be of relevance to the Foynes AGI.

Policies ENV 2 and ENV 3 seek to protect natural conservation sites and species identified for protection respectively. ENV 4 seek the conservation and protection of features of natural interest outside of protected site such as appropriate woodlands and hedgerows, wetlands and uplands and places of high bio-diversity interest. Policy ENV24 seek the preservation of all sites and features of historical and archaeological interest.

Polices ENV22 and ENV23 seek to protect air quality and prevent public noise nuisance respectively through the regulation of industrial and construction activities.

Chapter 9 of the Limerick County Development Plan is entitled “the Shannon Estuary”. This is of limited relevance to the current application.

5.0 SUBMISSIONS

5.1 Planning Authorities

The following submissions were received from the relevant County Managers. There is no requirement for applications made under section 182C to go before the elected members of the planning authority.

Kerry County Council

The applicant notified Kerry County Council, by letter dated 12 August 2008, of its intention to apply to An Bord Pleanála for permission in respect of a Strategic Infrastructure Development. The response of Kerry County Council was received by the Board on 6 October 2008, and can be summarised as follows:

- The proposal is in accordance with the provisions of the Development Plan and the proper planning and sustainable development of the area.
- **Landscape:** Both AGI will be located unobtrusively in the landscape. The construction impacts of the pipeline will reduce as the restored land blends with the existing vegetation. The landscape in which the proposal is situated is not highly sensitive or scenic, the image value of the estuary will not be altered, and the proposed development is not located on land with an amenity designation. While visible from locations designated as Views and Prospects, it is considered that the development does not have a significant impact on these designations. There will not be a significant visual impact arising from the development and the mitigation measures proposed will militate any visual impact.
- **Roads:** The planning authority will not agree to the closure of the N69 or R551 (between Ballylongford and Tarbert). One way traffic (as a minimum) must be allowed at all times.
- **Water:** The pipeline crosses public water mains at two locations. These pipelines must have at least 1.2m of cover between the bottom of the watermain and the top of the gas pipeline. The cost of replacing a temporary pipeline for these areas and the permanent connection to the watermain must be borne by the developer. There is a watercourse within 300m to the north of the proposed corridor at Tireaclea North which supplies part of Tarbert and also parts of County Limerick. Under no circumstances shall this spring be interfered with.
- **Air/ Climate:** No adverse impacts.
- **Noise/ Vibration:** No significant impacts. Mitigation measures proposed during blasting will minimise any adverse amenity effects.
- **Ecology:** No significant adverse impacts.
- **Soils/ Geology:** Along much of the route reinstatement will be straightforward and there will be no significant post construction impacts.
- **Water:** No significant adverse impacts.
- **Archaeological, Architectural and Cultural Heritage:** No visual impact on the archaeological landscape as the land will be reinstated. The three areas identified in the EIS where previously unrecorded monuments or features may exist need to be assessed through test excavation. Archaeological monitoring of topsoil recommended.
- **Human Beings:** Proposed development will not have an adverse impact and potentially may have positive impacts on human beings and the

community at large through employment, population growth and community development.

- **Material Assets:** In general it is considered that the development will have a negligible impact on agricultural lands in the vicinity, and that the depreciation of property in the area will be negligible if any.
- **Conclusion:** The proposed development is of major strategic importance nationally. A clear justification for the project has been provided by the EIS. The site for the AGI is zoned for industrial development with clear objectives contained in the CDP 2003. While the proposed development is subject to IPPC licensing by the EPA, it is considered that emissions will not be such as can not be addressed by condition through the licensing procedure.

It is recommended that permission be **granted** subject to the following conditions:

1. Development to be in accordance with application details and all mitigation measures of the Environmental Impact Statement.
2. Archaeological monitoring.
3. All road crossings shall be carried out under licence from the relevant roads authority.
4. Developer to liaise with the Water Services section of Kerry County Council in relation to the construction of pipelines adjacent to public watermain and to put in place appropriate measures to prevent interruption to the water supply.

Limerick County Council

The applicant notified Limerick County Council, by letter dated 12 August 2008, of its intention to apply to An Bord Pleanála for permission in respect of a Strategic Infrastructure Development. The response of Limerick County Council was received by the Board on 6 October 2008. The planning authority requests that the following issues be taken into consideration in determining the proposed development:

- The site is located within the Shannon Coastal Zone landscape Character area as per Policy ENV14 of the County Development Plan. The site does not traverse any National Heritage Area or other European designated sites.
- **Roads:** Proposed development is likely to have a very significant impact on road safety, traffic management and road condition/ maintenance both during the course of construction and the period thereafter. The level of detail is limited in terms of temporary parking and construction sites. The applicant should consult with the Transportation Department regarding (a) a detailed traffic management plan (including construction sites, temporary parking, and delivery routes); (b) details of all drainage systems

including replacement and maintenance during and after construction; and (c) a detailed pavement condition survey (including structures such as bridges and culverts) along the routes affected.

- **Water:** No objection to the application. The proposed pipeline does not intersect any existing local authority water or wastewater services. The pipeline crosses an existing 100mm group water supply watermain at Ballycullane, Glin, and an existing 75mm group water supply watermain passes through the proposed AGI at Foynes. Details in relation to the protection of these watermains should be agreed with the relevant group water supply scheme secretaries.
- **Archaeology:** Trenchless construction should be kept to a minimum and avoided in areas of potential archaeology. Mitigation measures set out in the EIS are acceptable. The results of any archaeological findings should be published.
- **Architectural Heritage:** No impact.
- **Fire Safety:** Requirement for fire safety certificate.
- **Development Contribution:** A special contribution will be required to cover costs associated with repair of damage to the public road. Further information is required to make this calculation.
- **Other:** All openings in hedgerows should be reinstated following construction.

Other than those detailed above, no further conditions have been submitted.

5.2 Prescribed Bodies

The submission from the **Commission for Energy Regulation** (CER) considers the Shannon LNG project an important development for the Irish gas industry, particularly in terms of security of supply. The Commission has received an application for Consent to Construct the pipeline under Section 39A of the Gas Act 1976. A final decision on the granting of this Consent will be made after the Board's decision in relation to planning permission. Request that the CER attend the An Bord Pleanála public hearing in order to address any issues relevant to the Commission. Having reviewed that application, the Commission is satisfied that the proposed pipeline does not present any safety or operational concerns. It will, however, be conducting a detailed technical analysis of the proposed pipeline, and may require changes to the technical design or impose conditions relating to the operation of the pipeline.

A submission was received from the **Department of Environment Heritage and Local Government** (DEHLG) in respect of archaeology and nature conservation.

A number of conditions are recommended in respect of archaeology including pre-development testing of the three areas found during the field inspection to

have surface anomalies that may indicate archaeological remains; geophysical survey followed, if necessary, by archaeological test trenches in the area where the planning corridor runs through the zone of constraint of a monument (SMR KE003-024); archaeological monitoring of all top soil stripping and ground disturbance works associated with all water crossings; recording any material found; and report describing the results of all archaeological investigations.

In relation to nature conservation it is noted that the pipeline is not within or adjacent to any European site, Natural Heritage Area (NHA) or proposed NHA. It is not expected that the development will have a significant adverse effect on the Lower River Shannon candidate Special Area of Conservation (cSAC) due to its location, the nature of the works, and the expected compliance of contractors with the waste management legislation. A planning condition requiring a resurvey for breeding sites and resting places of the otter and bat species is recommended.

The submission received from the **National Roads Authority** (NRA) states that the Authority has no objection in principle to the proposal subject to the safety and standard of the national route being maintained through appropriate best practice construction methods.

The **An Taisce** submission considers that the proposal is in contravention of the EIA Directive, which requires an integrated assessment of a plan or project. The proposal is connected to the Shannon LNG terminal, which has been subject only to preliminary notification of decision to grant permission, as it is currently under review in accordance with the provisions of Article 10a of the EIA Directive. The consideration of this project as a stand-alone proposal is inappropriate without integrated assessment of the entirety of the Shannon LNG project. Even if it were considered appropriate to consider this application as a separate and sequential one to the terminal, such consideration is premature pending determination of the current Review proceedings.

The **Health & Safety Authority** (HSA) was notified by the Board in view of the proximity of the proposed development to the proposed Shannon LNG Terminal which is an establishment to which the Major Accident Directive applies. The submission received can be summarised as follows:

- Pipelines are specifically excluded from the scope of the Major Hazard Regulations (SI 74 of 2006), except for those within the establishment (i.e. the LNG terminal).
- On-site pipeline and associated AGI were considered in the previous advice given to the Board concerning the provision of an establishment (Jan 2008).
- It is the view of the Authority that the installation of underground pipelines is a suitable development in the vicinity of the establishment. The risk zones as identified in the submitted QRA are included.

The **Department of Agriculture, Fisheries and Food** responded that it had no observations to make in relation to the Compulsory Acquisition Order.

5.3 Observers

The **Tarbert Development Association** welcomed the decision of An Bord Pleanála to grant planning permission for the LNG terminal. The concerns/queries posed by the association can be summarised as follows:

- Can Bord Gáis send gas through the pipeline to secure supplies to customers connected to the pipeline from the national grid if Shannon LNG run out of gas?
- The issue of ‘spurs’ or ‘take-off lines’ should be dealt with in the planning process. Who will authorise these?
- Manuals for the operation and maintenance of the pipeline should be made available to the communities along the route.
- The proper reinstatement of road crossings is vital. A maintenance period of at least 2 years should be required by condition.
- The construction of the pipeline is likely to be carried out at the same time as the Terminal. This could create traffic problems in Tarbert if a Traffic Management Plan is not in place prior to the commencement of construction.
- Any newly-discovered archaeological sites should be promptly notified to local historical and heritage societies.

The **Ballylongford Enterprise Association Ltd**, likewise welcome the proposal as it is viewed as a logical follow on from the granting of permission for the LNG terminal. The following observations are made:

- All necessary safety precautions should be put in place to ensure the safety of the workers and people living near the pipeline.
- Gas spurs should be put on the pipeline to allow for future connections to local towns such as Listowel, Tralee, Ballylongford, Ballybunion, Tarbert and local industries such as Tarbert Island power station.
- A monitoring committee should be put in place to monitor works in progress and afterwards.

A submission was received from **Kilcolgan Residents Association & Safety Before LNG**, objecting to the proposed development. Signed submissions by Kathy Sinnott MEP and Tony Lowes for Friends of the Earth are also attached. The contents of the submission can be summarised as:

- It is highly questionable how Shannon Development could guarantee to a developer that planning permission could be obtained within 2 years for lands that, at the time, were zoned Rural General and Secondary Special Amenity.

- The land at Kilcolgan would normally been subjected to a Strategic Environmental Assessment (SEA) before rezoning as the proposed LNG project would have a significant effect on the environment and given its status as a SEVESO II site.
- The alternative pipeline corridor that would pass closest to the ESB station (and earmarked for conversion to gas) would be less than 20 km in length and would not qualify for fast track planning under the 2006 Act.
- No blueprint exists for any connection to the ESB station by the pipeline.
- It is rumoured that a separate planning application may be put forward for another pipeline from Foynes to the ESB station in Tarbert. An independent SEA is needed to provide a logical overall environmental assessment of the impacts of the current proposed oil and gas storage developments coming in dribs and drabs into the public sphere. Development in this manner does not constitute orderly development.
- The use of sea water to heat and regasify LNG would affect marine life and water quality. This issue was not assessed in the previous application as it relates to a permit given by the EPA. If the EPA recommends a more environmentally-sensitive approach, another planning application would be required for the modification of the terminal. This will never happen and the solution will be a mitigation approach which will not be a planning process undertaken from first principles.
- The state implemented the 2006 Act, under which LNG terminals and pipelines are defined as strategic infrastructure, under pressure from the gas industry. This abuse of state powers is believed to be unconstitutional.
- The pipeline is new environmental information that should subject the whole project to reassessment. Project splitting contravenes EU laws. Equally, all licensing permits should be obtained before planning permission is applied for to provide more complete environmental information at the planning stage as obliged under European law, and confirmed by the ruling of the European Court in respect of the wind farm at Derrybrien, Co. Galway (case C-215/06 Commission of the European Communities v Ireland).
- An assessment should be made on uneconomical access to the gas network and determine if this will affect supply of natural gas to the rest of Kerry and the construction of gas infrastructure in the county.
- The need for a compulsory acquisition order for a pipeline is questioned. An objection is raised to the offers which are less than the open market value of the land. A private company should not be allowed to apply for the compulsory acquisition of private land.
- The pipeline will destroy Ralappane House, a building now under consideration as a protected structure.
- An assessment of the emissions from the AGI should be included into the planning for the terminal. The AGI and pipeline infrastructure will increase risks to nearby residents, contrary to Art.12 of the Seveso II

Directive. Risks from the pipeline were not included in the original assessment of the LNG terminal. Electrostatic risk increases with moving gas.

- As the EIS was not available on the internet for a lengthy period of time, the right to make another submission at a later stage is formally requested.
- The HSA is not going to assess the project under its Seveso II obligations.
- The Board should await the outcome of the High Court challenge to the Strategic Infrastructure Act 2006.
- The Minister for the Environment has publicly stated that the planning authorities have chosen the best pipeline route for this application. The observer has written to the Minister requesting whether or not alternative routes can now be objectively assessed at the planning stage.
- A planning application has been submitted for an offshore LNG facility off the coast of Dublin, proving that alternative sites for LNG storage do exist and are being actively pursued in the Irish Sea.
- The All-Island Strategy document for gas storage, “Study on Common Approach to Natural Gas Storage and Liquefied Natural Gas on an All Island Basis” was published after planning permission for the terminal was granted. The planning authority should have awaited the publication of this document before making a decision. This report contains information on high potential alternative storage sites and strategies including the North Celtic and Irish Sea Basins, the depleted Kinsale gas fields, and other storage options such as salt caverns and re-gasification vessels. This study should be taken into consideration in this application.
- Other development planned for the landbank such as the SemEuro oil storage facility are being kept on hold until the LNG application is completed. There must be a clearer definition of the types of development that should be allowed than being based on the probability of an accident as provided solely by the developer. SemEuro has been in consultation discussions with An Bord Pleanála since March 2007. The Board is not acting in an objective manner as it is refusing to declare the application no longer valid. This allows it to avoid releasing the documents to the general public.
- An Bord Pleanála has allowed itself to develop too close a relationship with the applicant and is now guilty of “agency capture”. It implicitly encouraged the developer to issue “wayleave offers” to the landowners, which is a tacit approval by the Board for the pipeline route chosen and is totally in contravention of the obligation to allow meaningful public participation in the planning process. A mockery is being made of the planning process and members of the public on whose land the development is taking place are being bullied into accepting a decision that they feel has already taken place.

- The oral hearing should be held locally, and funding provided to the objector to engage independent LNG and pipeline safety experts in the interests of fairness.
- An independent assessment on the effects on soils is needed.
- New information has been discovered since the oral hearing which needs to be taken into consideration for the whole project:
 - a. No risk assessment has been completed for an LNG spill on water.
 - b. The Marine Risk Assessment by Shannon Foynes Port Company highlighted the transformation of the southern shores of the Shannon Estuary into an oil and gas storage hub without any SEA being undertaken.
 - c. The draft Kerry County Development Plan is retrospectively trying to endorse the LNG terminal.
 - d. The construction of LNG terminals within 5,000 feet of residences, schools, hospitals, elderly housing complexes, businesses and developments has been prohibited in the state of Massachusetts. LNG tankers are also prohibited from passing within 1500 feet of populated shorelines. No further development should take place within 3 km of the terminal.
 - e. The original application took no account of the effect of traffic on Tarbert village; how primary and secondary schools are to open and close at the same time to facilitate construction traffic; not all lands are owned by the applicant and the issue of the sterilisation of land; the plan for a gas-powered ESB station on the site has not been properly environmentally assessed.
- The European Petitions Committee has formally informed the KRA that it has asked both the European Commission and the European Parliament Committee on the Environment to conduct preliminary investigation of the various aspects of the LNG terminal in relation to EU Directives. It is submitted that at least nine EU Directives are being contravened: the Wastewater Directive, Emissions Trading Directive, Environmental Liability Directive, Seveso II Directive, Gas Directive, EIA Directive, SEA Directive, Habitats Directive, and IPPC Directive. The Board is requested to that all of these directives into consideration.
- It is requested that the Board take on board all of the submissions (including the proceedings of the oral hearing) on the LNG terminal (PA0002).
- The pipeline route has been forced on landowners who cannot understand the consequences of the sale of lands without legal advice or protection from the government. Landowners are being forced to sell out against their will for fear of obtaining virtually nothing at all if the application for compulsory acquisition is successful. The Gas Acts and Strategic Infrastructure Act should not be used to compulsorily acquire private land for a project that is not in the national interest.

- This LNG project is encouraging more dependence on imported fossil fuels, contrary to Ireland's obligations under Kyoto.
- The development will pose a risk to a primary drinking-water supply in the Kilcolgan area.
- No meaningful consultation was carried out with the local community.
- The development would industrialise a previously unspoilt landscape.
- The quality of life of people in the region of this development will continue to be severely damaged and the long-term impacts will be catastrophic.

The submission received from **Catriona Griffin**, a local resident, can be summarised as:

- The pipeline should go to the ESB station at Tarbert, which is likely to be converted to gas use in the future.
- Ecological impacts from removal of hedgerows, crossing of river courses, and noise, dust and traffic from the construction process.
- Concern that water supplies from wells will be affected.
- Insufficient details are provided in the EIS regarding reinstatement.
- No indication of how many jobs will go to local people. No local employment has been created to date.
- Effects on human beings have been largely ignored. Local residents will have to noise, dust, traffic and blasting. It is totally unacceptable that the application is for a 10 year period.
- There is no mention of accidents, emergency procedures or possible danger associated with the pipeline. Details of accidents involving LNG facilities are appended.
- Permission for the terminal has already been granted and the pipeline is a fait accompli.

The submission received from **Thomas O'Donovan**, a local resident, can be summarised as:

- The applicant's motivation in entering the energy market is profit. With the phasing out of coal and oil it is possible that the gas industry will monopolise the Irish market having little or no competition.
- Liquid natural gas is a fossil fuel, the burning of which has dire consequences for humanity and the fragile local and wider environment.
- The route of the pipeline would be through large areas of boggy ground. Local people are worried that more bogslides are a probability adversely affecting their drinking water again with dead zones in rivers another possibility.
- Present and future rainfall is another factor that could lead to more unforeseen ecological disasters.
- Gas is a pollutant and a serious health risk to people and the natural environment.

6.0 ASSESSMENT - Proposed Development

Having examined the file and planning history, considered the prevailing local, regional and national policies, inspected the site and assessed the proposal and all of the submissions, including those made at the oral hearing, I consider the key issues in this case to be the following:

1. Adequacy of the Environmental Impact Statement
2. Principle of Development
3. Need
4. Alternative Routes and Sites
5. Legal and Procedural Issues
6. Health & Safety
7. Ground Conditions
8. Natural Heritage
9. Ground and Surface Water
10. Archaeology and Architectural Heritage
11. Road Issues
12. Visual Impact
13. Community Gain
14. Development Contributions
15. Other matters

6.1 Adequacy of the Environmental Impact Statement

The EIS which accompanies this application was prepared under the requirements for a strategic gas infrastructure development set out in section 182C of the Planning and Development Act, 2000 (as amended). It comprises three volumes:

- Volume 1: Non Technical Summary;
- Volume 2 (the main report including appendices);
- Volume 3: Figures.

The EIS describes the proposed development, the need for the development and alternatives considered, construction activities and planning and policy context. The effects of the proposal on the environment are assessed under the following headings: landscape and visual; roads and traffic; noise and vibration; air quality and climate; ecology; geology and soils; hydrology and hydrogeology; material assets; archaeological architectural and cultural heritage; and human beings. A

section entitled ‘Other impacts and interactions’ assesses the cumulative effects and interaction of effects.

Section 1 of the EIS also outlines the submissions received by the applicant in response to extensive pre-application consultations with local authorities, government departments, the public, other service providers, various statutory bodies and non-governmental organisations, and local community groups and interested parties.

Section 2, sets out the need for the proposal and the alternative routes and locations for the AGI which were considered. I shall return to the merits of the alternatives considered below. I am, however, satisfied that an adequate assessment of the alternatives available was carried out.

In terms of each of the aforementioned environmental criteria, the EIS provides a description of: the methodology used in the assessment; the existing environment; potential impacts of the proposed development; mitigation measures; and residual impacts. The main impacts of the proposed development are considered to relate to the construction phase, although the operational phase is also assessed.

The information in the EIS was supplemented by the oral and written submissions presented to the Board at the Oral Hearing.

I consider that the EIS complies with the requirements of article 94 and Schedule 6 of the Planning and Development Regulations, 2001 and provides a useful aid to the decision making process. In particular, I found that the strip maps, aerial views, habitat, and geomorphology mapping greatly assisted in the comprehension of the written text.

6.2 Principle of Development

The purpose of the proposed pipeline is to transport natural gas from the permitted LNG Terminal to the existing Bord Gáis Éireann natural gas network just west of Foynes in Co. Limerick. The applicant has argued that natural gas entering the pipeline from the LNG terminal will provide increased security and diversity of supply to Ireland in accordance with the *National Development Plan 2007-2013* and the strategic goals set out in the government’s Energy White Paper ‘*Delivering a Sustainable Energy Future for Ireland 2007-2020*’. Both of these documents identify security of supply as of paramount importance to the national interest. I note that this argument was accepted by the Board in relation to the LNG terminal application (PL08.PA0002), and I consider that it also applies in this instance.

In terms of national and regional planning policy, I note that the *National Spatial Strategy 2002-2020*, *South East Regional Planning Guidelines 2004* (Kerry), and

the *Mid West Regional Planning Guidelines 2004* (Limerick), are supportive of extending the gas network throughout the respective regions, and to the Tralee/Killarney Hub in particular. The observers in support of the development also consider that gas spurs should be put on the pipeline to allow for future connections to local towns such as Listowel, Tralee, Ballylongford, Ballybunion, Tarbert and local industries such as Tarbert Island power station. I shall return to the issue of the Tarbert power station in relation to the alternatives below. In relation to the general expansion of the gas distribution network, I note that the proposed development, in itself, does not provide for an extension of the gas distribution network. In response to this issue, the applicant did indicate at the oral hearing it would be technically feasible to distribute natural gas to towns in the region from the Shannon pipeline, and that such spurs could be fed from either the LNG terminal or, if the direction of gas flow was reversed, from the national gas network. It would, however, be up to Bord Gáis and the CER to assess the feasibility of extending the distribution network to serve the towns. The *Mid West Regional Planning Guidelines* generally state that development plans should facilitate the provision of energy networks subject to certain criteria, and this is reflected in Policy INF37 of the Limerick County Development Plan (which I shall return to below). Overall, I do not consider that either the National Spatial Strategy or the relevant Regional Planning Guidelines are of particular relevance to the proposed development.

The site of the Shannon AGI is located within a large area of land, comprising 188.8 ha and known as the Ballylongford landbank, which was rezoned 'Industrial' by Variation No. 7 to the Kerry County Development Plan (March 2007). The permitted LNG Terminal site is also located within these lands. The purpose of the variation was "*to facilitate consideration of suitable development on these lands in accordance with the provisions of section 5.2.9 of the Kerry County Development Plan 2003-2009, which states: 'lands have been identified at Ballylongford/ Tarbert as suitable for development as a premier deep water port and for major industrial development and employment creation'*". I note that the Board previously considered that the LNG terminal accorded with the objectives of the Kerry County Development Plan, 2003-2009, and I am satisfied that the principle of the AGI and pipeline to link the terminal to the national gas network is similarly acceptable in this respect. The Draft Kerry CDP 2009-2015 also seeks to facilitate the provision of the infrastructure necessary to cater for the need of industry in Ballylongford/ Tarbert and throughout the County (Objective ECO 5-24).

Policy INF 37 of the Limerick County Development Plan, 2005-2011 outlines the Council's policy to facilitate the provision of energy networks, and the supporting text states that the Council will support the current investment programme to reinforce the national grid in order to meet international supply standards and to take account of rising demand. Whilst it would appear that this policy was adopted in the context of the existing Bord Gáis investment programme to extend the national transmission network, it is clearly supportive of initiatives to improve

energy supplies. I am generally satisfied, therefore, that the no conflict exists with the Limerick Development Plan in this respect. The other criteria relate to various environmental and other impacts, which are also considered in this assessment.

6.3 Need

The issue of the need for an LNG facility has been accepted by the Board in its decision to grant permission for the Terminal, which (inter alia) had 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,*
- (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.*

The EIS submitted in respect of the Terminal application clearly outlined the requirement for a gas pipeline connection from the terminal site to the national gas network, stating that this would be the subject of a separate planning application. Furthermore, Condition 7 of that permission requires that “*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*” (full text at Section 3 above). Given that the natural gas stored at the Terminal must be used to supply the national grid, and the restrictions on the transfer of the gas, I consider that the need for the AGI and pipeline has been firmly established.

The proposed pipeline has a stated capacity of 28.3 million cubic meters (1 billion cubic feet) per day. The applicant stated at the oral hearing that it is anticipated that initial gas flows will be in the region of 11.3 million cubic meters per day (400 million cubic feet), rising on a peak demand basis, to 17 million cubic meters (600 million cubic feet). The pipeline design, therefore, makes provision for some possible future expansion. I note from the original LNG terminal application that the terminal will be developed in two or more phases. In the first phase, one or two of the LNG tanks, the vaporisation equipment and support facilities would be installed to handle an expected throughput of 11.3 million standard cubic metres per day, but with sufficient capacity to enable a peak regasification rate of 17 million standard cubic metres per day. Ultimately, the additional tanks and additional vaporisation equipment and support facilities

would enable the facility to handle up to 28.3 standard cubic metres per day. I am satisfied, therefore, that the capacity of the pipeline is appropriate for the permitted Terminal facility.

6.4 Alternative Routes and Sites

Three alternative routes were considered between the LNG terminal and the existing BGE network:

- Route Corridor 1 – extends eastwards along the south side of the Shannon Estuary between the LNG Terminal and the existing gas network in the vicinity of the Craggs AGI.
- Route Corridor 2 – leaves the LNG Terminal and crosses the Shannon Estuary at Tarbert, before running eastwards along the north side of the Estuary to the existing Shannakea Beg AGI.
- Route Corridor 3 – extends directly north-eastwards from the terminal, crossing the Estuary and running eastwards to the existing Shannakea Beg AGI.

In addition, a route corridor along the length of the Shannon Estuary was also considered, but was ruled out at an early stage due to ecological designations, engineering difficulties and economic costs.

It is stated that Route Corridor 1 represents the shortest feasible route on the south side of the Estuary, and is the preferred route and the subject of the EIS; Route Corridor 2 represents the shortest route between the LNG Terminal and the existing gas network while also passing close to Tarbert Island power station; and Route Corridor 3 represents the shortest route between the LNG Terminal and the existing gas network while also passing close to Moneypoint Power Station. Route Corridor 1 was selected as the preferred route corridor as it did not require a crossing of the Shannon Estuary, with the associated environmental and economic costs, and engineering difficulties.

The observers have argued that the pipeline should go to the ESB station at Tarbert which, it is stated, is likely to be converted to gas use in the future. In response the applicant stated at the oral hearing that Tarbert power station is currently fuelled by oil. If it does, however, convert to gas, it is technically feasible to connect the power station using a spur from the Shannon pipeline. I note that Route Corridor 2 would facilitate a direct connection to the power station. This route also, however, involves crossing of the Estuary, and it is difficult to envisage how the pipeline would serve the power station without crossing the estuary except as a spur from the main pipeline. I estimate that a spur from Route Corridor 1 to the power station would extend to some 4 km. This distance could be shortened if the proposed pipeline was moved closer to the town of Tarbert, which the route otherwise seeks to avoid. Likewise, any

connection to the Moneypoint power station, which is currently fuelled by coal, could not avoid crossing the estuary. The applicant has stated that it is not aware of any plans or even speculation to convert Moneypoint to natural gas. As a commercial entity, however, it would welcome the opportunity to connect power stations to the Shannon pipeline.

I am in agreement with the applicant that Route Corridor 1 generally represents a reasonable route along the southern side of the Estuary, and that there are significant environmental difficulties associated with crossing the Shannon Estuary which is a candidate SAC and a proposed SPA. I do not consider that the route should be altered to facilitate any future connection to Tarbert power station, which can be reasonably connected to the main pipeline by means of a short spur.

Four possible site options for the location of the Foynes AGI were also considered:

- Site A - the most northerly site; it is adjacent to a wooded area and would be accessed from the minor road to the west, some 200 metres from the N69 (Limerick/Tarbert Road).
- Site B – the preferred location, as described at Section 2.4 above.
- Site C - located to the south of Sites A and B c.150 metres back from the local road; some 1.5 km from the N69.
- Site D – located to the south of Foynes, c.500 metres east of the N69. The site is surrounded by very hilly topography, with a significant slope running northwards across the site.

I am generally in agreement with the assessment of these sites as set out in Section 2.3.4 of the EIS, and consider that the selection of the site at Leahys (Site B) as the location for the new AGI to be reasonable.

6.5 Legal and Procedural Issues

Both An Taisce and the Kilcolgan Residents' Association (KRA) have argued that the proposal is in contravention of the EIA Directive as it does not represent an integrated assessment of the entirety of the Shannon LNG project. It is submitted that to consider the pipeline as a separate planning application constitutes project splitting, and that an EIS for two separate projects is not the same as having one EIS for the complete project. The applicant strongly refuted this contention during the oral hearing, stating that project splitting relates to an attempt by a developer to carve up a project in such a manner that no EIS is prepared. Reference was made to the decision of European Court of Justice in the case of *Commission v. Ireland* (case number C-392/96) which defined project splitting as an attempt to escape from the obligation to carry out any impact assessment of the proposed development. In relation to the LNG terminal and pipeline, it was stated

that an EIS was prepared for the LNG terminal application, and that a separate EIS has been prepared for the pipeline. Consequently, it was argued that the issue of project splitting does not arise in this application.

The applicant has further argued that the issue of project splitting was previously considered by the Board in the LNG terminal application. In this respect I note that Chapter 18 of Volume 2 of the Environmental Impact Statement which accompanied the terminal application is entitled “Ancillary Projects”. The three possible routes between the application site and the existing Bord Gais network are shown in that EIS (Volume 4, Figure 18.1), and were detailed in the Inspector’s Report. These routes generally accord with the alternatives described at Section 6.4 above. I am also satisfied that the current EIS adequately addresses the cumulative impacts of the current proposal (the AGI and pipeline) and the Terminal development, and am in agreement with the previous Inspector that the making of the two applications separately cannot reasonably be considered a ploy to avoid environmental impact assessment.

The KRA also made reference at the oral hearing to the decision of the European Court of Justice in the *Commission v. Ireland* decision (Derrybrien) which was handed down by the Court of Justice on 3rd July of this year (Oral hearing Transcript, Day 2, pages 58-59). However, the observer’s arguments in relation to this issue appear to be somewhat confused, and I do not consider that the findings of the ECJ in relation to that case apply in this instance.

At the oral hearing, the KRA also stated that a decision on the application could not be made by the Board until a number of other complaints and/or procedures had been resolved (Oral hearing Transcript, Day 2, pages 56, 96, 97, 103-108). I do not, however, consider these matters to be relevant to the consideration of the planning merits of the proposed development.

6.6 Health & Safety

The issue of health and safety is clearly the main concern of the Kilcolgan Residents’ Association & Safety Before LNG, and is also raised by Catriona Griffin, and Thomas O’Donovan. It was apparent at the oral hearing that these concerns primarily relate to the LNG terminal itself, and specifically to the risk of an accident beyond the shore line (i.e. the movement of ships up the estuary), and the potential for accidents caused deliberately by sabotage or terrorism. It was argued that these issues were not dealt with by the HSA in its assessment of the terminal development, and that safety considerations were in danger of ‘falling between the cracks’. These issues, however, relate to the previous application for the terminal development, rather than the proposed pipeline and associated AGI, which are the subject of the current application. In this respect, I note that the Board’s Reason and Considerations in respect of the terminal application

considered that, subject to compliance with the specified conditions, the proposed development would ‘not be prejudicial to public health or safety’.

Gas pipelines are specifically excluded from the scope of the Major Hazard Regulations (SI 74 of 2006). However, the proposed AGI and pipeline are located within the distance from establishment (the LNG terminal) specified in Schedule 8 of the Planning and Development Regulations, 2001. As such, the Health and Safety Authority (HSA) was notified of the application and was requested to supply technical advice on the effects of the proposed development on the risk or consequences of a major accident in accordance with article 215 of the Planning and Development Regulations, 2001, as amended by the Planning and Development Regulations, 2006.

A written submission was received by the Board on 7 October 2008, which was read into the record at the oral hearing by Patrick Conneely, Senior Inspector with the HSA. Mr Conneely stated that on-site pipeline and the associated AGI were considered in the previous advice given to the Board concerning the provision of an establishment (PL08.PA0002, January 2008). At the oral hearing the HSA confirmed that the original advice to the Board was based on the quantitative risk assessment (QRA) submitted by the applicant in respect of the terminal application. That QRA included the AGI and the pipeline even though it was not part of the original planning application. Consequently, the three risk zones (Zone 1 to 3) specified in the QRA, and the types of development suitable within each zone, are based on the existence of the pipeline and AGI. It is the view of the Authority that the installation of underground pipelines is a suitable development in the vicinity of the establishment (Oral Hearing Transcript, Day 1, Pages 144 – 151).

A written submission from the Commission for Energy Regulation (CER) was received by the Board on 6 October 2008 which stated that the Commission was satisfied that the proposed pipeline does not present any safety or operational concerns, but that the Commission would be conducting a detailed technical analysis of the proposed pipeline, and may require changes to the technical design or impose conditions relating to the operation of the pipeline. The CER stated that it had received a request for consent to construct the proposed pipeline under Section 39 of the Gas Act 1976 on 5 September 2008. It emerged at the oral hearing that a QRA for the pipeline was subsequently submitted to the CER in the week preceding the oral hearing. The submission further states that the criteria for deciding whether to give consent or not, or what conditions to apply, are set out in the Gas (Interim) (Regulation) Act 2002 (Criteria for Determination of Consents) Regulations 2002 (SI 264), and were further strengthened by the Energy (Miscellaneous Provisions) Act 2006. These include safety and security of natural gas systems, compliance with relevant codes of operations, and the suitability of the applicant. The scope of conditions that may be attached include compliance with safety and efficiency codes, environmental protection conditions, and a time period for construction. The CER’s representative at the oral hearing,

Denis Cagney, stated that the emphasis on the review of the S.39 application is very much on the overall safety and integrity of the gas system and of its inter-operability with other systems, and would involve taking advice from technical consultants, particularly in regard to the safety aspect of the pipeline (Oral Hearing Transcript, Day 1, Pages 141 – 144). I note that the written submission of the CER to the Board predates the submission of the QRA to the Commission and, as such, was not informed by the QRA. Furthermore, Mr Cagney provided no additional information to the oral hearing which could have been informed by the QRA. The HSA made no reference to the QRA in giving evidence to the oral hearing, and when asked if there should be a new risk assessment based purely on the current application, Mr Conneely reiterated that everything in the establishment, including the AGI and pipeline, was factored into the technical advice given in relation to the previous application for the provision of an establishment.

On the second day of the oral hearing the KRA wished to make a detailed submission in relation to the aforementioned QRA which had been submitted to the CER in respect of the application for consent to construct the pipeline. Having made their submissions and answered questions posed by the observers, both Mr Cagney and Mr Conneely had left the hearing by the time this issue was raised by the KRA. The applicant argued that there is no statutory requirement on the applicant to submit a QRA with the planning application, and that the QRA is not relevant because it is not a material consideration that the Board can have regard to. In considering this matter, I was cognisant that the QRA had not been submitted to the Board, and it did not inform the advice of either the HSA, which was based on the QRA submitted in respect of the previous application, or the CER. I determined, therefore, that the QRA did not form part of the application, and that it was a matter for the Board to decide if sufficient information had been submitted to allow it to make a decision.

The KRA also argued that there is an increase in electrostatic risk with moving gas. The applicant has responded that there is no increase electrostatic shock potential to persons in the proximity of the buried pipeline.

Natural Gas is a colourless, odourless fuel, the main component of which is methane (80-95%) with the remainder comprising varying amounts of ethane, propane, butane and other hydrocarbons. An odourant is added to facilitate immediate recognition in the event of leakage. The pipeline itself is coated both externally and internally to protect it from corrosion. The EIS states that the pipeline will be designed, constructed, tested, operated and maintained in accordance with the Irish Standard I.S.328:2003 Code of Practice for Gas Transmission Pipelines and Pipeline Installations. A copy of this code was provided by the applicant at the oral hearing and is on the file. I note that the code applies to the design, construction, inspection, testing, operation and maintenance of steel pipelines for the transmission of gas. Although the upper pressure limit is not defined, it is stated that in current general practice it ranges

up to 100 bar. The proposed pipeline will operate at 98 bar, compared to the existing BGE network which operates at 85 bar. The applicant explained at the oral hearing that the pipeline design pressure of 98 bar is the pressure required to deliver gas into the national gas network (i.e. to overcome the pressure to move the gas from one system to the other).

Although the pipeline avoids any population centres, it does run close to a number of one-off houses along its route. In this respect, the code sets out standards for wall pipe thickness depending on the proximity distance from the pipeline to normally occupied buildings. Heavy wall material (19.1 mm) is required within 57 m of a dwelling, and I am satisfied that it is possible to ensure that any extant planning permissions for new dwellings are covered by means of a suitable condition. The pipeline will be buried underground for its entire length, to a minimum depth of cover of 1.2 metres. The depth of cover will be increased to a minimum of 1.6 metres where additional protection is required, such as at road and river crossings. Four different permanent marker types will be used to locate the pipeline and provide adequate warning for those working over ground after reinstatement. After commissioning, the operation of the pipeline will be continuously monitored 24 hours a day from the Shannon LNG Terminal at Ralappane. Detailed specifications for the construction, operation and maintenance of the proposed pipeline are outlined in Section 3.3 of the EIS. Having considered all of the details and submissions I am satisfied that the pipeline itself can be constructed, maintained and operated in accordance with the IS328 code (as required by the CER), in a similar fashion to the existing Bord Gáis network across the country, and does not present any significant health and safety concerns.

The remaining issue in relation to health and safety, therefore, relates to the acceptability of a pipeline within the vicinity of a major accident establishment, and the impact that an accident at the establishment could have on the pipeline (with resulting effects along the pipeline route). In this respect, I note that the HSA has advised that the pipeline and AGI are suitable development within the vicinity of the LNG terminal, and that both the Shannon AGI and the Foynes AGI have remotely operated valves which will control the flow of gas into the pipeline. Having considered the written submission of the HSA and their submission to the oral hearing, I am satisfied that sufficient information is before the Board to enable it to make a decision in relation to health and safety., and I have no objection to the proposed development in this respect.

The lack of an emergency plan in the case of an LNG accident was also raised by the KRA. Kerry County Council responded that a major emergency plan exists for the Cork/Kerry region, and that the Council would communicate with the developer to ensure that any future emergency plan for the proposed development was in accordance with the regional plan. I do not, however, consider that the details of an emergency plan are relevant to the consideration of this application.

6.7 Ground Conditions

Ground conditions along the route corridor principally comprise boulder clay, with significant areas of alluvium and peat to along to eastern part of the route corridor.

Boulder clay is generally considered to provide stable conditions for the construction of the proposed pipeline. Although bedrock tends to occur below the level of the pipeline, it is envisaged that blasting may be required in the Tullyglass-Kinard area, just south of Glin (Strip & Geomorphology Map 6).

The alluvial areas are largely located in the floodplains of larger streams and rivers, particularly the White River. It is acknowledged that these areas can pose difficulties for construction including poor movement for construction plant, trench side instability, and a typically high water table. It is proposed, therefore, to use a construction method known as well pointing, where individual or groups of small wells, typically less than two inches in diameter, are inserted into the ground in parallel to the pipeline route. Pumping from these is carried out in advance of excavation to lower the groundwater table to below the basin excavation of the trench, thereby eliminating the problem of water ingress during excavation and increasing the stability of the soil. It is stated that this is a very simple and very routine method of construction.

There are also a number of expanses of blanket bog peat along the eastern half of the pipeline route, mainly to the east of the Glencorbly River. The aggregate length of peat crossing is 5.7 km, of which the longest individual crossing length is just over 1 km. I note that none of the areas of peat crossed have been designated as conservation or habitat areas. The EIS recognises that peat represents about the most difficult natural material in which to construct pipelines. It is stated that in all but a few parts the peat is relatively thin (< 1-1.5m), occurs on slopes of less than 5°, and has largely been reclaimed for agriculture or forestry. Given these factors, it is contended that the peat areas within the route corridor are intrinsically stable and not susceptible to bog slides. It is stated that below 5° there are virtually no recorded incidents or instances of slides or instability taking place in blanket bog.

A methodology for the construction of the proposed pipeline in peat areas was set out at the oral hearing (Oral Hearing Transcript, Day 1, page 93-95). It is proposed to remove and store the top layer of peaty topsoil (c. 0.2m deep) and the layer of peat (c. 1 m deep), separately in dedicated areas. It is stated that the volume of peat, which will be stored temporarily adjacent to the pipeline trench, comes to 62,985 cubic metres. A temporary road, approximately 5 metres wide, will be constructed using imported stone fill and will be used by all construction traffic. The pipe trench will then be fully excavated to a depth of 2.5 metres, and the excavated material stored on the opposite side of the trench to the peat. The

pipe will then be laid on a bed of imported sand or pea-gravel, the trench backfilled, and the spread width reinstated. Mitigation measures such as the use of bog mats and continuous shoring in areas of poor traffickability, the use of inherently stable materials for backfilling, and pre-construction ground investigations to ground stability are set out in Section 11.6.2 of the EIS. I note that the EIS states that peat can be stockpiled in blocks and watered to prevent it drying out, and the blocks replaced in reverse order. The applicant pointed out at the oral hearing that significantly deeper depths of peat, up to 5 to 6 metres, were successfully dealt with on the Bord Gáis Éireann Mayo-Galway Pipeline which was constructed in 2006 through the boglands of north Mayo using a similar methodology.

Having considered the above, I am of the opinion that no peat needs to be removed off site to facilitate the proposed development, and that the existing natural surface of the peat can be preserved if appropriate mitigation measures are implemented. These issues can be controlled by suitable conditions. I am similarly satisfied that the limited depth and slope of the peat areas mean that the likelihood of a bogslide is not significant.

6.8 National Heritage

The pipeline corridor does not cross any Natura 2000, or otherwise designated conservation areas. The nearby Shannon Estuary is, however, a candidate Special Area of Conservation (Lower Shannon – site code 002165), and a proposed Special Protection Area for Birds (Shannon-Fergus Estuary – site code 004077). The route also lies within 10 km of the Ballylongford Bay proposed Natural Heritage Area (site code 1332).

A number of the north flowing watercourses crossed by the pipeline corridor do, however, discharge to the Shannon Estuary. In this respect I note that the DoEHLG does not expect that the proposed development will impact on designated sites in the area.

The proposed route corridor also crosses three rivers, two of which are salmonid rivers (the White River and the Glencorbly River). Brown trout was also recorded in the Glashanagark River. A number of smaller watercourses are also traversed which support coarse fish species, and some of which have been identified as prime salmonid spawning waters. It is proposed to use an open cut method of crossing for all of the watercourses along the route. I shall deal with this issue in more detail at Section 6.9 below. The applicant has also made reference to the use of CIRIA guidance documents *Control of Water Pollution from Construction Sites* (2001) and *Control of Water Pollution from Linear Construction Projects* (C649, 2006) as the basis of preventing contamination of surface water from the runoff of suspended solids during the construction phase. I am satisfied that this

guidance represents best practice both in terms of preventing pollution of the watercourses themselves, and the designated sites into which they flow.

Badger feeding activity was noted in a number of locations along the route and four setts were found (at Carhoona/ Cockhill, Map 2 and adjacent to the Glashanark River, Map 12). Badgers will have to be excluded from the identified sites prior to the commencement of works. In addition, a brown long-eared bat roost was recorded in a small derelict building to the north of the pipeline corridor at Tieraclea Upper (Map 4), and surveys indicated that the adjacent hedgerow which runs south towards the corridor is used extensively by feeding bats. No evidence of otters was found. The protected species Irish hare and red squirrel were recorded along the route. The DoEHLG recommends that a resurvey for breeding sites and resting places of otters and bats should be undertaken prior to construction, and that appropriate mitigation for the loss of a badger sett must be undertaken. I consider that a condition to this effect would be reasonable and appropriate.

A good example of a rich fen is located along the route adjacent to the N69 Tarbert-Listowel road in Doonard Upper (Map 3, Figure 10.3). The importance of protecting the area of fen was raised by An Taisce at the oral hearing. The EIS states that this habitat is potentially suitable for a butterfly species (Marsh Fritillary) listed in the appendices to the EU's Habitats and Species Directive (Annex II). A supplementary Survey conducted in November 2008 was submitted by the applicant at the oral hearing but the species was not recorded. It is proposed to re-survey prior to the commencement of development. I note that the intended route the pipeline crosses the northeastern corner of the fen, although the corridor and spread width cover a more significant area. The EIS considers the habitat to be of 'high value, locally important' as per the evaluation criteria set out in the NRA Guidelines for Assessment of Ecological Impacts of National Road Schemes. The impact of the proposed development is considered to be moderate negative, with any impacts being long term and possibly permanent. Given the extent and duration of the impact, I am of the opinion that the pipeline should be re-routed slightly beyond the northern field boundary to avoid any intrusion into the area of fen. It would appear that such a re-routing could be accommodated within the 100 metre route corridor. The Board will also note that a Compulsory Acquisition Order has not been sought in for a wayleave in respect of the land in this part of the route.

Two further small areas of fen are also identified to the east (Map 6). The plant species upon which the Marsh Fritillary feeds was not, however, identified at these locations.

The proposed route of the pipeline also crosses an area identified as oak-birch-holly woodland adjacent to the Glencorbly River. It is noted, however, that the proportion of oak is relatively low, having been replaced by ash and alder. Whilst the construction of the pipeline would invariably require the felling of trees in this

area, I note that the woodland extends to the north and south of the proposed crossing. As such, it is difficult to see how the river could be crossed in this general location without some impact in this regard. I do not consider that a refusal of planning permission on these grounds would be warranted given the value of the habitat, and am satisfied that the proposed crossing point is acceptable subject to the mitigation measures set out in Section 10.10.1 of the EIS.

I am satisfied that, subject to the proposed mitigation measures and suitable conditions, the proposed development will not significantly affect the natural heritage of the area.

6.9 Ground and Surface Water

White River is the largest river crossed, and is c.12 m wide at the proposed crossing. Both the White and Glencorby rivers are relatively shallow in the vicinity of the proposed crossing. The proposal also crosses two tributaries of the Glashnagark river, both of which are relatively narrow and shallow streams. It is proposed that all pipeline construction will take place in summer under low flow conditions. The applicant has pointed out that although rivers in the area can experience very large variations in flow, the nature of the catchment area of the rivers is such that typically they all experience very low flow conditions during dry weather periods during the summer. A trench will be dug across the river or stream course, and the pipeline laid in the trench. The water course will be diverted through either sections of steel pipe (pluming), or a separate adjacent channel formed to divert the stream around the point of construction. Once the construction is taking place and the stream or riverbed has been reinstated, the river or stream will be diverted back into its original course. The applicant stated at the oral hearing that the rivers could be crossed quite simply without any need for trenchless technology due to their minor nature. I accept that, given the nature of the watercourses to be crossed, and the lack of any designated conservation areas at these locations, open cut crossings of these watercourses is acceptable subject to appropriate mitigation.

The main potential impact in relation to surface water relates to the possibility of water pollution from surface water runoff during construction. The EIS provides a series of general mitigation measures. The use of siltation traps downstream to trap any sediment or particulate material was also proposed at the oral hearing. As stated above, it is also proposed that the CIRIA guidance documents in relation to the control of water pollution will be followed. Trench dewatering also has potential impacts on both surface waters and groundwater. I am satisfied, however, that it is possible to limit any potential adverse impacts by means of appropriate mitigation measures as set out in the EIS, and as required by suitable planning conditions.

In relation to the hydrostatic testing of the entire pipeline, I note that a total of 4,300 cubic metres of water will be required over an approximate period of 10 hours. It is proposed to extract the water from the White River, which has a stated flow in the order of 5,000 cubic metres per hour (April 2008). The water will be tested in advance of being returned to the abstraction source, via a settlement tank(s) following the hydrostatic testing. I note that neither the local authority (Limerick County Council) nor the Fisheries Board have raised an objection to this element of the proposal, and I similarly have no objection in this respect.

The disturbance of field drains on agricultural land also has the potential to lead to wet patches or flooded fields during wet weather. The proposed reinstatement of the site, however, means that any such effects would be sort term in duration, and I am satisfied that the proposed development will not result in any significant or long term flooding.

The potential for the proposed development to affect private and public water supplies in the area was raised by the observers to the appeal. The applicant has argued that the construction and operation of gas pipelines does not normally affect individual or group groundwater supply abstractions such as wells, boreholes and springs, because the pipeline is installed at shallow depth compared to the source of recharge to the abstraction (which is generally by infiltration of rain water into the ground over a large area). It is proposed that an inventory of extant wells, boreholes and springs will be prepared prior to the commencement of construction in order to ensure that the construction of the pipeline will not result in physical damage to any water supply abstraction or associated pipe work; and to protect against the risk of pollution.

6.10 Archaeology and Architectural Heritage

The archaeological assessment identifies a number of sites of archaeological potential within the planning corridor. The applicant has stated that the route of the pipeline was rerouted to avoid a newly discovered standing stone in Leahy's townland, although the archaeological value of the stone is not certain. The pipeline crosses the zone of constraint around the site of a ringfort/rath at Tieraclea upper (RMP KE003-024), and the perimeter of the zone of constraint of a Holy Well at Cockhill (RMP KE003-018). The Holy Well itself is some 80m from the pipeline. The church at Carhoona (RMP KE003-008) is located c.80 m from the proposed route of the pipeline, with the possible enclosure surrounding the church at a lesser distance of some 40m. A further eight recorded monuments are close to, but outside of the planning corridor. The applicant and DoEHLG are in agreement regarding the pre-development testing of the three areas found during the field inspection to have surface anomalies that may indicate archaeological remains. The applicant stated at the oral hearing that a geophysical survey has been undertaken where the planning corridor runs through

the zone of constraint of the aforementioned ringfort/rath at Tieraclea upper (KE003-024), and is negative on archaeological deposits.

I note that the DoEHLG also recommends that a pre-development survey is undertaken at river crossings. I note, however, that metal detection and visual surveys of 15 water crossings were also undertaken as part of the EIS assessment and that no archaeological remains were recorded. I am satisfied, therefore, that a monitoring condition is sufficient at river crossings.

The mitigation measures specified in the EIS also state that the Archaeological Code of Practice agreed between Bord Gáis and the DoEHLG for the construction of pipelines will be followed.

In relation to architectural heritage, the observers have expressed concern that the pipeline will destroy Ralappane House, which it is stated, is currently under consideration as a protected structure. Ralappane House is a farmhouse, located some 300m from the proposed Shannon AGI, and c.100m from the proposed route of the pipeline (Ref. Strip Map 1). Given the separation distance, neither the house nor its curtilage will be affected by either the pipeline itself, or the 30m wide construction spread. There is also no evidence that the building is being considered as a protected structure, and the building is not contained within the National Inventory of Architectural Heritage for County Kerry. The applicant argued at the oral hearing that there will be no longer-term impacts on Ralappane House once the pipeline is constructed and the route reinstated, and I am in agreement with this assessment.

I am satisfied that the proposed development will not, therefore, be unacceptable in relation to archaeology or architectural heritage.

6.11 Road Issues

The proposed pipeline traverses some 20 roads along its route comprising the N69, R551 (Ballylongford to Tabert), R524 (Athea to Glin), and 17 local roads of varying widths. The applicant proposes that the construction method for each crossing will be assessed on its merits, ranging from the use of trenchless technology which would not require the closure of the road, to closure of one lane, or the temporary closure of a local road if necessary. It is pointed out that the permission of the local authority will be required for a road closure, and that details would be agreed with the local authorities as part of a traffic management plan. I am of the opinion, however, that trenchless drilling techniques should be employed for the crossings of the national and regional roads, particularly given that the construction period in the summer months will coincide with the tourist season in the area which affects the N69 between Tarbert and Listowel in particular. I am otherwise satisfied that any impacts from road closures will be

very short in duration and will not result in a significant disruption to the road network.

The main issue in respect of traffic relates to the cumulative impacts of the construction of both the terminal and the pipeline simultaneously. The applicant stated at the oral hearing that it is envisaged that the pipeline will be constructed in the fourth, and final, year of the construction of the terminal. It was argued that at this stage the main construction elements of the terminal would be largely complete, with work mainly comprising the installation of electrical instrumentation, testing and pre-commissioning phase. As such, the terminal development would be beyond the peak for construction traffic. The EIS sets out the predicted traffic movements associated with the distinct activities which move sequentially along the pipeline route. The largest number of HGV trips, for example, is generated by the delivery of sand and/or gravel for bedding and surround to the pipeline, totalling 104 HGV movements per day. The peak predicted number of car/LGV movements is estimated as 522 per day. By comparison, at the height of the construction period, the peak hour traffic generated by main terminal development is estimated as 454 vehicles per hour (EIS, Volume 2, Tables 6.9 and 6.11 submitted in respect of the LNG Terminal application).

In this respect I also note that the applicant proposed a range of road improvements in Tarbert as part of the terminal application, and that Condition 8 of the Board's decision to grant planning permission for the terminal development requires that all necessary public infrastructure works shall be completed prior to the commencement of the main construction elements of the development. Condition 11 also makes provision for remedial works to the L1010 coast road in the event that works are identified are to be carried out by the local authority. It was stated by the applicant at the oral hearing that the upgrade of the coast road will occur before the main construction phase of the terminal and will be completed well in advance of the construction of the pipeline. The issue of road safety in the vicinity of the comprehensive school on the coast road at Tarbert was raised as an issue in relation to construction traffic generated by the LNG terminal during the planning application for that development. Condition 9 of the Board's decision prohibits the movement of heavy goods vehicle traffic, associated with the construction of the terminal, at the school for a minimum period of 20 minutes before and ten minutes after the opening and closing times of the school. A similar restriction is proposed by in the EIS in relation to the current proposal and can be required by condition.

The EIS sets out the proposed transport route and access details for the construction phase of the pipeline at Figures 7.2 to 7.12 of the EIS. The transport routes include both regional and local roads of varying quality in terms of width and alignment which, for the most part, do not generally experience heavy traffic flows. I do, however, have concerns regarding the transport routes to a number of specific access points. Road Crossing No.3 (RDX3) (Fig. 7.4) is accessed via the

local road which runs between the Tarbert-Ballylongford coast road and R551. It is a particularly narrow single carriageway with no verges, and two sharp bends in the southern section (see Photo No.4). Given the proximity to RDX 4, I recommend that this section of road is omitted from the construction transport route by condition. RDX 6 and RDX 8 (Fig. 7.5 & 7.6) are accessed via a similar narrow stretch of local road with a number of sharp bends. I recommend that these crossings should only be accessed from the north (RDX 6) and south (RDX 8) respectively. The transport route to RDX 16 (Fig. 7.10) from the south is similarly problematic due to the extremely tight and unusual turnoff for Loghill at Ballyhahill. This junction is extremely narrow and has the appearance of turning into the yard of the building on the corner, rather than the junction of two roads. The southern part of the route also has a number of sharp bends. I recommend, therefore, that this crossing should only be accessed from the north. Whilst these restrictions may cause difficulties in terms of the possibility of establishing a 'one way' system to and from the road crossings, I consider that the limitations of the road network are such that these restrictions are necessary in terms of traffic safety.

It is also proposed that an area will be reserved for construction related car parking at every road crossing. I also consider that a condition should be attached preventing parking on public roads or roadside verges adjacent to the access points.

Given the limited duration of the proposed haulage operations on any one section of road, and the phasing of the pipeline in relation to the main construction of the LNG terminal, I am of the opinion that the impact in this regard can otherwise be adequately addressed by means of a Traffic Management Plan.

6.12 Visual Impact

In relation to the visual impact, concern has been expressed by the observers that the proposed development will industrialise a previously unspoiled landscape. The applicant has argued that the visual impact during and after construction will be temporary in nature, and that the landscape will be fully reinstated, including walls, hedgerows, and other field boundaries. It is further considered that both AGI will be located unobtrusively in the landscape.

I note that the proposed development lies within the Shannon Coastal Landscape Character Area. The pipeline route and the Foynes AGI, however, lie on the landward side of the N69 which runs along the estuary. The Shannon AGI will be located on the site of the permitted LNG Terminal, and given the scale and resulting from that development. The Foynes AGI includes a number of buildings, the largest of which is the metering building which is 5.3 m high, 30 m long, and 10 m wide. The site is, however, well located in that it has limited visibility from the public road, with extensive wooded areas between the site and

the Estuary. A concern was expressed at the oral hearing regarding light pollution from the 6m high lighting columns proposed at the AGI sites. The applicant responded that there will be no lighting during the normal operation of the AGI as the sites will be unmanned. Lighting will only be turned on if maintenance is required at the AGI.

Provided the mitigation measures regarding reinstatement are implemented I do not consider that the impact of the proposed development will be significant in relation to visual amenity.

6.13 Community Gain

Section 182D(6) makes provision for the attachment of a condition requiring the construction or financing of a facility or service in the area in which the proposed strategic gas infrastructure would be situated as community gain.

Whilst neither Kerry nor Limerick County Council originally made a submission in respect of community gain, an agreement between the applicant and the local authorities was submitted at the oral hearing. It is proposed that the developer shall make a once-off community contribution of €104,000 based on a contribution of €4,000 per kilometre of pipeline. The fund would be administered by Kerry County Council and Limerick County Council, in proportion to the length of the pipeline in their respective areas, for the benefit of the local communities primarily for educational purposes. No proposals in respect of specific facilities, services or community groups have, however, been proposed by any of the parties.

I note that Condition 37 of the planning permission in respect of the LNG Terminal development required the payment of an Annual Community Contribution of €200,000 per annum for the duration of the development, to be administered by the planning authority in conjunction with the Community Liaison Committee for the benefit of the local community.

Given that there will be no residual visual impact upon completion of the construction phase, and that landowners whose lands are traversed by the pipeline will be separately compensated, I consider that the main impact on the local community will be in respect of traffic, noise, and temporary road closures for the extent of the construction phase in any particular area. The impact on any individual community in terms of both magnitude and duration would, therefore, not be significant. Having considered these factors, I am not convinced that the payment of compensation in the form of a payment towards community gain is warranted in this instance.

6.14 Development Contributions

Limerick County Council has requested that a special development contribution be attached to cover the costs associated with the repair of damaged public roads.

Section 182C of the Act (Strategic Gas Infrastructure applications) makes no specific provision for the Board to attach a condition requiring the payment of a contribution of the same kind as the planning authority could require to be paid under section 48 or 49 development contribution schemes. I note that such a provision is made under Section 37 (g)(7)(d)(i)(ii) of the Act in relation to Section 37 (7th Schedule) applications. I consider, therefore, that it is outside of the remit of the Board to attach such a condition.

Notwithstanding the above, I consider that a bond to ensure the satisfactory reinstatement and completion of the works would be more appropriate.

6.15 Other Matters

The submission on behalf of Limerick County Council remarks on the lack of detail regarding **temporary parking and construction areas**. The applicant has stated that the location of construction compounds is not known as yet, but that they are likely to entail a number of portacabins with associated facilities, carparking and laydown areas for equipment and consumables that will be used during the construction of the pipeline. Given the linear nature of the proposal, I am of the opinion that the location, scale, access etc, of any construction and/or storage compounds needs to be controlled. In this respect there appears to be adequate potential for the location of such areas at either the terminal and/or the Foynes AGI sites and a very strong argument would have to be advanced for any contrary proposals.

The observers have also commented on **disturbance** from noise, dust, traffic and blasting during the period of construction. The duration of works in any given location will, however, be limited due to the nature of the project. The EIS states that the duration of what could be termed a slight noise impact will be less than 3 weeks at any location. I am satisfied, therefore, that appropriate requirements, such as restrictions on hours of construction, noise control and ameliorative measures for the control of dust, such as water sprinkling for heavy vehicles and arrangements for storage of materials and other work practices can be addressed by condition.

In relation to the impact of the proposed Foynes AGI on **residential amenity**, I note that there are three houses in the immediate vicinity of the site. The closest is located at a distance of some 120m. The AGI site will be enclosed within a security fence, and planting is proposed to provide screening. The site will be unmanned and, as such, there will be little disturbance in terms of traffic. It is

estimated that noise from the AGI will be less than 35 dB(A) at the nearest house., which is below the standard night time threshold of 45 dB(A). The separation distance, and proposed use of the lighting as described above, means that there will be no significant impact on the adjoining properties in this regard. These issues can be further controlled by condition.

The requirement for blasting in the Kinard area will result in some noise disturbance for four houses in the vicinity. It is estimated that the noise level at these houses (at a separation distance of at least 120 m) will be in the range of 60 to 70 dB(A) for approximately 16 days. I am satisfied that the impacts in terms of both noise and vibrations can be mitigated by appropriate conditions.

The proposed pipeline will require a **wayleave** of 14 metres along the pipeline route. No built development will be permitted in this zone. However, given the rural nature of the land along the route I have no objection to the resulting restrictions.

I note that a **10 year planning permission** was granted by the Board in respect of the LNG terminal. Given the relationship between the current proposal and the terminal, I consider that a 10 year permission is acceptable in this instance.

The timescale for the **reinstatement** works has also been raised by the objectors. The applicant has stated that much of the reinstatement should be completed in the same year as the construction takes place. However, complete top-soiling and re-seeding require reasonably dry and suitably warm weather and any works which can not be completed within the same year will be completed as early as practical the following year. I consider this to be reasonable.

The pipeline and associated facilities will be **decommissioned** at the end of its useful life. It is proposed that the pipeline will be emptied of natural gas, purged (usually with nitrogen) and left capped and cathodically protected. If required, sections of the pipeline will be removed or grouted and the ground fully reinstated. I am satisfied that these provisions are adequate and appropriate.

I also note that Kerry County Council's submission mistakenly states that the proposed development comprises or is for the purposes of an activity requiring an Integrated Pollution Prevention and Control (**IPPC**) **Licence**. It was clarified at the oral hearing that the IPPC Licence refers to the LNG Terminal and not to the proposed pipeline and AGI.

I do not consider that the observers request that a condition be attached requiring the applicant to obtain all other **environmental permits/ licences** is necessary.

7.0 COMPULSORY ACQUISITION ORDER

As set out in Section 2.6 above, a compulsory acquisition order is now sought for a 14 m wide wayleave on lands owned by 5 of the 72 landowners along the route, agreement having been reached between the applicant and the remainder of the landowners. These plots are referenced as CWL07A, CWL17, CWL34, CWL42 and CWL65 in the submitted book of reference. The Board will note that in the case of CWL65, an application was made for an amendment to the name of the landowner in the book of reference under article 10 of the Gas Act 1976. The landowner in that case is has now been established as Mr Patrick O'Connor (as opposed to Mr Michael O'Connor), and it is stated that the required notice was served on Patrick O'Connor on 1 December 2008.

The wayleave sought is indicated in red on the submitted drawing, and the proposed deviation limits (ie the area within which the eventual wayleave would be sited) are shown coloured green.

There are no outstanding objections to the making of the CAO on behalf of affected landowners. The objection from the Kilcolgan Residents' Association & Safety Before LNG to the proposed CAO relates to (a) landowners being in some way forced to enter into an agreement with the applicant, or not understanding the consequences of their actions, or (b) that the Gas Acts and Strategic Infrastructure Act should not be used to compulsorily acquire private land for a project that is not in the national interest. Neither of these issues, however, is within the jurisdiction of the Board in considering whether or not to grant the CAO.

Having considered the application and the objections detailed above, I am satisfied that the acquisition of the lands outlined in the Compulsory Acquisition Order is necessary for the purpose stated in the Order. I have also considered the proposed deviation limits, and note that they occur at specific locations only, and do not extend more than 20m on either side of the wayleave. These limits lie within the 100 m wide planning corridor which has been assessed by the EIS. I have, therefore, no objection to the proposal in this respect.

8.0 RECOMMENDATION – Proposed Development

In light of the above, I recommend that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below.

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 at the Shannon above ground installation and the Shannon LNG Terminal which the pipeline will connect to the national gas transmission network,
- (d) the mitigation measures set out in the environmental impact statement,
- (e) the report of the person who conducted the oral hearing,

it is considered that, subject to compliance with the conditions as 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, 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 14th of August 2008, as amended by submissions made to the oral hearing. In particular, the undertaker shall ensure that all proposed environmental mitigation measures are implemented except as may otherwise be required in order to comply with the conditions of this order.

Reason: In the interest of clarity.

2. Within 6 weeks of the commencement of development details of the phasing of the proposed development in conjunction with the construction of the permitted liquefied natural gas terminal at Ralappane and Kilcolgan Lower, County Kerry shall be submitted to, and agreed in writing by the relevant local authorities

Reason: In the interests of orderly development.

3. The section of the pipeline which crosses the identified fen to the west of the N69 at Doonard Upper shall be re-routed beyond the northern field boundary to avoid any intrusion into the area of the fen (Drawing No.PL-0003). Details of the re-routing shall be submitted to, and agreed in writing by, Kerry County Council prior to the commencement of development.

Reason: To protect the natural heritage of the area.

4. Prior to the commencement of development a geotechnical ground survey and detailed method statement for the construction of the pipeline in areas of peat shall be submitted to, and agreed in writing by the relevant local authority. No peat shall be removed off site.

Reason: In the interest of amenities, public health and safety, and to prevent water pollution.

5. The road crossings of the N69, R551 and R524 shall be by trenchless techniques only.

Reason: In the interests of traffic safety and convenience.

6. All watercourse crossings shall be carried out in accordance with CIRIA technical guidance: Control of water pollution from linear construction projects (C649, 2006).

Reason: To protect the amenities of the area.

7. The crossing of all roads, watercourses, watermains or sewers shall otherwise comply with the requirements of the local authority for such works.

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

8. Within 4 weeks of the hydro-static testing of the pipeline the undertaker shall notify the relevant local authority and the Regional Fisheries Board of the date of commencement and duration of testing, and details of the location and volume of the proposed abstraction and discharge of water.

Reason: In the interest of public health.

9. Details of the proposed lighting columns at the above ground installations shall be submitted to and agreed in writing with the local authority. All lights shall be suitably shaded to prevent glare or light spillage outside the site.

Reason: To safeguard the amenities of the area.

10. Prior to the commencement of development, details of the wall thickness along the entire length of the pipeline shall be submitted to, and agreed in writing with the relevant local authority.

Reason: In the interest of public safety.

11. Detailed plans for all temporary facilities, including temporary car parking facilities, construction and storage compounds, and proposals for reinstatement as appropriate on completion of the construction phase shall be submitted to, and agreed in writing by, the relevant local authority prior to the commencement of development. The principal compounds shall be located at the sites of the Shannon LNG terminal/ above ground installation or Foynes above ground installation only.

Reason: In the interest of road safety and to safeguard the amenities of the area.

12. Prior to commencement of development, the undertaker shall submit and agree in writing with the relevant local authority a detailed Construction Management Plan. The Plan shall make provision for inclusion of all relevant mitigation proposed in the environmental impact statement as amended by the submissions made by the undertaker to the oral hearing and shall in any event ensure that its scope extends to the following parameters:

- (a) surface water management during construction to prevent runoff from the site onto the public roads, unnatural flooding and/or the occurrence of any deleterious matter in the rivers Glencorbly, White and Glashanagark and the tributaries and watercourses of their catchments or other waters including groundwater in accordance with CIRIA technical guidance: Control of water pollution from linear construction projects (C649, 2006);
- (b) control of adverse noise and disturbance by reference to construction working hours, noise limits and traffic management arrangements;
- (c) dust minimisation including dust potentially generated from vehicles, measures to include appropriately located wheel wash facilities and appropriate good practice in the covering of laden and unladen vehicles;
- (d) management of public roads in the vicinity so that they are kept free of soil, clay, gravel, mud or other debris and general site management to the satisfaction of the local authorities;
- (e) preparation of a formal Project Construction and Demolition Waste Management Plan for submission to the relevant local authorities and agreement before commencement of development; any excess soils generated on the site which cannot be reused on site shall be disposed of

by a licensed contractor or contractors at a suitable permitted facility or facilities;

- (f) all other waste disposal in accordance with the requirements of the relevant local authorities.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be maintained for public inspection by the relevant local authorities. The undertaker shall satisfy the requirements of the relevant local authority in relation to measures to be proposed to prevent pollution run-off into water courses.

Reason: In the interest of amenities, public health and safety, and to protect the adjoining surface watercourses.

- 13. No construction work shall take place within 100 metres of any occupied house before the hour of 0700 Mondays to Fridays or 0800 on Saturdays, after the hour of 1900 Mondays to Fridays or 1630 on Saturdays and at any time on Sundays or Public Holidays.

Reason: In the interests of residential amenity.

- 14. Prior to commencement of development, the undertaker shall submit and agree in writing with the relevant local authority a detailed Traffic Management Plan. The Plan shall make provision for inclusion of all relevant mitigation proposed in the environmental impact statement as amended by the submissions made to the oral hearing and shall in any event ensure that its scope extends to the following parameters:

- (a) details of transport routes to the site. The following local roads shall not be used as part of the transport route during the construction of the proposed pipeline:
 - a. the local road which runs between the N69 and R551 providing access to RDX 3 on Figure 7.4 of the environmental impact statement
 - b. the southern section of the local road shown as providing access to RDX 6 as indicated on Figure 7.5 of the environmental impact statement
 - c. the northern section of the local road shown as providing access to RDX 8 as indicated on Figure 7.6 of the environmental impact statement
 - d. the southern section of the local road shown as providing access to RDX 16 as indicated on Figure 7.10 of the environmental impact statement
- (b) construction traffic management related to access points onto the existing road network;

- (c) details of construction worker travel and transport arrangements. No construction or staff vehicles will be allowed to park on public roads or roadside verges;
- (d) proposals for restrictions on traffic movements at Tarbert Comprehensive School, which shall prohibit the movement of heavy goods vehicle traffic associated with the construction of the proposed development 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.

15. In the event that any blasting is required:

- (a) The vibration levels from the blasting shall not exceed a peak particle velocity of 12 millimetres per second.
- (b) Blasting shall not give rise to air overpressure values at noise sensitive locations exceeding 125 dB (Lin) max peak.
- (c) Blasting shall only take place between the hours of 1000 to 1700 Monday to Friday. Prior to the firing of any blast, the undertaker shall give notice of his intention to the occupiers of all dwellings and the operators of all equine facilities 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, riding schools and stud farms adjacent to the site.

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

16. The undertaker shall facilitate the local authorities in preserving, recording or otherwise protecting archaeological materials or features which exist within the site. In this regard, the undertaker shall notify the local authorities in writing at least four weeks in advance of the commencement of development works on the site.

The undertaker shall also comply with the following requirements:-

- (a) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, including river crossings;
- (b) archaeological testing shall be carried out at the locations identified in the environmental impact statement at Cockhill, Carhoon and Knockabooley;

the archaeological excavation and underwater assessment shall be carried out prior to the commencement of development, and no site preparation or construction work shall be carried out until the archaeologist's report has been submitted to and agreed in writing with the relevant local authority;

- (c) provide satisfactory arrangements for the preservation *in situ*, recording, and removal of any archaeological material which may be considered appropriate to remove. In this regard, a comprehensive report on the completed archaeological excavation shall be prepared and submitted to the relevant local authority within a period of six months or within such extended period as may be agreed with the local authority.

Reason: In order to conserve the archaeological heritage of the site, it is considered reasonable that the undertaker should facilitate and assist the local authorities in securing the preservation by record of any archaeological features or materials which may exist within it. In this regard, it is considered reasonable that the undertaker should be responsible for carrying out properly supervised archaeological excavations in circumstances where the permitted development works would be likely to result in the unavoidable disturbance or destruction of such features or materials.

- 17. A landscaping scheme for the proposed above ground installations shall be submitted to and agreed with the relevant local authorities prior to the commencement of development.

Reason: In the interest of visual amenity.

- 18. A survey for breeding sites and resting places of badgers (setts), otters (holts and couches), and bats (all roost types) shall be carried out prior to construction works commencing. If any of these features are found, then appropriate mitigation measures shall be submitted to and agreed in writing with the relevant local authority, prior to commencement of development. Any mitigation measures in relation to badger, otter or 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 local authority.

Reason: In the interest of wildlife protection.

- 19. Prior to commencement of development, the undertaker shall submit to and agree with the relevant local authority, full details of the phased reinstatement of the site. All reinstatement works shall be completed within 3 months of the first use of the pipeline.

Reason: To limit the impact of the development on the amenities of the area, to ensure appropriate reinstatement of the site and in the interests of public safety.

20. Prior to commencement of development, the undertaker shall lodge with the local authorities a cash deposit, a bond of an insurance company, or other security to secure the satisfactory reinstatement of the site and the reinstatement and repair of roads and/or services as a result of the development, coupled with an agreement empowering the relevant local authority to apply such security or part thereof to the satisfactory completion of the reinstatement. The form and amount of the deposit shall be as agreed between the local authorities and the undertaker or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory reinstatement of the site and in the interests of visual amenity and road safety.

9.0 RECOMMENDATION – CAO

I recommend that the Board should grant the compulsory acquisition order and confirm the deviation limits without modification for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having considered the objections made to the compulsory acquisition order and the report of the person who conducted the oral hearing into the objections, and having regard to:

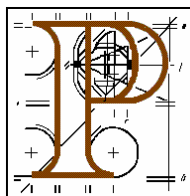
- (a) The provisions of the National Development Plan in relation to security of energy supply,
- (b) the strategic goals of the government White Paper, entitled “Delivering a Sustainable Energy Future for Ireland”, published in 2007, which seek to ensure secure and reliable electricity and gas supplies, 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 at the Shannon above ground installation and the Shannon LNG Terminal which the pipeline will connect to the national gas transmission network,

it is considered that the acquisition of the lands in question by the applicant is necessary for the purpose stated in the order and the objections cannot be sustained having regard to this necessity and further it is considered that the deviation limits proposed are reasonable and appropriate.

Anne Marie O'Connor
Senior Planning Inspector

21 January 2009

An Bord Pleanála



PROCEEDINGS OF ORAL HEARING

PL08.GA0003

PL08.DA0003

Application under Section 182C of Planning & Development Act 2000 (as amended) & Compulsory Acquisition Order under the Gas Act, 1976.

DEVELOPMENT: Natural gas pipeline from the Shannon LNG Terminal at Ralappane, County Kerry to the existing natural gas network at Leahys, County Limerick..

Type of Application: Strategic Infrastructure Development (GA0003)
Compulsory Acquisition Order (DA0003)

Applicant: Shannon LNG Ltd

Planning Authority: Kerry County Council
Limerick County Council

SUBMISSIONS & OBSERVATIONS

Prescribed Bodies: Yes

Observers: Yes

DATE OF SITE INSPECTION 20 & 21 November 2008

DATE OF ORAL HEARING 1 & 2 December 2008

INSPECTOR: Anne Marie O'Connor

ATTENDANCE

Applicant <i>Shannon LNG Ltd</i>	
Jarleth Fitzsimons	Barrister
Paddy Power	Managing Director, Shannon LNG
Brendan Mangan	ARUP (Route selection)
Ria Lyden	ARUP (Cumulative Impact)
Leon Bowdoin	Shannon LNG (Design, Operations, Maintenance and Health & Safety)
Ger Breen	ARUP (I.S. 328 and Construction)
John Redding	ARUP (Geology, Soils, Hydrology, and Hydrogeology)
Daniel Garvey	ARUP (Landscape and Visual, Air Quality, and Climate)
Tony Lynch	ARUP (Traffic)
Carl Dixon	Dixon Brosnan Environmental Consultants (Ecology)
Rose Cleary	Project Archaeologist
Colin Doyle	ANV (Noise & Vibration)
Michael Biggane	Shannon LNG (Human Beings)
Eoghan Lynch	ARUP (Project Director)
Andrew Franks	ERM (Safety/ Risk)
Samy Ibrahim	Shannon LNG (Project Manager)
Paul Brady	Shannon LNG (Project Manager)
Martin Regan	Shannon LNG (Commercial)
Mario Tavolieri	Shannon LNG (Pipeline Engineer)
Nicola Daly	Matheson Ormsby Prentice Solicitors
Sinead Carr	Shannon LNG (Solicitor)
Alison Hough	Barrister
Local Authorities	
Michael McMahon	Director of Services, Kerry County Council
Paul Stack	Senior Engineer, KCC
Declan O'Malley	Senior Executive Planner, KCC
Kieran O'Gorman	Senior Executive Engineer, Limerick County Council
Gráinne O'Keeffe	Executive Planner, LCC
Prescribed Bodies	
Denis Cagney	Commission for Energy Regulation
Patrick Conneely	Health & Safety Authority
Catherine McMullen	An Taisce
Observers (Planning Application)	
Tarbert Development Association	Joan Murphy Mr. Fox

Ballylongford Enterprise Association	Noel Lynch Tim McElstrom
Kilcolgan Residents Association & Safety Before LNG	Johnny McElligott Raymond O'Mahony Peter North
Catriona Griffin	
Thomas O'Donovan	
Padraig O'Sullivan	
Observers (CAO)	
Kilcolgan Residents Association & Safety Before LNG	Johnny McElligott

SUBMISSIONS TO THE ORAL HEARING

Applicant	Statement of Evidence by: <i>Brendan Mangan</i> <i>Paddy Power</i> <i>Ria Lyden</i> <i>Brendan Mangan</i> <i>Leon Bowdoin</i> <i>Ger Breen</i> <i>John Redden</i> <i>Daniel Garvey</i> <i>Tony Lynch</i> <i>Carl Dixon</i> <i>Rose Cleary</i> <i>Colin Doyle</i> <i>Michael Biggane</i> Survey for Marsh Fritillary
Kerry County Council	Statement by Paul Stack
Kilcolgan Residents Association & Safety Before LNG	Oral Hearing Submission (incl. Appendix I & II)

1.0 INTRODUCTION

This hearing was held on the 1 and 2 December 2008 at the Listowel Arms Hotel, Listowel, Co. Kerry.

The hearing was generally conducted in the following order:

- a) Brief description of the proposed development by the applicant
- b) Applicant's submission
- c) Prescribed Bodies & HSA
- d) Local Authorities
- e) Observers

- f) Cross-questioning
- g) Closing Submissions (in the reverse order)

The applicant's submission on Day 1 of the hearing was paused approximately midway through in order to hear the submission on behalf of the HSA and Commission for Energy Regulation (CER), and to facilitate cross-questioning of the representatives by the observers.

2.0 APPLICANT'S DESCRIPTION OF DEVELOPMENT

The applicant's introduction to the development was presented by Paddy Power, managing director of Shannon LNG Ltd. Under the following headings:

- The need for the project
- Project overview
- Alternatives considered
- Project description
- Benefits to Ireland from the Shannon Pipeline.

The applicant then called the following expert witness to present evidence on their stated areas of expertise:

1. ***Paddy Power*** – This submission highlighted the need for LNG to provide security of supply in the energy sector and to meet Ireland's projected demand for gas. The LNG pipeline is consistent with and supports national, regional, and local policies. Natural gas is more environmentally friendly than alternative fuels for power generation such as coal, oil and turf. It would be technically feasible to connect the Tarbert Power Station to the pipeline using a spur if the station converted to gas in the future (it is currently powered by oil). It was stressed that the pipeline would not have been routed any differently even if a connection to Tarbert was included in the current application. The applicant is not aware of any plans or even speculation to convert Moneypoint Power Station from coal to gas. It is hoped that Bord Gáis and the CER might assess the feasibility of distributing natural gas to towns in the region from the pipeline. It would be premature, however, to speculate as to the location of any such future spurs.
2. ***Ria Lyden*** – This submission addressed the potential cumulative impacts. It is expected that the construction of the pipeline will coincide with the final years of the four year period of construction of the LNG terminal. The proposed upgrade of the Tarbert to Ballylongford coast road will occur before the main construction phase of the terminal and will be completed well in advance of the construction of the pipeline.
3. ***Brendan Mangan*** – This submission outlined the criteria for route selection as set out in the EIS. Details of construction in areas of peat are also outlined. It is stated that significantly deeper depths of peat (up to 5 to 6 meters) were successfully dealt with on the Bord Gáis

Mayo-Galway pipeline which was constructed in 2006 through the boglands of north Mayo.

4. **Leon Bowdoin** – This submission deals with design, operations, maintenance and health & safety. It is stated that the pipeline will be constructed, operated and maintained in accordance with the I.S. code 328: Code of Practice for Gas Transmission Pipelines and Pipeline Installations. All Bord Gáis pipelines constructed to date are in compliance with this design standard. The Shannon pipeline will implement a Health & Safety management system which includes the setting of objectives and targets, measuring progress, and reporting results. Audits will be employed to ensure its controls are effective. A Quantitative Risk Assessment (QRA) was carried out on the proposed pipeline and was submitted to the CER, the agency tasked with overseeing the safety of gas pipelines in Ireland. As a result of strict conformance to the IS 328 Standard, and the application of prudent design, routing and material selection, the QRA shows that risks to individuals along the pipeline are within the levels that are broadly acceptable as insignificant.
5. **Ger Breen** – This submission sets out the background and scope of the above mentioned I.S. 328. It is argued that the CER stated in its Decision Paper entitled *Safety Gas Guidelines* (December 2007) that I.S. 328 is suitable and relevant to the activities falling within the scope of this document. If Shannon LNG did not comply with this Standard, it is most unlikely that the CER would permit the construction or operation of the pipeline. An overview of the construction process was also contained in this submission, including road and river crossings, and temporary construction compounds and parking.
6. **John Redding** – This submission deals with geology, soils, hydrology, and hydrogeology. Details of construction in alluvial and peat areas are specifically addressed. It is stated that slope instability is not an issue in any of the peat areas crossed by the pipeline because of the shallowness of the ground slope in these areas. It is intended that pipeline construction will take place during summer to take advantage of the depressed groundwater levels and low-flow conditions in streams and rivers. Pre-development ground investigations are proposed to inform the construction techniques. The construction will not affect ground water abstractions such as wells, boreholes and springs because the pipeline is installed at shallow depth compared to the groundwater level, and because there is no interference with the source of recharge to the abstraction. An inventory of extant supply abstraction will be prepared to ensure that no damage will result, and to protect against the risk of pollution.
7. **Daniel Garvey** – This submission addresses the issues of landscape and visual impact, air quality, and climate as set out in the EIS. The pipeline will operate as an almost completely closed system. No significant adverse impacts are predicted for people or the natural environment. In relation to the impact of the proposed development on the setting of Ralappane House, it is stated that once the pipeline route

has been reinstated, there will be no longer term impact on the building, which is located some 100 m south of the pipeline corridor. Mitigation measures will be employed to reduce dust from construction.

8. **Tony Lynch** – This submission assesses that traffic impact of the proposed development as set out in the EIS. During the construction phase additional traffic will be generated at each of the road crossings for a short period of time. A detailed traffic Management Plan will be prepared in advance of construction.
9. **Carl Dixon** – This submission deals with terrestrial and freshwater ecology. A Survey for Marsh Fritillary on the fen at Doonard Upper was submitted. Although the species (a butterfly) was not recorded, it could potentially utilise the habitat in the future. The area of the fen to be removed should be kept to a minimum and should be resurveyed prior to the commencement of works. Badger setts and bat roosts were found within the route corridor, and the Irish hare and red squirrel were also identified. Most of the species which use the hedgerows affected are common and are relatively mobile. Although there will be short term displacement of these species, they will generally persist in the wider landscape and will be able to decolonise the replaced hedgerows as they develop.
10. **Rose Cleary** – This submission deals with archaeology. The route selection was guided by national policy of avoidance of archaeological remains and preservation in situ. A geophysical survey has been undertaken where the planning corridor runs through the zone of constraint of the aforementioned ringfort/rath at Tieraclea upper (KE003-024), and is negative on archaeological deposits. Pre-construction testing is recommended at three locations. An underwater archaeological survey including metal detection was submitted as part of the EIS. No archaeological remains were detected. Information regarding all newly discovered sites can be conveyed to local historical and heritage societies.
11. **Colin Doyle** – This submission addresses the issue of noise and vibration as set out in the EIS.
12. **Michael Biggane** – This submission addresses the impact of the proposed development on human beings and proposes the payment of a contribution of €4,000 per km of the pipeline in respect of community gain. It is the experience in Ireland that a significant proportion of people engaged in pipeline construction are local. A range of consultation exercises were carried out with farming organisations and individual landowners regarding the CAO.

3.0 LOCAL AUTHORITIES

The submission by Paul Stack on behalf of *Kerry County Council* refers to the Managers Report, and states that the proposed development is not considered to contravene the County Development Plan 2003, and is in accordance with

all relevant international, national and regional policies and the provisions of the CDP. It is recommended that planning permission is granted subject to conditions. The Council confirmed that the reference to an IPPC licence in their written submission to the Board was in respect of the LNG terminal, and not the current development before the Board.

Kieran O’Gorman and Gráinne O’Keefe, on behalf of **Limerick County Council**, read into the record the written submission previously submitted to the Board. It is requested that issues outlined by the various internal departments in relation to roads, water services and archaeology are taken into consideration in determining the application.

4.0 PRESCRIBED BODIES

Denis Cagney, Director of Gas with the **Commission for Energy Regulation** confirmed that the Commission received a request from Shannon LNG to construct the pipeline under Section 39 of the 1976 Gas Act as amended on 5th September 2008. The application is currently under review which involves advice from technical consultants, particularly in regard to the safety aspect of the pipeline, environmental consultants, and also submissions received. One such submission has been received from the Kilcolgan Residents' Association. The most recent development in the review is the receipt of the Quantitative Risk Assessment last week, a copy of which has been posted on the Shannon LNG website, and a copy has also been forwarded or is being forwarded to Kilcolgan Residents' Association. A final decision is anticipated about February or March of next year.

The criteria for deciding whether to give consent to construct or not or what conditions to apply are set out in Statute (SI 264 of 2002). The emphasis is very much on the overall safety and integrity of the gas system and of its interoperability with other systems. Since those criteria were set out, the Commission’s responsibility in the areas of gas safety have been considerably strengthened under the Energy Miscellaneous Provisions Act of 2006 and a safety framework has been developed. Shannon LNG will have to comply fully with this framework and will have to make their own safety case.

The question of whether the CER should hold a public hearing under the gas legislation will be determined objectively in its own right. A decision in respect of the substantive issues from the CER's perspective will be reached in the CER decision.

Mr Cagney of the **Health and Safety Authority** read into the record the written submission sent to the Bord on October 6th, which sets out the HSA’s position clearly.

Catherine Mc Mullen made a submission on behalf of **An Taisce**. Attention was drawn to the section of rich fen and flush in the townland of Dunnard Upper. The Board was asked to consider if there was any alternative to going through it and destroying it.

5.0 OBSERVERS

5.1 Tarbert Development Association

The submission by Joan Murphy stated that the proposed development was vital to the LNG project as the Board had specified that the gas from the terminal could only be sent by pipeline. Since its formation 50 years ago, the Association has worked extremely hard to try to bring development to the region known as the landbank. The proposed development will be beneficial in terms of job creation and will serve the national interest in terms of reducing carbon emissions.

Mr Fox reiterated support for the proposed development. He stated that although people had some initial concerns, they are more than satisfied that the vast majority of their complaints or their concerns were addressed by the Board at the time of the terminal application.

5.2 Ballylongford Enterprise Association Limited

The submission by Noel Lynch considers the proposed development a natural follow-on to the LNG terminal. It will bring welcome benefits to the community and the economy.

5.3 Catriona Griffin

Ms Griffin and her family live less than 900 metres from the LNG storage tanks. She believes that this oral hearing, like the oral hearing last January, is merely an illusion of going through the motions, and giving the appearance of public participation. Nothing said at the oral hearing will make any difference to the outcome of the planning application.

Catriona Griffin withdrew from the oral hearing after lunch on Day 2 on the grounds that the hearing was a complete waste of time, money and energy.

5.4 Thomas O'Donovan

Mr O'Donovan considered that tourism and fishing in the area would be decimated as a result of the proposed development as the Shannon is slowly becoming an industrial zone. Minister Eamon Ryan has stated that his goal is that energy needs should be supplied by renewable, sustainable, natural sources such as wind, tidal, solar, geothermal and hydroelectric. Fossil fuels are a major cause of climate change. The proposed development will not result in local employment as labour can be sought from other countries. The pipeline would have a detrimental impact on the Tarbert reservoir which supplies drinking water to the locality. Concern was also expressed regarding emissions of natural gas from the pipeline.

5.5 Kilcolgan Residents' Association & Safety Before LNG

Mr McElligott began by reading into the record a submission from an expert witness Mr. Steve Goldthorpe, an energy analyst from New Zealand. This evidence was objected to by Mr Fitzsimmons for the applicant on the grounds that it constituted hearsay, and in particular that the person who is purporting to provide the opinion is not being tendered for cross-examination. Mr McElligott referred to an email sent to the Board on Sunday 30th November (the day before the hearing) in which Mr Goldthorpe offered to give evidence to the hearing via audio or video communication technology. The Inspector agreed with the applicant's objection. It was suggested to McElligott that he could incorporate the points made by Mr. Goldthorpe, into his own submission, but that he could be questioned on the material. Mr McElligott then moved on to outline a Section 5 referral to Kerry County Council on whether changes to the Shannon LNG project constitute work on the original project, which is or is not development, and is or is not exempted development. It is argued that:

1. The commencement of archaeological investigation constitutes the commencement of development. Any modifications (i.e. the proposed pipeline) to this project, therefore, constitutes a project to which the European Court of Justice ruling of July 3 2008 (Derrybrien) applies because this project has been executed in part.
2. The proposed pipeline constitutes a material change to the permitted LNG terminal, as it is an integral part of the project. This is an example of project splitting, which is contrary to the EIA Directive.
3. No EPA licences have been granted for the LNG terminal. It is contended that there is no integrated assessment of this project. The European Commission has recently decided to refer Ireland to the European Court of Justice for the failure of Irish legislation to fully ensure the assessment of interactions between different factors as required by Directive 85/337/EEC.
4. The extension of the LNG project represents a broadening of the public affected by this project, and therefore renders, among others, conditions 37 and 38 of the original planning permission unenforceable as the local communities between Kilcolgan and Foynes have been disenfranchised and excluded from any benefits or protections.
5. Conditions 41 to 45 of the LNG terminal decision are missing, and this planning permission is therefore invalid as unenforceable.
6. An Bord Pleanála made its decision in respect of the LNG terminal application without obtaining any HSA expertise on any risk assessment of an LNG spill on water from LNG tankers travelling in the estuary. The proposed pipeline means that gas will be able to leave the site so that the transport of LNG to the site on the estuary will now be able to realistically take place. This represents a material change to the original project, and an assessment of the risks and consequences of an LNG spill on water from a moving vessel on the estuary needs to be analysed.

Reference was made to the observer's objection to the Section 39 application before the CER for consent to construct the pipeline. Concern was expressed that no one body is taking control of the assessment of an LNG spill on water from a moving tanker. The CER will assess some of the safety aspects under the S.39 application, the HSA assessed some of the safety aspects, but not "moving danger" or deliberate harm. It was argued that An Bord Pleanála should coordinate health and safety issues with the advice of the HSA.

Mr McElligott read into the record an article in the Sunday Independent which quoted an internal CER memo stating that gas prices will sore by about 15 percent if Corrib and Shannon LNG start production.

Mr McElligott called an expert witness, Peter North, a consulting chemical engineer. Mr North made the following points:

- he could find no real argument with the justification of the need for LNG as outlined by Mr Power.
- the consideration of the location of the LNG facilities was cursory with not enough emphasis on con-location, proximity to markets, security and capital or operating costs analyses.
- users other than the applicant should be allowed to use the terminal and pipeline.
- the EIS appears to have covered most of the areas reasonably thoroughly, with some minor exceptions. A weather station should have been located on the site for a year or more, to gather data for local airflow modelling.
- The QRA submitted to the CER depends solely on reference to generic analysis and published data sets and not site or system specific. It is in that regard inadequate. Mr North then began to make a detailed submission in relation to the aforementioned QRA which had been submitted to the CER in respect of the application for consent to construct the pipeline. Having made their submissions and answered questions posed by the observers, both Mr Cagney and Mr Conneely had left the hearing by the time this issue was raised by the KRA. The applicant argued that there is no statutory requirement on the applicant to submit a QRA with the planning application, and that the QRA is not relevant because it is not a material consideration that the Board can have regard to. The Inspector determined that the QRA had not been submitted as part of the application and did not, therefore, form part of the application. It was a matter for the Board to decide if sufficient information had been submitted to allow it to make a decision. Mr McElligott stated that the oral hearing was not capable of having a proper safety assessment without the QRA. It was asserted that the Board was leaving itself open to legal challenge on this matter.

Mr McElligott then continued making the following points:

- There has still been no LNG marine risk assessment because the HSA's remit stops at the water's edge
- No strategic environmental assessment, SEA, has been undertaken. A number of other future developments on the land bank, which would

contribute to cumulative impacts, such as a power station and oil tank farm were referenced. A SEA should be carried out for the entire area.

- No consideration has been given to the consequences of an LNG accident or the consideration of an emergency plan.
- The all island strategy document for gas storage study on common approach to natural gas storage and liquified natural gas on an all island basis, November 2007, representing an official government policy document has been ignored by An Bord Pleanala in addressing the question of alternative sites.
- The interactions between the decision making bodies such as An Bord Pleanala, the EPA, the CER, the HSA and the government body dealing with the foreshore licence are inadequate. The procedural requirements of the EIA directive are not being respected. This is compounded by the level of project splitting in this development.

The Inspector advised that the purpose of the oral hearing was not to reopen the hearing into the terminal, and that submissions should address the current application.

Mr McElligott set out a number of legal and complaints procedures which were ongoing and the decision of which should be awaited before making a decision on the planning application. It was asserted that An Bord Pleanala is also legally obliged to await the outcome of the S.39 application to the CER before making any decision.

It is argued that any permission granted by An Bord Pleanala should be conditional on:

- obtaining any other Permits from the EPA and CER,
- the carrying out of a strategic assessment of the whole project, and of development in the area as a whole.
- gas is not to be for export to the U.K.

5.6 Padraig O'Sullivan

Mr O'Sullivan lives in Ballybunion. Any concerns he had were more than answered during the course of the oral hearing. The proposed development will benefit the local area in terms of economic development and jobs.

6.0 CROSS-QUESTIONING

In cross-questioning and general discussion on this issue the following points were noted.

- The original advice from the HSA to the Board in respect of the terminal application was based on the QRA submitted in respect of the planning application for the LNG terminal. The QRA included the AGI and the pipeline even though it was not part of the original planning application. There is a graphic in that QRA which shows the

risk around the AGI, which is minimal/ very low. The risk contours are based on the existence of the pipeline and the AGI, both of which were factored into the HSA's technical advice.

- The HSA gave no advice to the Board concerning the transport of ships or movement of ships up the estuary, into the estuary and up the estuary as far as the jetty (apart from the immediate approach to the jetty), or damage or accidents caused deliberately.
- The HSA calculate risk on a location basis, i.e. at a specific location.
- The pipeline is not considered too big and too high pressure for the Irish supply requirements. Initial gas flows are anticipated in the region of 400 million cubic feet per day, possibly rising as high as 600 million cubic feet. Some possible future expansion is also allowed for in the pipeline design. The concept behind the project is to supply gas into Ireland.
- Shannon LNG has no involvement with any other gas or any gas deposits in Ireland, and to the applicant's knowledge neither does Hess have any interest in gas deposits in Ireland.
- The pressure in the pipeline will be marginally higher than the pressure in the grid in order to move the gas from one system to the other.
- The construction phase will extend from March to November. It will be constructed in the fourth and final year of the construction of the terminal.
- There is approximately 8 kilometres of the pipeline in Kerry and 18 in County Limerick.
- The applicant estimates the risk to the pipeline or along the pipeline as less than 10^{-6} . Taking into account the error inaccuracy, Mr North contends that the probability ranges between 10^{-4} and 10^{-9} .
- The main function of the pipeline is to bring gas from the terminal to the national grid. Initially, during start-up and prior to the facility being completely commissioned, there will be a need for gas at the terminal, and it is envisioned that that gas would come from BGE to help commission the various individual pieces of equipment so that gas would be flowing initially from the system to the terminal. Once the terminal is up and running, it is expected that the gas will be transmitted in the opposite direction.
- If spurs were put on the pipeline, the pipeline would be capable of taking gas from either end, and delivering it to those spur points in the middle.
- There is no application of any sort on behalf of Shannon LNG Limited to fell trees.
- The gas emissions that may occur during testing will be minimum, negligible emissions of natural gas would quickly dissipate and no significant impacts will arise.

- The site area of the AGI at the Foynes end of the pipeline is 1.8 hectares, and the equivalent site area of the AGI at the terminal end of the pipeline is 0.6 hectares.
- There will be no lighting during the normal operation of the AGI. Lighting will only be turned on if maintenance is required at the AGI. The height of the lamp standards is 6 metres.
- Dewatering is carried out prior to the excavation of the trench in alluvial areas. This is done by well pointing, where individual or groups of small wells, typically less than two inches in diameter, are inserted into the ground in parallel to the pipeline route. Pumping from these is carried out in advance of excavation to lower the groundwater table to below the basin of the trench. This removal of the groundwater from the trench eliminates both the problem of water ingress during excavation, and also increases the stability of the soil so that the excavation can take place in the dry, and the pipeline can be installed into the trench without water being present within the trench. This is a very simple and very routine method of construction.
- The applicant has purposefully tried to contain the route to ground slopes of less than 5 degrees in peat areas. The cut-off of 5 degrees was determined through a historical review of bog slides in peat, looking at bog slides going back to the mid 1800s. Below that slope angle there are virtually no recorded incidents or instances of slides or instability taking place in blanket bog.
- Stream or rivers will be kept completely isolated from the construction process. Siltation traps installed downstream to trap any sediment or particulate material that finds its way into the water course.
- The river crossings involved are quite minor in nature, and can be crossed quite simply without any need for trenchless technology.
- The construction compound would entail a number of portacabins with associated facilities, car parking and lay down areas for equipment and consumables that will be used during the construction of the pipeline. It is quite likely that the compound can be accommodated within the terminal site, but this cannot be confirmed at this stage.
- As the construction of the pipeline is shallow by nature (only 2.5 metres deep), there are no issues with interfering with the groundwater.
- The applicant and local authorities reached agreement regarding the payment of a once-off community contribution of €104,000, based on a contribution of €4000 per km pipeline. The fund would be administered by Kerry County Council and Limerick County Council for the benefit of the local communities along the route of the pipeline development and is primarily to contribute to community projects of an educational nature.
- The water services department of Kerry County Council do not consider that there will be any interference with the quality of the water associated with the spring well adjacent to Tarbert. This well

makes a small contribution to the main water supply in the area. There should be no issues with existing watermains.

- A major emergency plan exists for the Cork-Kerry region. The local authority will coordinate with any other major plan prepared by specific industry or development. When the proposed development is in place the local authority will communicate with the developers to co-ordinate the emergency plan for the development with the regional plan.
- The local authority does not consider that an exclusion zone around that AGI site would affect the proposed intention to rezone lands for industrial use.
- Limerick County Council stated that there are no plans to significantly upgrade the N69, other than resurfacing programmes which are ongoing. The representative was not aware of any plans for a road from Foynes to the N21.

7.0 CLOSING SUBMISSIONS

Kilcolgan Residents' Association & Safety Before LNG

- The whole planning application has been handled in a cavalier, superficial and illegal manner.
- The selected route has not been justified sufficiently.
- There should be a dual carriageway bypass of Tarbert.
- The road between Ballylongford and the land bank should be closed to any commercial traffic
- A strategic environmental assessment should be carried out of energy projects in the southern shores of the Shannon Estuary.
- A condition should be attached requiring the applicant to obtain all other environmental permits.
- There has been no determination made of how the pipeline would link in with the ESB stations at Moneypoint and at Tarbert.
- A declaration of a mandatory exclusion zone around this development is required.
- The emergency plan should be known before any planning permission is given.
- Options to relocate residents should be provided.
- Farmers or land owners should get a yearly rent for use of land equivalent to what is done in other energy projects such as wind farms.
- All locals should have first options on jobs, if possible.
- There should be at least two local residents on the committees that distribute any funds.
- The applicants should be required to prove they have the money to build the development.

Thomas O'Donovan

- The route and the destruction of the rural countryside would have a very deleterious effect on the quality of life and the natural drinking water in particular. A lot of environmental dangers seem to be glossed over in the rush to supply jobs to the area.

Ballylongford Development Association

- Nothing that has been said at this oral hearing has changed our view that this will be a very good development for our area. The fact that there are thousands of kilometres of pipelines safely installed around the country, and have been in place for many years without incident, confirms that this is a very safe and a relatively risk free development.

Tarbert Development Association

- Any concerns have been addressed over the course of the oral hearing.

Applicant

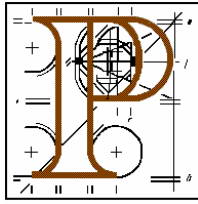
- Shannon LNG Ltd is now applying to the Bord for an acquisition order in respect of five wayleaves only.
- It is quite clear from the implementing legislation that plans and programmes which are subject to SEA include, for example, county development plans or national hazardous waste management plans or other programmes of that ilk. What is not included within the ambit of strategic environmental assessment are individual projects, such as a proposal to develop a 26 km pipeline in relation to strategic gas infrastructure. The point being made in relation to an SEA as applicable to this particular project is misconceived.
- The purported falling between stools where one or more regulatory body is dealing with various consents in respect of a project was the subject of a number of cases before the courts, in particular the Supreme Court case of *Martin v. An Bord Pleanala*, number 2 (May 2007).
- The issues relating to the QRA are matters more relevant to the CER and its consideration of the Section 39(a) application than to An Bord Pleanala and its consideration of the planning application. The applicant has, however, assessed the safety aspects of the pipeline, with particular reference to Irish Standard 328, in the Environmental Impact Statement for the avoidance of doubt.
- The QRA is required by the CER as part of its assessment of the design of the pipeline. There is, therefore no basis for the argument that that safety will fall between any stools in relation to the pipeline project.
- The European Court of Justice has clearly defined project splitting as an attempt to escape from the obligation to prepare an environmental impact statement. The applicant has now prepared two separate environmental impact statements, one in relation to the terminal planning application and one in relation to the pipeline. The issue of project splitting does not therefore arise in this application.

- The decision of the European Court of Justice in relation to Derrybrien does not apply to this case because there no retrospective approval is sought.

Anne Marie O'Connor
Senior Planning Inspector

21 January 2009

An Bord Pleanála



Inspector's Report

PL08.GA0003 - Application under Section 182C of Planning & Development Act 2000 (as amended).

PL08.DA0003 - Application for a Compulsory Acquisition Order under the Gas Act, 1976.

DEVELOPMENT: Natural gas pipeline from the Shannon LNG Terminal at Ralappane, County Kerry to the existing natural gas network at Leahys, County Limerick.

Type of Application: Strategic Infrastructure Development (PL08.GA0003)
Compulsory Acquisition Order (PL08.DA0003)

Applicant: Shannon LNG Ltd

Planning Authority: Kerry County Council
Limerick County Council

SUBMISSIONS & OBSERVATIONS

Prescribed Bodies: Kerry County Council
Limerick County Council
Commission for Energy Regulation
Department of Environment Heritage and Local Government
National Roads Authority
An Taisce
Department of Agriculture, Fisheries and Food

Other Health & Safety Authority

Observers:	Tarbert Development Association Ballylongford Enterprise Association Ltd Kilcolgan Residents' Association & Safety Before LNG Catriona Griffin Thomas O'Donovan
Objectors to CAO	Kilcolgan Residents' Association & Safety Before LNG
DATE OF SITE INSPECTION	20 & 21 November 2008
INSPECTOR:	Anne Marie O'Connor

1.0 BACKGROUND

1.1 Pre-Planning Consultation With An Bord Pleanala

As provided for under section 182E of the Planning and Development Act 2000, (as amended by the Planning and Development (Strategic Infrastructure) Act 2006), the applicant, Shannon LNG Ltd, entered into discussions with An Bord Pleanala in relation to the proposed development (Ref. GC0003). Two meetings were held between An Bord Pleanala and Shannon LNG Ltd on 8 February 2008, and 19 June 2008. The Board informed the applicant of its decision that the proposed development of a gas pipeline to be laid from the Shannon LNG Terminal at Tarbert, County Kerry to Foynes, County Limerick would be strategic infrastructure within the meaning of section 182C(1) of the Act. The current application to An Bord Pleanala is made on foot of that decision.

1.2 Legislative Requirements

As required under section 182C(2) of the aforementioned Act, the application is accompanied by a certificate in relation to the pipeline provided by the Commission for Energy Regulation (CER) under section 26 of the Gas Act 1976, as amended.

1.3 Oral Hearing

An oral hearing in respect of this application was held at the Listowel Arms Hotel, Listowel, Co. Kerry on 1 & 2 December 2008. A copy of the proceedings of the hearing is appended to this report.

1.4 Related CAO Application

A compulsory acquisition order application has also been lodged with the Board under Section 32 of the Gas Act, 1976 (as amended). Pursuant to Section 31 of the Gas Act, 1976, Shannon LNG Ltd also applies to the Board for confirmation of the deviation limits within which it is considered that it may be necessary to construct the pipeline or related works.

2.0 SITE AND DEVELOPMENT DETAILS

2.1 The Application

Permission sought in accordance with Section 182(C) of the Planning and Development Act 2000, as amended by the Planning and Development (Strategic Infrastructure) Act 2006. Notice of the proposed planning application was published in the following newspapers:

- Irish Examiner – 06 August 2008

- The Kerryman – 06 August 2008
- The Limerick Leader - 06 August 2008
- Kerry's Eye – 07 August 2008

The application is accompanied by an Environmental Impact Statement (EIS). Planning permission is sought for a 10 year period.

2.2 Description of Proposed Development

The principal elements of the development can be described as follows.

- 26 km of new gas pipeline linking the permitted Shannon LNG Terminal at Ralappane, Co. Kerry to the existing natural gas network at Leahys, County Limerick.
- 2 no. above ground installations (AGI) at either end of the pipeline.

The Shannon AGI falls within the footprint of the permitted Shannon LNG Terminal which is an establishment to which the Major Accident Directive applies.

LNG is a natural gas which has been cooled to c. minus 160 degrees centigrade, at which point it becomes liquid. It will be imported to the permitted terminal by sea, where it will be stored and warmed at regasification facilities to convert it back into gas. The proposed pipeline will transmit this natural gas from the LNG Terminal to the Bord Gáis Éireann national gas transmission network just west of Foynes in Co. Limerick. It will involve a single pipe of 750mm diameter (nominal bore) with a steel wall thickness of 12.5 mm or 19.1 mm. The heavier wall thickness will be used near residences and at road crossings. The pipeline will be constructed of high strength carbon steel pipe with an external corrosive protection coating and a cathodic protection system. Concrete-coated line pipe can be used where the pipeline traverses wet ground or water courses to counteract the buoyancy pressure exerted by water.

The design pressure of 98bar is the pressure required at the LNG terminal to meet the injection pressure requirements of 85bar at the existing natural gas network. The maximum throughput in the pipeline will be 28.3 million standard cubic metres per day.

Although a specific route has been identified for the pipeline, planning permission is sought for a 100 metre corridor to allow for route refinement in the event that unforeseen features are discovered during the construction of the pipeline. The corridor normally centres on the pipeline (i.e. it extends 50 metres on either side of the line). A permanent 14 metre wayleave will be required along the pipeline route. The proposed pipeline will be laid in a 30 metre wide construction corridor, and will generally be laid at a depth of 1.2 metres, increasing to 1.6

metres where the pipeline will require additional protection, such as at road and river crossings.

AGIs will be constructed at the tie-in point to the Shannon LNG Terminal and the natural gas network. The main functions of the AGIs are pressure reduction, metering, odourisation and pigging (to monitor the internal condition of the pipeline).

Four different permanent marker types will be used to locate the pipeline and provide adequate warning for those working over ground after reinstatement, comprising:

- marker posts – located at every road, field boundary and river, to indicate the pipeline position;
- cathodic protection test posts – located at every road, to allow the Cathodic Protection system to be checked;
- aerial markers – located at every third field boundary, to facilitate aerial monitoring;
- aerial dish marker – located at major changes in pipeline direction, to facilitate aerial monitoring.

2.3 The Route

The proposed route of the pipeline commences at the permitted Shannon LNG Terminal site at Ralappane, some 4 km west of Tarbert on the north Kerry coast. The pipeline runs inland from Ralappane, before extending generally eastwards to the existing Bord Gáis Éireann national gas transmission network at the townland of Leahys, 1km west of Foynes in Co. Limerick. The route is relatively parallel to, and between 1.5 and 2 km inland of, the Shannon estuary. The pipeline is referred to in the application as the Shannon Pipeline. Approx. 8 km of the pipeline is located in County Kerry (Strip Maps 1-4), with the remaining 18 km in County Limerick (Strip Maps 5-14). The route lies to the south of the towns of Tarbert, Glin, and Loghill, and to the west of Foynes. It runs through an undulating landscape of farmland, dominated by pasture, with frequent sections of peat (much of which is described as thin) and alluvium, particularly in the eastern half of the route. As a consequence, much of the land is poorly drained, with extensive rush growth. Blocks of immature plantation woodland have been planted on higher ground. There are also short sections of shallow rock, and grit/shale rock along the route. These sections are indicated on the geomorphology maps submitted with the application.

The route of the proposed pipeline will traverse:

- 1 national road (N69)
- 2 regional roads (R551 and R524)
- 17 local roads of varying widths

- Glencorbly River
- White River (also known as the Owvane River)
- Glashanagark River (a small tributary of the White River).

The pipelines will cross the properties of 72 landowners over its length.

There are no environmentally designated sites within the corridor of the proposed pipeline. The route does, however cross a number of watercourses that flow northwards to discharge to the Shannon Estuary. The Estuary is a candidate Special Area of Conservation (Lower Shannon – site code 002165), and a proposed Special Protection Area for birds (Shannon-Fergus Estuary – site code 004077). The route also lies within 10 km of the Ballylongford Bay proposed Natural Heritage Area (site code 1332).

Two zones of constraint around archaeological sites recorded in the Record of Monuments and Places (RMP) are crossed by the proposed pipeline. A further eight recorded monuments are located close to, but outside the proposed route.

2.4 The AGI sites

The proposed Shannon AGI is located within the Terminal site. It has a stated area of 0.6 ha and currently comprises agricultural land which is laid to grass for pasture. The site is currently bounded by agricultural land on all sides, although the permitted LNG Terminal abuts the southeastern boundary. The AGI will contain two sets of facilities, the Shannon LNG Terminal facilities, needed to accommodate the valves and equipment to facilitate the connection to the proposed pipeline, and the Shannon Pipeline facilities. It will comprise an instrument building, an odorant facility (including tanks), a pig launcher and receiver (pig trap) for internal inspection of cleaning of the pipeline, gas analyser building, and remotely operated valves which will control the flow of gas into the proposed pipeline. It is proposed that metering facilities (contained within a separate metering building) will also be accommodated on the AGI site, although these will be part of the Terminal development and do not, therefore, fall within the development proposed by this application. The AGI site will be enclosed within a security fence. The compound will be remotely operated and will normally be unmanned. Vehicular access for maintenance purposes will be from the LNG Terminal.

The Foynes AGI compound is located at the western end of the proposed pipeline at Leahys. It has a stated area of 1.8 ha, and currently comprises agricultural land in use as pasture. A reservoir, which is bounded by mature trees, lies to the east, with agricultural land on all other sides. Wooded areas lie further to the north and east, between the site and the Estuary. The nearest house would be approximately 120 metres from the site. The existing Bord Gáis Éireann (BGE) network runs beneath the site along the southwestern site boundary. There are two parts to the

AGI, one for the Shannon Pipeline, and one for the BGE pipeline system. The Shannon Pipeline facilities comprise a pig trap, instrument building, and metering building which will meter the natural gas transfer to the BGE network. It is stated that the BGE facilities are typical of existing BGE buildings and equipment on the national gas network, comprising filters, meters, a heater building, instrument building, pressure regulator building and a flow control system. The AGI site will be enclosed within a security fence, and planting is proposed to provide screening. The AGI will normally be unmanned. A close-circuit television system will be installed which will be monitored at the Shannon end. Vehicular access for maintenance purposes will be from the adjacent minor road to the south west, which leads north for 700 metres to the N69.

2.5 The Construction Process

It is stated that the construction of the proposed pipeline will last approximately 9 months, during the months of March to November. It is intended that the pipeline will be constructed in the fourth year of the construction of the LNG Terminal. Certain parts of the construction programme will be dictated by the need to minimise the environmental impact at certain locations along the pipeline route. Site investigation including ecological survey work, excavating trial pits, drilling boreholes, and geophysical surveys will be carried out approx. one year in advance of the main construction works.

The pipeline will be constructed using a ‘spread’ technique. The pipeline route and any temporary working areas will be fenced off, and obstructions such as hedgerows, walls and vegetation, removed from the working width (known as the ‘spread’). This is approximately 30 metres in width. Topsoil will then be removed from the spread and stored on one side, within the spread, for re-use as backfill. Access will be along the working width. Pipe will be delivered to the working width from a storage depot on flat-bed articulated trucks, and off-loaded with mobile cranes. The pipes will be bended on site if required, and each length of pipe will be welded together, forming a pipe string, and lowered into the excavated trench using specialised lifting plant known as side-booms. All welds are tested before a coating is applied on site, and the entire pipeline is hydrostatically pressure tested on completion. A trench will then be excavated and the majority of excavated material stored for re-use as backfill. In areas where rock is close to the surface, some blasting may be necessary. The trench is finally backfilled and any field drainage and field boundaries reinstated to their original condition.

Two main methods will be employed at locations where the pipeline crosses roads, rivers, drainage ditches, service and utility crossings, involving either open cut trenches or trenchless technologies. The application states that the preferred method is open cut techniques, subject to the agreement with local authorities and the Shannon Regional Fisheries Board, and the suitability of ground conditions. It

is proposed that most watercourses will be crossed using in-river works by means of an open cut trench, with hydraulic excavators. In general, the watercourse will be dammed, and the water over-pumped for the duration of the work. Alternatively, a 'dry' open cut trench methodology may be used where water flow is maintained by diverting the river away from the proposed crossing location. Details of trenchless technologies are also provided.

The EIS states that one or more construction compound(s) will be established close to the pipeline route. The particular location(s) will be at the discretion of the construction contractor. No further details or indication of the location of the site compound are provided in the application. The compound(s) will include provision for services, cabins, offices, sanitary facilities, lockers, hard standings, stores, fitting shops, fabrication areas and parking space for vehicles. The facilities will also include those for welding inspection personnel, including a darkroom, film-viewing room and film store. There will be on-site security during nonworking hours. Smaller mobile facilities may also be established along the route, providing canteen and sanitary facilities. The compound(s) will be cleared away on completion, and the site(s) fully reinstated.

In relation to the construction of the AGI, a site compound for the Shannon AGI will be positioned within the Terminal site. At Foynes, there will be a temporary working area required alongside the proposed site. These will both include the provision of services, accommodation areas, cabins, sanitary facilities, mess facilities and hard standings.

2.6 Regulatory Framework

The Environmental Impact Statement (Volume 2, Chapter 1), notes the other regulatory framework governing the proposed development, as follows:

- Consent from the CER under section 39A of the Gas Act, 1976, as amended, to construct the proposed pipeline.
- Licence under section 254 of the Planning and Development Act, 2000, where the proposed pipeline crosses a public road along its route.
- Agreement of BGE to connect to the transmission network under section 10A of the Gas Act 1976.
- Licence from the CER to operate the pipeline under section 16(1) of the Gas Act (Interim) (Regulations) Act 2002, as amended.

2.7 The CAO

The CAO was originally sought in respect of 14 m wide wayleave on lands owned by 16 of the 72 landowners along the route. The wayleave is indicated in red on the submitted drawings. The proposed deviation limits (ie the area within which the eventual wayleave could be sited) are shown coloured green. During the

course of the application the applicant reached agreement with a further 11 of the landowners, and, as such, the CAO now relates to 5 landowners as set out in the amended schedule submitted by the applicant at the oral hearing, comprising wayleave numbers:

- CWL 07A (Drawing No. S32-002)
- CWL 17 (Drawing No. S32-004)
- CWL 34 (Drawing No. S32-006)
- CWL 42 (Drawing No. S32-009)
- CWL 65 (Drawing No. S32-013)

The documents submitted to the Board by the applicant in respect of the CAO include:

- Draft Order
- Book of Section 32 Acquisition Maps
- Book of Specification
- Book of Statement
- Book of Reference

An application to amend the book of reference under Article 10 of the Second Schedule of the Gas Act 1976 was also submitted to the Board on 1 December 2008 in relation to a change of ownership details for wayleave number CWL 65.

3.0 PLANNING HISTORY

Planning permission was granted by An Bord Pleanála under section 37G of the Planning and Development Act, 2000 (as amended), for a Liquefied Natural Gas (LNG) regasification terminal on the southern shore of the Shannon Estuary in the townlands of Ralappane & Kilcolgan Lower, County Kerry (**PL08.PA0002**). A copy of the Order dated 31 March 2008 is appended to this report.

Condition 7 of this permission reads:

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.*

4.0 POLICY AND GUIDANCE

4.1 National Policy

National Spatial Strategy 2002-2020

The NSS identifies Limerick-Shannon as a ‘Gateway’ and Tralee and Killarney as a ‘hub’. The Strategy identifies the need to enhance both the robustness and choice of energy supplies through improvements to the national grids for electricity and gas as a prime consideration, as is the strengthening of energy networks in the west, north west, border and north eastern areas of the country.

National Development Plan 2007-2013

The NDP sets out an Energy Programme for the plan period, which sets out a significant investment programme for energy over the Plan period. The Plan states that the ability of the economy to perform successfully depends on the supply of adequate, affordable and environmentally sustainable energy. In this respect, security of supply is identified as of paramount importance. Demand for energy is expected to grow by 1.6% p.a. over the Plan period, with annual demand for electricity and gas expected to grow by 3.1% and 6.5% respectively.

Delivering a Sustainable Energy Future for Ireland – Energy Policy Framework 2007-2020 (Energy White Paper)

This White Paper outlines the framework for energy policy until 2020. In relation to Actions to Ensure Security of Energy Supply, the following strategic goals are relevant:

- Strategic Goal 1: Ensuring that electricity supply consistently meets demand
- Strategic Goal 2: Ensuring the physical security and reliability of gas supplies to Ireland.
- Strategic Goal 3: Enhancing the Diversity of Fuels for Power Generation
- Strategic Goal 4: Delivering electricity and gas to homes and businesses over efficient, reliable and secure networks.
- Strategic Goal 6: Being Prepared for Energy Supply Disruptions.

The role of the private sector in investing in gas storage facilities and LNG is identified in respect of Goal 1. In relation to Goal 3, it is stated that in the absence of alternatives, Ireland’s dependence on natural gas for power generation would be 70% by 2020 without policy intervention. Such a high level of reliance on gas is generally seen as unsustainable from a security of supply perspective.

Natural gas will, however, continue to constitute a significant part of the power generation fuel mix for the foreseeable future. The Government remains committed to reducing over-reliance on natural gas in the power generation sector by proactively pursuing all realistic alternatives for Ireland.

LNG is specifically identified as a means of holding stocks and strategic reserves within the energy sector in relation to Strategic Goal 6.

The White Paper is also generally supportive of improving the competitiveness of energy supply.

National Climate Change Strategy 2007-2020

This Strategy acknowledges the role of gas in stabilising greenhouse gas emissions as required by the Kyoto Protocol.

4.2 Regional Policy

South East Regional Planning Guidelines 2004

The county of Kerry lies within the jurisdiction of the South East Regional Authority. The Regional Planning Guidelines are generally supportive of the extension of the gas network, particularly to the Tralee-Killarney hub, and to securing industrial development.

Mid West Regional Planning Guidelines 2004

The county of Limerick lies within the jurisdiction of the Mid West Regional Authority. The Regional Planning Guidelines are generally supportive of the expansion of the gas network throughout the region where feasible.

It is also stated (at Section 5.7) that “*development plans should facilitate the provision of energy networks in principle, provided that it can be demonstrated that –*

- *the development is required in order to facilitate the provision or retention of significant economic or social infrastructure;*
- *the route proposed has been identified with due consideration for social, environmental and cultural impacts;*
- *the design is such that will achieve least environmental impact consistent with not incurring excessive cost;*
- *where impacts are inevitable mitigation features have been included.”*

4.3 Development Plans

Kerry County Development Plan 2003-2009

Approximately one-third of the pipeline runs through County Kerry. A large area of land, comprising 188.8 ha and known as the Ballylongford Landbank, was rezoned 'Industrial' by Variation No. 7 to the County Development Plan (March 2007). The permitted LNG Terminal site is located within these lands. The site of the proposed Shannon AGI, and the western most part of the pipeline, also lies within this landbank and are zoned 'Industrial'. The vast majority of the pipeline route in Kerry is not subject to a zoning objective in the Kerry CDP.

Objectives ECO 2-1 and ECO 2-2 encourage economic and employment growth. The Plan also identifies the peripherality of Kerry as one of its greatest difficulties. The provision of proper external infrastructural linkages from the county to national and international infrastructural networks reduces the impact of peripherality and makes the county more attractive for the location of industry.

In relation to the protection of the natural environment and heritage of the County, Objective EN 10-1 states that the Council will take all necessary measures to prevent pollution.

Objectives ENV10-17, ENV10-18, ENV10-19, ENV10-20, and ENV10-21 seek to protect the conservation value of national and European designated areas. Planning applications must provide sufficient information showing how its proposals will impact on the habitat and indicating appropriate amelioration.

Objectives BH9-1 and BH9-3 seeks the preservation of all archaeological monuments included in the Record of Monuments and Places (RMP) and the protection of settings of archaeological sites or structures respectively.

Objective ZL 11-1 aims to protect the landscape of the county as a major economic asset as well as for its invaluable amenity value.

Local Area Plans

The *Tarbert Local Area Plan 2006* comments on the potential for port-related industrial uses provided by the bank of industrial land to the west of the town.

The *Ballylongford Local Area Plan 2007*, is contained within the North Kerry Settlements Local Area Plan. This Plan notes the proposal to develop an LNG Terminal at the Ballylongford land bank, and the associated potential for job creation.

Draft Kerry County Development Plan 2009-2015

Objective ECO 5-24 of the Draft Kerry CDP seeks to facilitate the provision of the infrastructure necessary to cater for the needs of industry in Ballylongford/Tarbert and through out the County. Objectives ECO 5-25 and ECO 5-26 support the development of the lands zoned for industrial development both in general (the former), and in the Tarbert/ Ballylongford area in particular (the latter).

Objective EN 11-1 seeks to take all necessary measures to prevent pollution in order to maintain the quality of the environment of County Kerry. Objective EN 11-2 requires that global warming and climate change are incorporated into the policies and development management system. EN11-20 seeks to protect air quality.

EN 11-21 - EN11-29 (inclusive) require the protection of environmentally designated areas and species, together with the biodiversity and landscape of the Council.

Objectives BH10-1 and BH10-3 seek the preservation of all archaeological monuments included in the Record of Monuments and Places (RMP) and the protection of settings of archaeological sites or structures respectively.

Limerick County Development Plan, 2005-2011

Approximately two-thirds of the pipeline runs through the jurisdiction of Limerick County Council. The proposed AGI at Leahy's townland is also located within County Limerick. The Development Plan provides development boundaries for 58 settlements throughout the County (listed in Appendix V). The proposed pipeline does not pass through any of these settlements, nor is the AGI at Leahys located within any such boundary.

Chapter 2 of the Limerick County Development Plan sets out an overall strategy. It includes a vision statement under which the County will adopt a positive and sustainable approach to balanced development, thereby enhancing the lives of people who live in, work in and visit the county, while protecting the natural and built environment. A number of strategic themes are put forward. Amongst these themes are Environment and Heritage and Shannon Estuary Development.

Chapter 8: Transport and Infrastructure comments that the availability of energy is of critical important to the development and expansion of County Limerick. A substantial investment programme is currently underway by Bord Gáis to enhance and extend the existing natural gas transmission network. Further extensions to the gas network into County Limerick will only occur if demand is shown to exist and is of a sufficient nature to ensure the economic viability of such an extension.

Policy INF 37: Energy Networks states:

It is the policy of the Council to facilitate the provision of energy networks in principle, provided that it can be demonstrated that;

- a) The development is required in order to facilitate the provision or retention of significant economic or social infrastructure;*
- b) The route proposed has been identified with due consideration for social, environmental and cultural impacts;*
- c) The design is such that will achieve least environmental impact consistent with not incurring excessive cost;*
- d) Where impacts are inevitable, mitigation features have been included; and*
- e) Protected areas – NHAs, SPAs and SACs, areas of archaeological potential and scenic importance, proximity to structures that are listed for preservation, national monuments, etc have been taken into account.*

The works are proposed within the Shannon Coastal Landscape Character Area. The restrictions set out in policy ENV14 are of limited relevance to the proposed development, although subsection (c) draws references the use of site-specific designs with careful attention to landscaping may be of relevance to the Foynes AGI.

Policies ENV 2 and ENV 3 seek to protect natural conservation sites and species identified for protection respectively. ENV 4 seek the conservation and protection of features of natural interest outside of protected site such as appropriate woodlands and hedgerows, wetlands and uplands and places of high bio-diversity interest. Policy ENV24 seek the preservation of all sites and features of historical and archaeological interest.

Polices ENV22 and ENV23 seek to protect air quality and prevent public noise nuisance respectively through the regulation of industrial and construction activities.

Chapter 9 of the Limerick County Development Plan is entitled “the Shannon Estuary”. This is of limited relevance to the current application.

5.0 SUBMISSIONS

5.1 Planning Authorities

The following submissions were received from the relevant County Managers. There is no requirement for applications made under section 182C to go before the elected members of the planning authority.

Kerry County Council

The applicant notified Kerry County Council, by letter dated 12 August 2008, of its intention to apply to An Bord Pleanála for permission in respect of a Strategic Infrastructure Development. The response of Kerry County Council was received by the Board on 6 October 2008, and can be summarised as follows:

- The proposal is in accordance with the provisions of the Development Plan and the proper planning and sustainable development of the area.
- **Landscape:** Both AGI will be located unobtrusively in the landscape. The construction impacts of the pipeline will reduce as the restored land blends with the existing vegetation. The landscape in which the proposal is situated is not highly sensitive or scenic, the image value of the estuary will not be altered, and the proposed development is not located on land with an amenity designation. While visible from locations designated as Views and Prospects, it is considered that the development does not have a significant impact on these designations. There will not be a significant visual impact arising from the development and the mitigation measures proposed will militate any visual impact.
- **Roads:** The planning authority will not agree to the closure of the N69 or R551 (between Ballylongford and Tarbert). One way traffic (as a minimum) must be allowed at all times.
- **Water:** The pipeline crosses public water mains at two locations. These pipelines must have at least 1.2m of cover between the bottom of the watermain and the top of the gas pipeline. The cost of replacing a temporary pipeline for these areas and the permanent connection to the watermain must be borne by the developer. There is a watercourse within 300m to the north of the proposed corridor at Tireaclea North which supplies part of Tarbert and also parts of County Limerick. Under no circumstances shall this spring be interfered with.
- **Air/ Climate:** No adverse impacts.
- **Noise/ Vibration:** No significant impacts. Mitigation measures proposed during blasting will minimise any adverse amenity effects.
- **Ecology:** No significant adverse impacts.
- **Soils/ Geology:** Along much of the route reinstatement will be straightforward and there will be no significant post construction impacts.
- **Water:** No significant adverse impacts.
- **Archaeological, Architectural and Cultural Heritage:** No visual impact on the archaeological landscape as the land will be reinstated. The three areas identified in the EIS where previously unrecorded monuments or features may exist need to be assessed through test excavation. Archaeological monitoring of topsoil recommended.
- **Human Beings:** Proposed development will not have an adverse impact and potentially may have positive impacts on human beings and the

community at large through employment, population growth and community development.

- **Material Assets:** In general it is considered that the development will have a negligible impact on agricultural lands in the vicinity, and that the depreciation of property in the area will be negligible if any.
- **Conclusion:** The proposed development is of major strategic importance nationally. A clear justification for the project has been provided by the EIS. The site for the AGI is zoned for industrial development with clear objectives contained in the CDP 2003. While the proposed development is subject to IPPC licensing by the EPA, it is considered that emissions will not be such as can not be addressed by condition through the licensing procedure.

It is recommended that permission be **granted** subject to the following conditions:

1. Development to be in accordance with application details and all mitigation measures of the Environmental Impact Statement.
2. Archaeological monitoring.
3. All road crossings shall be carried out under licence from the relevant roads authority.
4. Developer to liaise with the Water Services section of Kerry County Council in relation to the construction of pipelines adjacent to public watermains and to put in place appropriate measures to prevent interruption to the water supply.

Limerick County Council

The applicant notified Limerick County Council, by letter dated 12 August 2008, of its intention to apply to An Bord Pleanála for permission in respect of a Strategic Infrastructure Development. The response of Limerick County Council was received by the Board on 6 October 2008. The planning authority requests that the following issues be taken into consideration in determining the proposed development:

- The site is located within the Shannon Coastal Zone landscape Character area as per Policy ENV14 of the County Development Plan. The site does not traverse any National Heritage Area or other European designated sites.
- **Roads:** Proposed development is likely to have a very significant impact on road safety, traffic management and road condition/ maintenance both during the course of construction and the period thereafter. The level of detail is limited in terms of temporary parking and construction sites. The applicant should consult with the Transportation Department regarding (a) a detailed traffic management plan (including construction sites, temporary parking, and delivery routes); (b) details of all drainage systems

including replacement and maintenance during and after construction; and (c) a detailed pavement condition survey (including structures such as bridges and culverts) along the routes affected.

- **Water:** No objection to the application. The proposed pipeline does not intersect any existing local authority water or wastewater services. The pipeline crosses an existing 100mm group water supply watermain at Ballycullane, Glin, and an existing 75mm group water supply watermain passes through the proposed AGI at Foynes. Details in relation to the protection of these watermains should be agreed with the relevant group water supply scheme secretaries.
- **Archaeology:** Trenchless construction should be kept to a minimum and avoided in areas of potential archaeology. Mitigation measures set out in the EIS are acceptable. The results of any archaeological findings should be published.
- **Architectural Heritage:** No impact.
- **Fire Safety:** Requirement for fire safety certificate.
- **Development Contribution:** A special contribution will be required to cover costs associated with repair of damage to the public road. Further information is required to make this calculation.
- **Other:** All openings in hedgerows should be reinstated following construction.

Other than those detailed above, no further conditions have been submitted.

5.2 Prescribed Bodies

The submission from the **Commission for Energy Regulation** (CER) considers the Shannon LNG project an important development for the Irish gas industry, particularly in terms of security of supply. The Commission has received an application for Consent to Construct the pipeline under Section 39A of the Gas Act 1976. A final decision on the granting of this Consent will be made after the Board's decision in relation to planning permission. Request that the CER attend the An Bord Pleanála public hearing in order to address any issues relevant to the Commission. Having reviewed that application, the Commission is satisfied that the proposed pipeline does not present any safety or operational concerns. It will, however, be conducting a detailed technical analysis of the proposed pipeline, and may require changes to the technical design or impose conditions relating to the operation of the pipeline.

A submission was received from the **Department of Environment Heritage and Local Government** (DEHLG) in respect of archaeology and nature conservation.

A number of conditions are recommended in respect of archaeology including pre-development testing of the three areas found during the field inspection to

have surface anomalies that may indicate archaeological remains; geophysical survey followed, if necessary, by archaeological test trenches in the area where the planning corridor runs through the zone of constraint of a monument (SMR KE003-024); archaeological monitoring of all top soil stripping and ground disturbance works associated with all water crossings; recording any material found; and report describing the results of all archaeological investigations.

In relation to nature conservation it is noted that the pipeline is not within or adjacent to any European site, Natural Heritage Area (NHA) or proposed NHA. It is not expected that the development will have a significant adverse effect on the Lower River Shannon candidate Special Area of Conservation (cSAC) due to its location, the nature of the works, and the expected compliance of contractors with the waste management legislation. A planning condition requiring a resurvey for breeding sites and resting places of the otter and bat species is recommended.

The submission received from the **National Roads Authority** (NRA) states that the Authority has no objection in principle to the proposal subject to the safety and standard of the national route being maintained through appropriate best practice construction methods.

The **An Taisce** submission considers that the proposal is in contravention of the EIA Directive, which requires an integrated assessment of a plan or project. The proposal is connected to the Shannon LNG terminal, which has been subject only to preliminary notification of decision to grant permission, as it is currently under review in accordance with the provisions of Article 10a of the EIA Directive. The consideration of this project as a stand-alone proposal is inappropriate without integrated assessment of the entirety of the Shannon LNG project. Even if it were considered appropriate to consider this application as a separate and sequential one to the terminal, such consideration is premature pending determination of the current Review proceedings.

The **Health & Safety Authority** (HSA) was notified by the Board in view of the proximity of the proposed development to the proposed Shannon LNG Terminal which is an establishment to which the Major Accident Directive applies. The submission received can be summarised as follows:

- Pipelines are specifically excluded from the scope of the Major Hazard Regulations (SI 74 of 2006), except for those within the establishment (i.e. the LNG terminal).
- On-site pipeline and associated AGI were considered in the previous advice given to the Board concerning the provision of an establishment (Jan 2008).
- It is the view of the Authority that the installation of underground pipelines is a suitable development in the vicinity of the establishment. The risk zones as identified in the submitted QRA are included.

The **Department of Agriculture, Fisheries and Food** responded that it had no observations to make in relation to the Compulsory Acquisition Order.

5.3 Observers

The **Tarbert Development Association** welcomed the decision of An Bord Pleanála to grant planning permission for the LNG terminal. The concerns/queries posed by the association can be summarised as follows:

- Can Bord Gáis send gas through the pipeline to secure supplies to customers connected to the pipeline from the national grid if Shannon LNG run out of gas?
- The issue of ‘spurs’ or ‘take-off lines’ should be dealt with in the planning process. Who will authorise these?
- Manuals for the operation and maintenance of the pipeline should be made available to the communities along the route.
- The proper reinstatement of road crossings is vital. A maintenance period of at least 2 years should be required by condition.
- The construction of the pipeline is likely to be carried out at the same time as the Terminal. This could create traffic problems in Tarbert if a Traffic Management Plan is not in place prior to the commencement of construction.
- Any newly-discovered archaeological sites should be promptly notified to local historical and heritage societies.

The **Ballylongford Enterprise Association Ltd**, likewise welcome the proposal as it is viewed as a logical follow on from the granting of permission for the LNG terminal. The following observations are made:

- All necessary safety precautions should be put in place to ensure the safety of the workers and people living near the pipeline.
- Gas spurs should be put on the pipeline to allow for future connections to local towns such as Listowel, Tralee, Ballylongford, Ballybunion, Tarbert and local industries such as Tarbert Island power station.
- A monitoring committee should be put in place to monitor works in progress and afterwards.

A submission was received from **Kilcolgan Residents Association & Safety Before LNG**, objecting to the proposed development. Signed submissions by Kathy Sinnott MEP and Tony Lowes for Friends of the Earth are also attached. The contents of the submission can be summarised as:

- It is highly questionable how Shannon Development could guarantee to a developer that planning permission could be obtained within 2 years for lands that, at the time, were zoned Rural General and Secondary Special Amenity.

- The land at Kilcolgan would normally been subjected to a Strategic Environmental Assessment (SEA) before rezoning as the proposed LNG project would have a significant effect on the environment and given its status as a SEVESO II site.
- The alternative pipeline corridor that would pass closest to the ESB station (and earmarked for conversion to gas) would be less than 20 km in length and would not qualify for fast track planning under the 2006 Act.
- No blueprint exists for any connection to the ESB station by the pipeline.
- It is rumoured that a separate planning application may be put forward for another pipeline from Foynes to the ESB station in Tarbert. An independent SEA is needed to provide a logical overall environmental assessment of the impacts of the current proposed oil and gas storage developments coming in dribs and drabs into the public sphere. Development in this manner does not constitute orderly development.
- The use of sea water to heat and regasify LNG would affect marine life and water quality. This issue was not assessed in the previous application as it relates to a permit given by the EPA. If the EPA recommends a more environmentally-sensitive approach, another planning application would be required for the modification of the terminal. This will never happen and the solution will be a mitigation approach which will not be a planning process undertaken from first principles.
- The state implemented the 2006 Act, under which LNG terminals and pipelines are defined as strategic infrastructure, under pressure from the gas industry. This abuse of state powers is believed to be unconstitutional.
- The pipeline is new environmental information that should subject the whole project to reassessment. Project splitting contravenes EU laws. Equally, all licensing permits should be obtained before planning permission is applied for to provide more complete environmental information at the planning stage as obliged under European law, and confirmed by the ruling of the European Court in respect of the wind farm at Derrybrien, Co. Galway (case C-215/06 Commission of the European Communities v Ireland).
- An assessment should be made on uneconomical access to the gas network and determine if this will affect supply of natural gas to the rest of Kerry and the construction of gas infrastructure in the county.
- The need for a compulsory acquisition order for a pipeline is questioned. An objection is raised to the offers which are less than the open market value of the land. A private company should not be allowed to apply for the compulsory acquisition of private land.
- The pipeline will destroy Ralappane House, a building now under consideration as a protected structure.
- An assessment of the emissions from the AGI should be included into the planning for the terminal. The AGI and pipeline infrastructure will increase risks to nearby residents, contrary to Art.12 of the Seveso II

Directive. Risks from the pipeline were not included in the original assessment of the LNG terminal. Electrostatic risk increases with moving gas.

- As the EIS was not available on the internet for a lengthy period of time, the right to make another submission at a later stage is formally requested.
- The HSA is not going to assess the project under its Seveso II obligations.
- The Board should await the outcome of the High Court challenge to the Strategic Infrastructure Act 2006.
- The Minister for the Environment has publicly stated that the planning authorities have chosen the best pipeline route for this application. The observer has written to the Minister requesting whether or not alternative routes can now be objectively assessed at the planning stage.
- A planning application has been submitted for an offshore LNG facility off the coast of Dublin, proving that alternative sites for LNG storage do exist and are being actively pursued in the Irish Sea.
- The All-Island Strategy document for gas storage, “Study on Common Approach to Natural Gas Storage and Liquefied Natural Gas on an All Island Basis” was published after planning permission for the terminal was granted. The planning authority should have awaited the publication of this document before making a decision. This report contains information on high potential alternative storage sites and strategies including the North Celtic and Irish Sea Basins, the depleted Kinsale gas fields, and other storage options such as salt caverns and re-gasification vessels. This study should be taken into consideration in this application.
- Other development planned for the landbank such as the SemEuro oil storage facility are being kept on hold until the LNG application is completed. There must be a clearer definition of the types of development that should be allowed than being based on the probability of an accident as provided solely by the developer. SemEuro has been in consultation discussions with An Bord Pleanála since March 2007. The Board is not acting in an objective manner as it is refusing to declare the application no longer valid. This allows it to avoid releasing the documents to the general public.
- An Bord Pleanála has allowed itself to develop too close a relationship with the applicant and is now guilty of “agency capture”. It implicitly encouraged the developer to issue “wayleave offers” to the landowners, which is a tacit approval by the Board for the pipeline route chosen and is totally in contravention of the obligation to allow meaningful public participation in the planning process. A mockery is being made of the planning process and members of the public on whose land the development is taking place are being bullied into accepting a decision that they feel has already taken place.

- The oral hearing should be held locally, and funding provided to the objector to engage independent LNG and pipeline safety experts in the interests of fairness.
- An independent assessment on the effects on soils is needed.
- New information has been discovered since the oral hearing which needs to be taken into consideration for the whole project:
 - a. No risk assessment has been completed for an LNG spill on water.
 - b. The Marine Risk Assessment by Shannon Foynes Port Company highlighted the transformation of the southern shores of the Shannon Estuary into an oil and gas storage hub without any SEA being undertaken.
 - c. The draft Kerry County Development Plan is retrospectively trying to endorse the LNG terminal.
 - d. The construction of LNG terminals within 5,000 feet of residences, schools, hospitals, elderly housing complexes, businesses and developments has been prohibited in the state of Massachusetts. LNG tankers are also prohibited from passing within 1500 feet of populated shorelines. No further development should take place within 3 km of the terminal.
 - e. The original application took no account of the effect of traffic on Tarbert village; how primary and secondary schools are to open and close at the same time to facilitate construction traffic; not all lands are owned by the applicant and the issue of the sterilisation of land; the plan for a gas-powered ESB station on the site has not been properly environmentally assessed.
- The European Petitions Committee has formally informed the KRA that it has asked both the European Commission and the European Parliament Committee on the Environment to conduct preliminary investigation of the various aspects of the LNG terminal in relation to EU Directives. It is submitted that at least nine EU Directives are being contravened: the Wastewater Directive, Emissions Trading Directive, Environmental Liability Directive, Seveso II Directive, Gas Directive, EIA Directive, SEA Directive, Habitats Directive, and IPPC Directive. The Board is requested to that all of these directives into consideration.
- It is requested that the Board take on board all of the submissions (including the proceedings of the oral hearing) on the LNG terminal (PA0002).
- The pipeline route has been forced on landowners who cannot understand the consequences of the sale of lands without legal advice or protection from the government. Landowners are being forced to sell out against their will for fear of obtaining virtually nothing at all if the application for compulsory acquisition is successful. The Gas Acts and Strategic Infrastructure Act should not be used to compulsorily acquire private land for a project that is not in the national interest.

- This LNG project is encouraging more dependence on imported fossil fuels, contrary to Ireland's obligations under Kyoto.
- The development will pose a risk to a primary drinking-water supply in the Kilcolgan area.
- No meaningful consultation was carried out with the local community.
- The development would industrialise a previously unspoilt landscape.
- The quality of life of people in the region of this development will continue to be severely damaged and the long-term impacts will be catastrophic.

The submission received from **Catriona Griffin**, a local resident, can be summarised as:

- The pipeline should go to the ESB station at Tarbert, which is likely to be converted to gas use in the future.
- Ecological impacts from removal of hedgerows, crossing of river courses, and noise, dust and traffic from the construction process.
- Concern that water supplies from wells will be affected.
- Insufficient details are provided in the EIS regarding reinstatement.
- No indication of how many jobs will go to local people. No local employment has been created to date.
- Effects on human beings have been largely ignored. Local residents will have to noise, dust, traffic and blasting. It is totally unacceptable that the application is for a 10 year period.
- There is no mention of accidents, emergency procedures or possible danger associated with the pipeline. Details of accidents involving LNG facilities are appended.
- Permission for the terminal has already been granted and the pipeline is a fait accompli.

The submission received from **Thomas O'Donovan**, a local resident, can be summarised as:

- The applicant's motivation in entering the energy market is profit. With the phasing out of coal and oil it is possible that the gas industry will monopolise the Irish market having little or no competition.
- Liquid natural gas is a fossil fuel, the burning of which has dire consequences for humanity and the fragile local and wider environment.
- The route of the pipeline would be through large areas of boggy ground. Local people are worried that more bogslides are a probability adversely affecting their drinking water again with dead zones in rivers another possibility.
- Present and future rainfall is another factor that could lead to more unforeseen ecological disasters.
- Gas is a pollutant and a serious health risk to people and the natural environment.

6.0 ASSESSMENT - Proposed Development

Having examined the file and planning history, considered the prevailing local, regional and national policies, inspected the site and assessed the proposal and all of the submissions, including those made at the oral hearing, I consider the key issues in this case to be the following:

1. Adequacy of the Environmental Impact Statement
2. Principle of Development
3. Need
4. Alternative Routes and Sites
5. Legal and Procedural Issues
6. Health & Safety
7. Ground Conditions
8. Natural Heritage
9. Ground and Surface Water
10. Archaeology and Architectural Heritage
11. Road Issues
12. Visual Impact
13. Community Gain
14. Development Contributions
15. Other matters

6.1 Adequacy of the Environmental Impact Statement

The EIS which accompanies this application was prepared under the requirements for a strategic gas infrastructure development set out in section 182C of the Planning and Development Act, 2000 (as amended). It comprises three volumes:

- Volume 1: Non Technical Summary;
- Volume 2 (the main report including appendices);
- Volume 3: Figures.

The EIS describes the proposed development, the need for the development and alternatives considered, construction activities and planning and policy context. The effects of the proposal on the environment are assessed under the following headings: landscape and visual; roads and traffic; noise and vibration; air quality and climate; ecology; geology and soils; hydrology and hydrogeology; material assets; archaeological architectural and cultural heritage; and human beings. A

section entitled ‘Other impacts and interactions’ assesses the cumulative effects and interaction of effects.

Section 1 of the EIS also outlines the submissions received by the applicant in response to extensive pre-application consultations with local authorities, government departments, the public, other service providers, various statutory bodies and non-governmental organisations, and local community groups and interested parties.

Section 2, sets out the need for the proposal and the alternative routes and locations for the AGI which were considered. I shall return to the merits of the alternatives considered below. I am, however, satisfied that an adequate assessment of the alternatives available was carried out.

In terms of each of the aforementioned environmental criteria, the EIS provides a description of: the methodology used in the assessment; the existing environment; potential impacts of the proposed development; mitigation measures; and residual impacts. The main impacts of the proposed development are considered to relate to the construction phase, although the operational phase is also assessed.

The information in the EIS was supplemented by the oral and written submissions presented to the Board at the Oral Hearing.

I consider that the EIS complies with the requirements of article 94 and Schedule 6 of the Planning and Development Regulations, 2001 and provides a useful aid to the decision making process. In particular, I found that the strip maps, aerial views, habitat, and geomorphology mapping greatly assisted in the comprehension of the written text.

6.2 Principle of Development

The purpose of the proposed pipeline is to transport natural gas from the permitted LNG Terminal to the existing Bord Gáis Éireann natural gas network just west of Foynes in Co. Limerick. The applicant has argued that natural gas entering the pipeline from the LNG terminal will provide increased security and diversity of supply to Ireland in accordance with the *National Development Plan 2007-2013* and the strategic goals set out in the government’s Energy White Paper ‘*Delivering a Sustainable Energy Future for Ireland 2007-2020*’. Both of these documents identify security of supply as of paramount importance to the national interest. I note that this argument was accepted by the Board in relation to the LNG terminal application (PL08.PA0002), and I consider that it also applies in this instance.

In terms of national and regional planning policy, I note that the *National Spatial Strategy 2002-2020*, *South East Regional Planning Guidelines 2004* (Kerry), and

the *Mid West Regional Planning Guidelines 2004* (Limerick), are supportive of extending the gas network throughout the respective regions, and to the Tralee/Killarney Hub in particular. The observers in support of the development also consider that gas spurs should be put on the pipeline to allow for future connections to local towns such as Listowel, Tralee, Ballylongford, Ballybunion, Tarbert and local industries such as Tarbert Island power station. I shall return to the issue of the Tarbert power station in relation to the alternatives below. In relation to the general expansion of the gas distribution network, I note that the proposed development, in itself, does not provide for an extension of the gas distribution network. In response to this issue, the applicant did indicate at the oral hearing it would be technically feasible to distribute natural gas to towns in the region from the Shannon pipeline, and that such spurs could be fed from either the LNG terminal or, if the direction of gas flow was reversed, from the national gas network. It would, however, be up to Bord Gáis and the CER to assess the feasibility of extending the distribution network to serve the towns. The *Mid West Regional Planning Guidelines* generally state that development plans should facilitate the provision of energy networks subject to certain criteria, and this is reflected in Policy INF37 of the Limerick County Development Plan (which I shall return to below). Overall, I do not consider that either the National Spatial Strategy or the relevant Regional Planning Guidelines are of particular relevance to the proposed development.

The site of the Shannon AGI is located within a large area of land, comprising 188.8 ha and known as the Ballylongford landbank, which was rezoned 'Industrial' by Variation No. 7 to the Kerry County Development Plan (March 2007). The permitted LNG Terminal site is also located within these lands. The purpose of the variation was *"to facilitate consideration of suitable development on these lands in accordance with the provisions of section 5.2.9 of the Kerry County Development Plan 2003-2009, which states: 'lands have been identified at Ballylongford/ Tarbert as suitable for development as a premier deep water port and for major industrial development and employment creation'"*. I note that the Board previously considered that the LNG terminal accorded with the objectives of the Kerry County Development Plan, 2003-2009, and I am satisfied that the principle of the AGI and pipeline to link the terminal to the national gas network is similarly acceptable in this respect. The Draft Kerry CDP 2009-2015 also seeks to facilitate the provision of the infrastructure necessary to cater for the need of industry in Ballylongford/ Tarbert and throughout the County (Objective ECO 5-24).

Policy INF 37 of the Limerick County Development Plan, 2005-2011 outlines the Council's policy to facilitate the provision of energy networks, and the supporting text states that the Council will support the current investment programme to reinforce the national grid in order to meet international supply standards and to take account of rising demand. Whilst it would appear that this policy was adopted in the context of the existing Bord Gáis investment programme to extend the national transmission network, it is clearly supportive of initiatives to improve

energy supplies. I am generally satisfied, therefore, that the no conflict exists with the Limerick Development Plan in this respect. The other criteria relate to various environmental and other impacts, which are also considered in this assessment.

6.3 Need

The issue of the need for an LNG facility has been accepted by the Board in its decision to grant permission for the Terminal, which (inter alia) had 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,*
- (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.*

The EIS submitted in respect of the Terminal application clearly outlined the requirement for a gas pipeline connection from the terminal site to the national gas network, stating that this would be the subject of a separate planning application. Furthermore, Condition 7 of that permission requires that “*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*” (full text at Section 3 above). Given that the natural gas stored at the Terminal must be used to supply the national grid, and the restrictions on the transfer of the gas, I consider that the need for the AGI and pipeline has been firmly established.

The proposed pipeline has a stated capacity of 28.3 million cubic meters (1 billion cubic feet) per day. The applicant stated at the oral hearing that it is anticipated that initial gas flows will be in the region of 11.3 million cubic meters per day (400 million cubic feet), rising on a peak demand basis, to 17 million cubic meters (600 million cubic feet). The pipeline design, therefore, makes provision for some possible future expansion. I note from the original LNG terminal application that the terminal will be developed in two or more phases. In the first phase, one or two of the LNG tanks, the vaporisation equipment and support facilities would be installed to handle an expected throughput of 11.3 million standard cubic metres per day, but with sufficient capacity to enable a peak regasification rate of 17 million standard cubic metres per day. Ultimately, the additional tanks and additional vaporisation equipment and support facilities

would enable the facility to handle up to 28.3 standard cubic metres per day. I am satisfied, therefore, that the capacity of the pipeline is appropriate for the permitted Terminal facility.

6.4 Alternative Routes and Sites

Three alternative routes were considered between the LNG terminal and the existing BGE network:

- Route Corridor 1 – extends eastwards along the south side of the Shannon Estuary between the LNG Terminal and the existing gas network in the vicinity of the Craggs AGI.
- Route Corridor 2 – leaves the LNG Terminal and crosses the Shannon Estuary at Tarbert, before running eastwards along the north side of the Estuary to the existing Shannakea Beg AGI.
- Route Corridor 3 – extends directly north-eastwards from the terminal, crossing the Estuary and running eastwards to the existing Shannakea Beg AGI.

In addition, a route corridor along the length of the Shannon Estuary was also considered, but was ruled out at an early stage due to ecological designations, engineering difficulties and economic costs.

It is stated that Route Corridor 1 represents the shortest feasible route on the south side of the Estuary, and is the preferred route and the subject of the EIS; Route Corridor 2 represents the shortest route between the LNG Terminal and the existing gas network while also passing close to Tarbert Island power station; and Route Corridor 3 represents the shortest route between the LNG Terminal and the existing gas network while also passing close to Moneypoint Power Station. Route Corridor 1 was selected as the preferred route corridor as it did not require a crossing of the Shannon Estuary, with the associated environmental and economic costs, and engineering difficulties.

The observers have argued that the pipeline should go to the ESB station at Tarbert which, it is stated, is likely to be converted to gas use in the future. In response the applicant stated at the oral hearing that Tarbert power station is currently fuelled by oil. If it does, however, convert to gas, it is technically feasible to connect the power station using a spur from the Shannon pipeline. I note that Route Corridor 2 would facilitate a direct connection to the power station. This route also, however, involves crossing of the Estuary, and it is difficult to envisage how the pipeline would serve the power station without crossing the estuary except as a spur from the main pipeline. I estimate that a spur from Route Corridor 1 to the power station would extend to some 4 km. This distance could be shortened if the proposed pipeline was moved closer to the town of Tarbert, which the route otherwise seeks to avoid. Likewise, any

connection to the Moneypoint power station, which is currently fuelled by coal, could not avoid crossing the estuary. The applicant has stated that it is not aware of any plans or even speculation to convert Moneypoint to natural gas. As a commercial entity, however, it would welcome the opportunity to connect power stations to the Shannon pipeline.

I am in agreement with the applicant that Route Corridor 1 generally represents a reasonable route along the southern side of the Estuary, and that there are significant environmental difficulties associated with crossing the Shannon Estuary which is a candidate SAC and a proposed SPA. I do not consider that the route should be altered to facilitate any future connection to Tarbert power station, which can be reasonably connected to the main pipeline by means of a short spur.

Four possible site options for the location of the Foynes AGI were also considered:

- Site A - the most northerly site; it is adjacent to a wooded area and would be accessed from the minor road to the west, some 200 metres from the N69 (Limerick/Tarbert Road).
- Site B – the preferred location, as described at Section 2.4 above.
- Site C - located to the south of Sites A and B c.150 metres back from the local road; some 1.5 km from the N69.
- Site D – located to the south of Foynes, c.500 metres east of the N69. The site is surrounded by very hilly topography, with a significant slope running northwards across the site.

I am generally in agreement with the assessment of these sites as set out in Section 2.3.4 of the EIS, and consider that the selection of the site at Leahys (Site B) as the location for the new AGI to be reasonable.

6.5 Legal and Procedural Issues

Both An Taisce and the Kilcolgan Residents' Association (KRA) have argued that the proposal is in contravention of the EIA Directive as it does not represent an integrated assessment of the entirety of the Shannon LNG project. It is submitted that to consider the pipeline as a separate planning application constitutes project splitting, and that an EIS for two separate projects is not the same as having one EIS for the complete project. The applicant strongly refuted this contention during the oral hearing, stating that project splitting relates to an attempt by a developer to carve up a project in such a manner that no EIS is prepared. Reference was made to the decision of European Court of Justice in the case of *Commission v. Ireland* (case number C-392/96) which defined project splitting as an attempt to escape from the obligation to carry out any impact assessment of the proposed development. In relation to the LNG terminal and pipeline, it was stated

that an EIS was prepared for the LNG terminal application, and that a separate EIS has been prepared for the pipeline. Consequently, it was argued that the issue of project splitting does not arise in this application.

The applicant has further argued that the issue of project splitting was previously considered by the Board in the LNG terminal application. In this respect I note that Chapter 18 of Volume 2 of the Environmental Impact Statement which accompanied the terminal application is entitled “Ancillary Projects”. The three possible routes between the application site and the existing Bord Gais network are shown in that EIS (Volume 4, Figure 18.1), and were detailed in the Inspector’s Report. These routes generally accord with the alternatives described at Section 6.4 above. I am also satisfied that the current EIS adequately addresses the cumulative impacts of the current proposal (the AGI and pipeline) and the Terminal development, and am in agreement with the previous Inspector that the making of the two applications separately cannot reasonably be considered a ploy to avoid environmental impact assessment.

The KRA also made reference at the oral hearing to the decision of the European Court of Justice in the *Commission v. Ireland* decision (Derrybrien) which was handed down by the Court of Justice on 3rd July of this year (Oral hearing Transcript, Day 2, pages 58-59). However, the observer’s arguments in relation to this issue appear to be somewhat confused, and I do not consider that the findings of the ECJ in relation to that case apply in this instance.

At the oral hearing, the KRA also stated that a decision on the application could not be made by the Board until a number of other complaints and/or procedures had been resolved (Oral hearing Transcript, Day 2, pages 56, 96, 97, 103-108). I do not, however, consider these matters to be relevant to the consideration of the planning merits of the proposed development.

6.6 Health & Safety

The issue of health and safety is clearly the main concern of the Kilcolgan Residents’ Association & Safety Before LNG, and is also raised by Catriona Griffin, and Thomas O’Donovan. It was apparent at the oral hearing that these concerns primarily relate to the LNG terminal itself, and specifically to the risk of an accident beyond the shore line (i.e. the movement of ships up the estuary), and the potential for accidents caused deliberately by sabotage or terrorism. It was argued that these issues were not dealt with by the HSA in its assessment of the terminal development, and that safety considerations were in danger of ‘falling between the cracks’. These issues, however, relate to the previous application for the terminal development, rather than the proposed pipeline and associated AGI, which are the subject of the current application. In this respect, I note that the Board’s Reason and Considerations in respect of the terminal application

considered that, subject to compliance with the specified conditions, the proposed development would ‘not be prejudicial to public health or safety’.

Gas pipelines are specifically excluded from the scope of the Major Hazard Regulations (SI 74 of 2006). However, the proposed AGI and pipeline are located within the distance from establishment (the LNG terminal) specified in Schedule 8 of the Planning and Development Regulations, 2001. As such, the Health and Safety Authority (HSA) was notified of the application and was requested to supply technical advice on the effects of the proposed development on the risk or consequences of a major accident in accordance with article 215 of the Planning and Development Regulations, 2001, as amended by the Planning and Development Regulations, 2006.

A written submission was received by the Board on 7 October 2008, which was read into the record at the oral hearing by Patrick Conneely, Senior Inspector with the HSA. Mr Conneely stated that on-site pipeline and the associated AGI were considered in the previous advice given to the Board concerning the provision of an establishment (PL08.PA0002, January 2008). At the oral hearing the HSA confirmed that the original advice to the Board was based on the quantitative risk assessment (QRA) submitted by the applicant in respect of the terminal application. That QRA included the AGI and the pipeline even though it was not part of the original planning application. Consequently, the three risk zones (Zone 1 to 3) specified in the QRA, and the types of development suitable within each zone, are based on the existence of the pipeline and AGI. It is the view of the Authority that the installation of underground pipelines is a suitable development in the vicinity of the establishment (Oral Hearing Transcript, Day 1, Pages 144 – 151).

A written submission from the Commission for Energy Regulation (CER) was received by the Board on 6 October 2008 which stated that the Commission was satisfied that the proposed pipeline does not present any safety or operational concerns, but that the Commission would be conducting a detailed technical analysis of the proposed pipeline, and may require changes to the technical design or impose conditions relating to the operation of the pipeline. The CER stated that it had received a request for consent to construct the proposed pipeline under Section 39 of the Gas Act 1976 on 5 September 2008. It emerged at the oral hearing that a QRA for the pipeline was subsequently submitted to the CER in the week preceding the oral hearing. The submission further states that the criteria for deciding whether to give consent or not, or what conditions to apply, are set out in the Gas (Interim) (Regulation) Act 2002 (Criteria for Determination of Consents) Regulations 2002 (SI 264), and were further strengthened by the Energy (Miscellaneous Provisions) Act 2006. These include safety and security of natural gas systems, compliance with relevant codes of operations, and the suitability of the applicant. The scope of conditions that may be attached include compliance with safety and efficiency codes, environmental protection conditions, and a time period for construction. The CER’s representative at the oral hearing,

Denis Cagney, stated that the emphasis on the review of the S.39 application is very much on the overall safety and integrity of the gas system and of its inter-operability with other systems, and would involve taking advice from technical consultants, particularly in regard to the safety aspect of the pipeline (Oral Hearing Transcript, Day 1, Pages 141 – 144). I note that the written submission of the CER to the Board predates the submission of the QRA to the Commission and, as such, was not informed by the QRA. Furthermore, Mr Cagney provided no additional information to the oral hearing which could have been informed by the QRA. The HSA made no reference to the QRA in giving evidence to the oral hearing, and when asked if there should be a new risk assessment based purely on the current application, Mr Conneely reiterated that everything in the establishment, including the AGI and pipeline, was factored into the technical advice given in relation to the previous application for the provision of an establishment.

On the second day of the oral hearing the KRA wished to make a detailed submission in relation to the aforementioned QRA which had been submitted to the CER in respect of the application for consent to construct the pipeline. Having made their submissions and answered questions posed by the observers, both Mr Cagney and Mr Conneely had left the hearing by the time this issue was raised by the KRA. The applicant argued that there is no statutory requirement on the applicant to submit a QRA with the planning application, and that the QRA is not relevant because it is not a material consideration that the Board can have regard to. In considering this matter, I was cognisant that the QRA had not been submitted to the Board, and it did not inform the advice of either the HSA, which was based on the QRA submitted in respect of the previous application, or the CER. I determined, therefore, that the QRA did not form part of the application, and that it was a matter for the Board to decide if sufficient information had been submitted to allow it to make a decision.

The KRA also argued that there is an increase in electrostatic risk with moving gas. The applicant has responded that there is no increase electrostatic shock potential to persons in the proximity of the buried pipeline.

Natural Gas is a colourless, odourless fuel, the main component of which is methane (80-95%) with the remainder comprising varying amounts of ethane, propane, butane and other hydrocarbons. An odourant is added to facilitate immediate recognition in the event of leakage. The pipeline itself is coated both externally and internally to protect it from corrosion. The EIS states that the pipeline will be designed, constructed, tested, operated and maintained in accordance with the Irish Standard I.S.328:2003 Code of Practice for Gas Transmission Pipelines and Pipeline Installations. A copy of this code was provided by the applicant at the oral hearing and is on the file. I note that the code applies to the design, construction, inspection, testing, operation and maintenance of steel pipelines for the transmission of gas. Although the upper pressure limit is not defined, it is stated that in current general practice it ranges

up to 100 bar. The proposed pipeline will operate at 98 bar, compared to the existing BGE network which operates at 85 bar. The applicant explained at the oral hearing that the pipeline design pressure of 98 bar is the pressure required to deliver gas into the national gas network (i.e. to overcome the pressure to move the gas from one system to the other).

Although the pipeline avoids any population centres, it does run close to a number of one-off houses along its route. In this respect, the code sets out standards for wall pipe thickness depending on the proximity distance from the pipeline to normally occupied buildings. Heavy wall material (19.1 mm) is required within 57 m of a dwelling, and I am satisfied that it is possible to ensure that any extant planning permissions for new dwellings are covered by means of a suitable condition. The pipeline will be buried underground for its entire length, to a minimum depth of cover of 1.2 metres. The depth of cover will be increased to a minimum of 1.6 metres where additional protection is required, such as at road and river crossings. Four different permanent marker types will be used to locate the pipeline and provide adequate warning for those working over ground after reinstatement. After commissioning, the operation of the pipeline will be continuously monitored 24 hours a day from the Shannon LNG Terminal at Ralappane. Detailed specifications for the construction, operation and maintenance of the proposed pipeline are outlined in Section 3.3 of the EIS. Having considered all of the details and submissions I am satisfied that the pipeline itself can be constructed, maintained and operated in accordance with the IS328 code (as required by the CER), in a similar fashion to the existing Bord Gáis network across the country, and does not present any significant health and safety concerns.

The remaining issue in relation to health and safety, therefore, relates to the acceptability of a pipeline within the vicinity of a major accident establishment, and the impact that an accident at the establishment could have on the pipeline (with resulting effects along the pipeline route). In this respect, I note that the HSA has advised that the pipeline and AGI are suitable development within the vicinity of the LNG terminal, and that both the Shannon AGI and the Foynes AGI have remotely operated valves which will control the flow of gas into the pipeline. Having considered the written submission of the HSA and their submission to the oral hearing, I am satisfied that sufficient information is before the Board to enable it to make a decision in relation to health and safety., and I have no objection to the proposed development in this respect.

The lack of an emergency plan in the case of an LNG accident was also raised by the KRA. Kerry County Council responded that a major emergency plan exists for the Cork/Kerry region, and that the Council would communicate with the developer to ensure that any future emergency plan for the proposed development was in accordance with the regional plan. I do not, however, consider that the details of an emergency plan are relevant to the consideration of this application.

6.7 Ground Conditions

Ground conditions along the route corridor principally comprise boulder clay, with significant areas of alluvium and peat to along to eastern part of the route corridor.

Boulder clay is generally considered to provide stable conditions for the construction of the proposed pipeline. Although bedrock tends to occur below the level of the pipeline, it is envisaged that blasting may be required in the Tullyglass-Kinard area, just south of Glin (Strip & Geomorphology Map 6).

The alluvial areas are largely located in the floodplains of larger streams and rivers, particularly the White River. It is acknowledged that these areas can pose difficulties for construction including poor movement for construction plant, trench side instability, and a typically high water table. It is proposed, therefore, to use a construction method known as well pointing, where individual or groups of small wells, typically less than two inches in diameter, are inserted into the ground in parallel to the pipeline route. Pumping from these is carried out in advance of excavation to lower the groundwater table to below the basin excavation of the trench, thereby eliminating the problem of water ingress during excavation and increasing the stability of the soil. It is stated that this is a very simple and very routine method of construction.

There are also a number of expanses of blanket bog peat along the eastern half of the pipeline route, mainly to the east of the Glencorby River. The aggregate length of peat crossing is 5.7 km, of which the longest individual crossing length is just over 1 km. I note that none of the areas of peat crossed have been designated as conservation or habitat areas. The EIS recognises that peat represents about the most difficult natural material in which to construct pipelines. It is stated that in all but a few parts the peat is relatively thin (< 1-1.5m), occurs on slopes of less than 5°, and has largely been reclaimed for agriculture or forestry. Given these factors, it is contended that the peat areas within the route corridor are intrinsically stable and not susceptible to bog slides. It is stated that below 5° there are virtually no recorded incidents or instances of slides or instability taking place in blanket bog.

A methodology for the construction of the proposed pipeline in peat areas was set out at the oral hearing (Oral Hearing Transcript, Day 1, page 93-95). It is proposed to remove and the store the top layer of peaty topsoil (c. 0.2m deep) and the layer of peat (c. 1 m deep), separately in dedicated areas. It is stated that the volume of peat, which will be stored temporarily adjacent to the pipeline trench, comes to 62,985 cubic metres. A temporary road, approximately 5 metres wide, will be constructed using imported stone fill and will be used by all construction traffic. The pipe trench will then be fully excavated to a depth of 2.5 metres, and the excavated material stored on the opposite side of the trench to the peat. The

pipe will then be laid on a bed of imported sand or pea-gravel, the trench backfilled, and the spread width reinstated. Mitigation measures such as the use of bog mats and continuous shoring in areas of poor traffickability, the use of inherently stable materials for backfilling, and pre-construction ground investigations to ground stability are set out in Section 11.6.2 of the EIS. I note that the EIS states that peat can be stockpiled in blocks and watered to prevent it drying out, and the blocks replaced in reverse order. The applicant pointed out at the oral hearing that significantly deeper depths of peat, up to 5 to 6 metres, were successfully dealt with on the Bord Gáis Éireann Mayo-Galway Pipeline which was constructed in 2006 through the boglands of north Mayo using a similar methodology.

Having considered the above, I am of the opinion that no peat needs to be removed off site to facilitate the proposed development, and that the existing natural surface of the peat can be preserved if appropriate mitigation measures are implemented. These issues can be controlled by suitable conditions. I am similarly satisfied that the limited depth and slope of the peat areas mean that the likelihood of a bogslide is not significant.

6.8 National Heritage

The pipeline corridor does not cross any Natura 2000, or otherwise designated conservation areas. The nearby Shannon Estuary is, however, a candidate Special Area of Conservation (Lower Shannon – site code 002165), and a proposed Special Protection Area for Birds (Shannon-Fergus Estuary – site code 004077). The route also lies within 10 km of the Ballylongford Bay proposed Natural Heritage Area (site code 1332).

A number of the north flowing watercourses crossed by the pipeline corridor do, however, discharge to the Shannon Estuary. In this respect I note that the DoEHLG does not expect that the proposed development will impact on designated sites in the area.

The proposed route corridor also crosses three rivers, two of which are salmonid rivers (the White River and the Glencorby River). Brown trout was also recorded in the Glashanagark River. A number of smaller watercourses are also traversed which support coarse fish species, and some of which have been identified as prime salmonid spawning waters. It is proposed to use an open cut method of crossing for all of the watercourses along the route. I shall deal with this issue in more detail at Section 6.9 below. The applicant has also made reference to the use of CIRIA guidance documents *Control of Water Pollution from Construction Sites* (2001) and *Control of Water Pollution from Linear Construction Projects* (C649, 2006) as the basis of preventing contamination of surface water from the runoff of suspended solids during the construction phase. I am satisfied that this

guidance represents best practice both in terms of preventing pollution of the watercourses themselves, and the designated sites into which they flow.

Badger feeding activity was noted in a number of locations along the route and four setts were found (at Carhoona/ Cockhill, Map 2 and adjacent to the Glashanark River, Map 12). Badgers will have to be excluded from the identified sites prior to the commencement of works. In addition, a brown long-eared bat roost was recorded in a small derelict building to the north of the pipeline corridor at Tieraclea Upper (Map 4), and surveys indicated that the adjacent hedgerow which runs south towards the corridor is used extensively by feeding bats. No evidence of otters was found. The protected species Irish hare and red squirrel were recorded along the route. The DoEHLG recommends that a resurvey for breeding sites and resting places of otters and bats should be undertaken prior to construction, and that appropriate mitigation for the loss of a badger sett must be undertaken. I consider that a condition to this effect would be reasonable and appropriate.

A good example of a rich fen is located along the route adjacent to the N69 Tarbert-Listowel road in Doonard Upper (Map 3, Figure 10.3). The importance of protecting the area of fen was raised by An Taisce at the oral hearing. The EIS states that this habitat is potentially suitable for a butterfly species (Marsh Fritillary) listed in the appendices to the EU's Habitats and Species Directive (Annex II). A supplementary Survey conducted in November 2008 was submitted by the applicant at the oral hearing but the species was not recorded. It is proposed to re-survey prior to the commencement of development. I note that the intended route the pipeline crosses the northeastern corner of the fen, although the corridor and spread width cover a more significant area. The EIS considers the habitat to be of 'high value, locally important' as per the evaluation criteria set out in the NRA Guidelines for Assessment of Ecological Impacts of National Road Schemes. The impact of the proposed development is considered to be moderate negative, with any impacts being long term and possibly permanent. Given the extent and duration of the impact, I am of the opinion that the pipeline should be re-routed slightly beyond the northern field boundary to avoid any intrusion into the area of fen. It would appear that such a re-routing could be accommodated within the 100 metre route corridor. The Board will also note that a Compulsory Acquisition Order has not been sought in for a wayleave in respect of the land in this part of the route.

Two further small areas of fen are also identified to the east (Map 6). The plant species upon which the Marsh Fritillary feeds was not, however, identified at these locations.

The proposed route of the pipeline also crosses an area identified as oak-birch-holly woodland adjacent to the Glencorbly River. It is noted, however, that the proportion of oak is relatively low, having been replaced by ash and alder. Whilst the construction of the pipeline would invariably require the felling of trees in this

area, I note that the woodland extends to the north and south of the proposed crossing. As such, it is difficult to see how the river could be crossed in this general location without some impact in this regard. I do not consider that a refusal of planning permission on these grounds would be warranted given the value of the habitat, and am satisfied that the proposed crossing point is acceptable subject to the mitigation measures set out in Section 10.10.1 of the EIS.

I am satisfied that, subject to the proposed mitigation measures and suitable conditions, the proposed development will not significantly affect the natural heritage of the area.

6.9 Ground and Surface Water

White River is the largest river crossed, and is c.12 m wide at the proposed crossing. Both the White and Glencorbly rivers are relatively shallow in the vicinity of the proposed crossing. The proposal also crosses two tributaries of the Glashnagark river, both of which are relatively narrow and shallow streams. It is proposed that all pipeline construction will take place in summer under low flow conditions. The applicant has pointed out that although rivers in the area can experience very large variations in flow, the nature of the catchment area of the rivers is such that typically they all experience very low flow conditions during dry weather periods during the summer. A trench will be dug across the river or stream course, and the pipeline laid in the trench. The water course will be diverted through either sections of steel pipe (pluming), or a separate adjacent channel formed to divert the stream around the point of construction. Once the construction is taking place and the stream or riverbed has been reinstated, the river or stream will be diverted back into its original course. The applicant stated at the oral hearing that the rivers could be crossed quite simply without any need for trenchless technology due to their minor nature. I accept that, given the nature of the watercourses to be crossed, and the lack of any designated conservation areas at these locations, open cut crossings of these watercourses is acceptable subject to appropriate mitigation.

The main potential impact in relation to surface water relates to the possibility of water pollution from surface water runoff during construction. The EIS provides a series of general mitigation measures. The use of siltation traps downstream to trap any sediment or particulate material was also proposed at the oral hearing. As stated above, it is also proposed that the CIRIA guidance documents in relation to the control of water pollution will be followed. Trench dewatering also has potential impacts on both surface waters and groundwater. I am satisfied, however, that it is possible to limit any potential adverse impacts by means of appropriate mitigation measures as set out in the EIS, and as required by suitable planning conditions.

In relation to the hydrostatic testing of the entire pipeline, I note that a total of 4,300 cubic metres of water will be required over an approximate period of 10 hours. It is proposed to extract the water from the White River, which has a stated flow in the order of 5,000 cubic metres per hour (April 2008). The water will be tested in advance of being returned to the abstraction source, via a settlement tank(s) following the hydrostatic testing. I note that neither the local authority (Limerick County Council) nor the Fisheries Board have raised an objection to this element of the proposal, and I similarly have no objection in this respect.

The disturbance of field drains on agricultural land also has the potential to lead to wet patches or flooded fields during wet weather. The proposed reinstatement of the site, however, means that any such effects would be short term in duration, and I am satisfied that the proposed development will not result in any significant or long term flooding.

The potential for the proposed development to affect private and public water supplies in the area was raised by the observers to the appeal. The applicant has argued that the construction and operation of gas pipelines does not normally affect individual or group groundwater supply abstractions such as wells, boreholes and springs, because the pipeline is installed at shallow depth compared to the source of recharge to the abstraction (which is generally by infiltration of rain water into the ground over a large area). It is proposed that an inventory of extant wells, boreholes and springs will be prepared prior to the commencement of construction in order to ensure that the construction of the pipeline will not result in physical damage to any water supply abstraction or associated pipe work; and to protect against the risk of pollution.

6.10 Archaeology and Architectural Heritage

The archaeological assessment identifies a number of sites of archaeological potential within the planning corridor. The applicant has stated that the route of the pipeline was rerouted to avoid a newly discovered standing stone in Leahy's townland, although the archaeological value of the stone is not certain. The pipeline crosses the zone of constraint around the site of a ringfort/rath at Tieraclea upper (RMP KE003-024), and the perimeter of the zone of constraint of a Holy Well at Cockhill (RMP KE003-018). The Holy Well itself is some 80m from the pipeline. The church at Carhoona (RMP KE003-008) is located c.80 m from the proposed route of the pipeline, with the possible enclosure surrounding the church at a lesser distance of some 40m. A further eight recorded monuments are close to, but outside of the planning corridor. The applicant and DoEHLG are in agreement regarding the pre-development testing of the three areas found during the field inspection to have surface anomalies that may indicate archaeological remains. The applicant stated at the oral hearing that a geophysical survey has been undertaken where the planning corridor runs through

the zone of constraint of the aforementioned ringfort/rath at Tieraclea upper (KE003-024), and is negative on archaeological deposits.

I note that the DoEHLG also recommends that a pre-development survey is undertaken at river crossings. I note, however, that metal detection and visual surveys of 15 water crossings were also undertaken as part of the EIS assessment and that no archaeological remains were recorded. I am satisfied, therefore, that a monitoring condition is sufficient at river crossings.

The mitigation measures specified in the EIS also state that the Archaeological Code of Practice agreed between Bord Gáis and the DoEHLG for the construction of pipelines will be followed.

In relation to architectural heritage, the observers have expressed concern that the pipeline will destroy Ralappane House, which it is stated, is currently under consideration as a protected structure. Ralappane House is a farmhouse, located some 300m from the proposed Shannon AGI, and c.100m from the proposed route of the pipeline (Ref. Strip Map 1). Given the separation distance, neither the house nor its curtilage will be affected by either the pipeline itself, or the 30m wide construction spread. There is also no evidence that the building is being considered as a protected structure, and the building is not contained within the National Inventory of Architectural Heritage for County Kerry. The applicant argued at the oral hearing that there will be no longer-term impacts on Ralappane House once the pipeline is constructed and the route reinstated, and I am in agreement with this assessment.

I am satisfied that the proposed development will not, therefore, be unacceptable in relation to archaeology or architectural heritage.

6.11 Road Issues

The proposed pipeline traverses some 20 roads along its route comprising the N69, R551 (Ballylongford to Tabert), R524 (Athea to Glin), and 17 local roads of varying widths. The applicant proposes that the construction method for each crossing will be assessed on its merits, ranging from the use of trenchless technology which would not require the closure of the road, to closure of one lane, or the temporary closure of a local road if necessary. It is pointed out that the permission of the local authority will be required for a road closure, and that details would be agreed with the local authorities as part of a traffic management plan. I am of the opinion, however, that trenchless drilling techniques should be employed for the crossings of the national and regional roads, particularly given that the construction period in the summer months will coincide with the tourist season in the area which affects the N69 between Tarbert and Listowel in particular. I am otherwise satisfied that any impacts from road closures will be

very short in duration and will not result in a significant disruption to the road network.

The main issue in respect of traffic relates to the cumulative impacts of the construction of both the terminal and the pipeline simultaneously. The applicant stated at the oral hearing that it is envisaged that the pipeline will be constructed in the fourth, and final, year of the construction of the terminal. It was argued that at this stage the main construction elements of the terminal would be largely complete, with work mainly comprising the installation of electrical instrumentation, testing and pre-commissioning phase. As such, the terminal development would be beyond the peak for construction traffic. The EIS sets out the predicted traffic movements associated with the distinct activities which move sequentially along the pipeline route. The largest number of HGV trips, for example, is generated by the delivery of sand and/or gravel for bedding and surround to the pipeline, totalling 104 HGV movements per day. The peak predicted number of car/LGV movements is estimated as 522 per day. By comparison, at the height of the construction period, the peak hour traffic generated by main terminal development is estimated as 454 vehicles per hour (EIS, Volume 2, Tables 6.9 and 6.11 submitted in respect of the LNG Terminal application).

In this respect I also note that the applicant proposed a range of road improvements in Tarbert as part of the terminal application, and that Condition 8 of the Board's decision to grant planning permission for the terminal development requires that all necessary public infrastructure works shall be completed prior to the commencement of the main construction elements of the development. Condition 11 also makes provision for remedial works to the L1010 coast road in the event that works are identified are to be carried out by the local authority. It was stated by the applicant at the oral hearing that the upgrade of the coast road will occur before the main construction phase of the terminal and will be completed well in advance of the construction of the pipeline. The issue of road safety in the vicinity of the comprehensive school on the coast road at Tarbert was raised as an issue in relation to construction traffic generated by the LNG terminal during the planning application for that development. Condition 9 of the Board's decision prohibits the movement of heavy goods vehicle traffic, associated with the construction of the terminal, at the school for a minimum period of 20 minutes before and ten minutes after the opening and closing times of the school. A similar restriction is proposed by in the EIS in relation to the current proposal and can be required by condition.

The EIS sets out the proposed transport route and access details for the construction phase of the pipeline at Figures 7.2 to 7.12 of the EIS. The transport routes include both regional and local roads of varying quality in terms of width and alignment which, for the most part, do not generally experience heavy traffic flows. I do, however, have concerns regarding the transport routes to a number of specific access points. Road Crossing No.3 (RDX3) (Fig. 7.4) is accessed via the

local road which runs between the Tarbert-Ballylongford coast road and R551. It is a particularly narrow single carriageway with no verges, and two sharp bends in the southern section (see Photo No.4). Given the proximity to RDX 4, I recommend that this section of road is omitted from the construction transport route by condition. RDX 6 and RDX 8 (Fig. 7.5 & 7.6) are accessed via a similar narrow stretch of local road with a number of sharp bends. I recommend that these crossings should only be accessed from the north (RDX 6) and south (RDX 8) respectively. The transport route to RDX 16 (Fig. 7.10) from the south is similarly problematic due to the extremely tight and unusual turnoff for Loghill at Ballyhahill. This junction is extremely narrow and has the appearance of turning into the yard of the building on the corner, rather than the junction of two roads. The southern part of the route also has a number of sharp bends. I recommend, therefore, that this crossing should only be accessed from the north. Whilst these restrictions may cause difficulties in terms of the possibility of establishing a 'one way' system to and from the road crossings, I consider that the limitations of the road network are such that these restrictions are necessary in terms of traffic safety.

It is also proposed that an area will be reserved for construction related car parking at every road crossing. I also consider that a condition should be attached preventing parking on public roads or roadside verges adjacent to the access points.

Given the limited duration of the proposed haulage operations on any one section of road, and the phasing of the pipeline in relation to the main construction of the LNG terminal, I am of the opinion that the impact in this regard can otherwise be adequately addressed by means of a Traffic Management Plan.

6.12 Visual Impact

In relation to the visual impact, concern has been expressed by the observers that the proposed development will industrialise a previously unspoiled landscape. The applicant has argued that the visual impact during and after construction will be temporary in nature, and that the landscape will be fully reinstated, including walls, hedgerows, and other field boundaries. It is further considered that both AGI will be located unobtrusively in the landscape.

I note that the proposed development lies within the Shannon Coastal Landscape Character Area. The pipeline route and the Foynes AGI, however, lie on the landward side of the N69 which runs along the estuary. The Shannon AGI will be located on the site of the permitted LNG Terminal, and given the scale and resulting from that development. The Foynes AGI includes a number of buildings, the largest of which is the metering building which is 5.3 m high, 30 m long, and 10 m wide. The site is, however, well located in that it has limited visibility from the public road, with extensive wooded areas between the site and

the Estuary. A concern was expressed at the oral hearing regarding light pollution from the 6m high lighting columns proposed at the AGI sites. The applicant responded that there will be no lighting during the normal operation of the AGI as the sites will be unmanned. Lighting will only be turned on if maintenance is required at the AGI.

Provided the mitigation measures regarding reinstatement are implemented I do not consider that the impact of the proposed development will be significant in relation to visual amenity.

6.13 Community Gain

Section 182D(6) makes provision for the attachment of a condition requiring the construction or financing of a facility or service in the area in which the proposed strategic gas infrastructure would be situated as community gain.

Whilst neither Kerry nor Limerick County Council originally made a submission in respect of community gain, an agreement between the applicant and the local authorities was submitted at the oral hearing. It is proposed that the developer shall make a once-off community contribution of €104,000 based on a contribution of €4,000 per kilometre of pipeline. The fund would be administered by Kerry County Council and Limerick County Council, in proportion to the length of the pipeline in their respective areas, for the benefit of the local communities primarily for educational purposes. No proposals in respect of specific facilities, services or community groups have, however, been proposed by any of the parties.

I note that Condition 37 of the planning permission in respect of the LNG Terminal development required the payment of an Annual Community Contribution of €200,000 per annum for the duration of the development, to be administered by the planning authority in conjunction with the Community Liaison Committee for the benefit of the local community.

Given that there will be no residual visual impact upon completion of the construction phase, and that landowners whose lands are traversed by the pipeline will be separately compensated, I consider that the main impact on the local community will be in respect of traffic, noise, and temporary road closures for the extent of the construction phase in any particular area. The impact on any individual community in terms of both magnitude and duration would, therefore, not be significant. Having considered these factors, I am not convinced that the payment of compensation in the form of a payment towards community gain is warranted in this instance.

6.14 Development Contributions

Limerick County Council has requested that a special development contribution be attached to cover the costs associated with the repair of damaged public roads.

Section 182C of the Act (Strategic Gas Infrastructure applications) makes no specific provision for the Board to attach a condition requiring the payment of a contribution of the same kind as the planning authority could require to be paid under section 48 or 49 development contribution schemes. I note that such a provision is made under Section 37 (g)(7)(d)(i)(ii) of the Act in relation to Section 37 (7th Schedule) applications. I consider, therefore, that it is outside of the remit of the Board to attach such a condition.

Notwithstanding the above, I consider that a bond to ensure the satisfactory reinstatement and completion of the works would be more appropriate.

6.15 Other Matters

The submission on behalf of Limerick County Council remarks on the lack of detail regarding **temporary parking and construction areas**. The applicant has stated that the location of construction compounds is not known as yet, but that they are likely to entail a number of portacabins with associated facilities, carparking and laydown areas for equipment and consumables that will be used during the construction of the pipeline. Given the linear nature of the proposal, I am of the opinion that the location, scale, access etc, of any construction and/or storage compounds needs to be controlled. In this respect there appears to be adequate potential for the location of such areas at either the terminal and/or the Foynes AGI sites and a very strong argument would have to be advanced for any contrary proposals.

The observers have also commented on **disturbance** from noise, dust, traffic and blasting during the period of construction. The duration of works in any given location will, however, be limited due to the nature of the project. The EIS states that the duration of what could be termed a slight noise impact will be less than 3 weeks at any location. I am satisfied, therefore, that appropriate requirements, such as restrictions on hours of construction, noise control and ameliorative measures for the control of dust, such as water sprinkling for heavy vehicles and arrangements for storage of materials and other work practices can be addressed by condition.

In relation to the impact of the proposed Foynes AGI on **residential amenity**, I note that there are three houses in the immediate vicinity of the site. The closest is located at a distance of some 120m. The AGI site will be enclosed within a security fence, and planting is proposed to provide screening. The site will be unmanned and, as such, there will be little disturbance in terms of traffic. It is

estimated that noise from the AGI will be less than 35 dB(A) at the nearest house., which is below the standard night time threshold of 45 dB(A). The separation distance, and proposed use of the lighting as described above, means that there will be no significant impact on the adjoining properties in this regard. These issues can be further controlled by condition.

The requirement for blasting in the Kinard area will result in some noise disturbance for four houses in the vicinity. It is estimated that the noise level at these houses (at a separation distance of at least 120 m) will be in the range of 60 to 70 dB(A) for approximately 16 days. I am satisfied that the impacts in terms of both noise and vibrations can be mitigated by appropriate conditions.

The proposed pipeline will require a **wayleave** of 14 metres along the pipeline route. No built development will be permitted in this zone. However, given the rural nature of the land along the route I have no objection to the resulting restrictions.

I note that a **10 year planning permission** was granted by the Board in respect of the LNG terminal. Given the relationship between the current proposal and the terminal, I consider that a 10 year permission is acceptable in this instance.

The timescale for the **reinstatement** works has also been raised by the objectors. The applicant has stated that much of the reinstatement should be completed in the same year as the construction takes place. However, complete top-soiling and re-seeding require reasonably dry and suitably warm weather and any works which can not be completed within the same year will be completed as early as practical the following year. I consider this to be reasonable.

The pipeline and associated facilities will be **decommissioned** at the end of its useful life. It is proposed that the pipeline will be emptied of natural gas, purged (usually with nitrogen) and left capped and cathodically protected. If required, sections of the pipeline will be removed or grouted and the ground fully reinstated. I am satisfied that these provisions are adequate and appropriate.

I also note that Kerry County Council's submission mistakenly states that the proposed development comprises or is for the purposes of an activity requiring an Integrated Pollution Prevention and Control (**IPPC**) **Licence**. It was clarified at the oral hearing that the IPPC Licence refers to the LNG Terminal and not to the proposed pipeline and AGI.

I do not consider that the observers request that a condition be attached requiring the applicant to obtain all other **environmental permits/ licences** is necessary.

7.0 COMPULSORY ACQUISITION ORDER

As set out in Section 2.6 above, a compulsory acquisition order is now sought for a 14 m wide wayleave on lands owned by 5 of the 72 landowners along the route, agreement having been reached between the applicant and the remainder of the landowners. These plots are referenced as CWL07A, CWL17, CWL34, CWL42 and CWL65 in the submitted book of reference. The Board will note that in the case of CWL65, an application was made for an amendment to the name of the landowner in the book of reference under article 10 of the Gas Act 1976. The landowner in that case is has now been established as Mr Patrick O'Connor (as opposed to Mr Michael O'Connor), and it is stated that the required notice was served on Patrick O'Connor on 1 December 2008.

The wayleave sought is indicated in red on the submitted drawing, and the proposed deviation limits (ie the area within which the eventual wayleave would be sited) are shown coloured green.

There are no outstanding objections to the making of the CAO on behalf of affected landowners. The objection from the Kilcolgan Residents' Association & Safety Before LNG to the proposed CAO relates to (a) landowners being in some way forced to enter into an agreement with the applicant, or not understanding the consequences of their actions, or (b) that the Gas Acts and Strategic Infrastructure Act should not be used to compulsorily acquire private land for a project that is not in the national interest. Neither of these issues, however, is within the jurisdiction of the Board in considering whether or not to grant the CAO.

Having considered the application and the objections detailed above, I am satisfied that the acquisition of the lands outlined in the Compulsory Acquisition Order is necessary for the purpose stated in the Order. I have also considered the proposed deviation limits, and note that they occur at specific locations only, and do not extend more than 20m on either side of the wayleave. These limits lie within the 100 m wide planning corridor which has been assessed by the EIS. I have, therefore, no objection to the proposal in this respect.

8.0 RECOMMENDATION – Proposed Development

In light of the above, I recommend that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below.

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 at the Shannon above ground installation and the Shannon LNG Terminal which the pipeline will connect to the national gas transmission network,
- (d) the mitigation measures set out in the environmental impact statement,
- (e) the report of the person who conducted the oral hearing,

it is considered that, subject to compliance with the conditions as 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, 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 14th of August 2008, as amended by submissions made to the oral hearing. In particular, the undertaker shall ensure that all proposed environmental mitigation measures are implemented except as may otherwise be required in order to comply with the conditions of this order.

Reason: In the interest of clarity.

2. Within 6 weeks of the commencement of development details of the phasing of the proposed development in conjunction with the construction of the permitted liquefied natural gas terminal at Ralappane and Kilcolgan Lower, County Kerry shall be submitted to, and agreed in writing by the relevant local authorities

Reason: In the interests of orderly development.

3. The section of the pipeline which crosses the identified fen to the west of the N69 at Doonard Upper shall be re-routed beyond the northern field boundary to avoid any intrusion into the area of the fen (Drawing No.PL-0003). Details of the re-routing shall be submitted to, and agreed in writing by, Kerry County Council prior to the commencement of development.

Reason: To protect the natural heritage of the area.

4. Prior to the commencement of development a geotechnical ground survey and detailed method statement for the construction of the pipeline in areas of peat shall be submitted to, and agreed in writing by the relevant local authority. No peat shall be removed off site.

Reason: In the interest of amenities, public health and safety, and to prevent water pollution.

5. The road crossings of the N69, R551 and R524 shall be by trenchless techniques only.

Reason: In the interests of traffic safety and convenience.

6. All watercourse crossings shall be carried out in accordance with CIRIA technical guidance: Control of water pollution from linear construction projects (C649, 2006).

Reason: To protect the amenities of the area.

7. The crossing of all roads, watercourses, watermains or sewers shall otherwise comply with the requirements of the local authority for such works.

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

8. Within 4 weeks of the hydro-static testing of the pipeline the undertaker shall notify the relevant local authority and the Regional Fisheries Board of the date of commencement and duration of testing, and details of the location and volume of the proposed abstraction and discharge of water.

Reason: In the interest of public health.

9. Details of the proposed lighting columns at the above ground installations shall be submitted to and agreed in writing with the local authority. All lights shall be suitably shaded to prevent glare or light spillage outside the site.

Reason: To safeguard the amenities of the area.

10. Prior to the commencement of development, details of the wall thickness along the entire length of the pipeline shall be submitted to, and agreed in writing with the relevant local authority.

Reason: In the interest of public safety.

11. Detailed plans for all temporary facilities, including temporary car parking facilities, construction and storage compounds, and proposals for reinstatement as appropriate on completion of the construction phase shall be submitted to, and agreed in writing by, the relevant local authority prior to the commencement of development. The principal compounds shall be located at the sites of the Shannon LNG terminal/ above ground installation or Foynes above ground installation only.

Reason: In the interest of road safety and to safeguard the amenities of the area.

12. Prior to commencement of development, the undertaker shall submit and agree in writing with the relevant local authority a detailed Construction Management Plan. The Plan shall make provision for inclusion of all relevant mitigation proposed in the environmental impact statement as amended by the submissions made by the undertaker to the oral hearing and shall in any event ensure that its scope extends to the following parameters:

- (a) surface water management during construction to prevent runoff from the site onto the public roads, unnatural flooding and/or the occurrence of any deleterious matter in the rivers Glencorbly, White and Glashanagark and the tributaries and watercourses of their catchments or other waters including groundwater in accordance with CIRIA technical guidance: Control of water pollution from linear construction projects (C649, 2006);
- (b) control of adverse noise and disturbance by reference to construction working hours, noise limits and traffic management arrangements;
- (c) dust minimisation including dust potentially generated from vehicles, measures to include appropriately located wheel wash facilities and appropriate good practice in the covering of laden and unladen vehicles;
- (d) management of public roads in the vicinity so that they are kept free of soil, clay, gravel, mud or other debris and general site management to the satisfaction of the local authorities;
- (e) preparation of a formal Project Construction and Demolition Waste Management Plan for submission to the relevant local authorities and agreement before commencement of development; any excess soils generated on the site which cannot be reused on site shall be disposed of

by a licensed contractor or contractors at a suitable permitted facility or facilities;

- (f) all other waste disposal in accordance with the requirements of the relevant local authorities.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be maintained for public inspection by the relevant local authorities. The undertaker shall satisfy the requirements of the relevant local authority in relation to measures to be proposed to prevent pollution run-off into water courses.

Reason: In the interest of amenities, public health and safety, and to protect the adjoining surface watercourses.

- 13. No construction work shall take place within 100 metres of any occupied house before the hour of 0700 Mondays to Fridays or 0800 on Saturdays, after the hour of 1900 Mondays to Fridays or 1630 on Saturdays and at any time on Sundays or Public Holidays.

Reason: In the interests of residential amenity.

- 14. Prior to commencement of development, the undertaker shall submit and agree in writing with the relevant local authority a detailed Traffic Management Plan. The Plan shall make provision for inclusion of all relevant mitigation proposed in the environmental impact statement as amended by the submissions made to the oral hearing and shall in any event ensure that its scope extends to the following parameters:

- (a) details of transport routes to the site. The following local roads shall not be used as part of the transport route during the construction of the proposed pipeline:
 - a. the local road which runs between the N69 and R551 providing access to RDX 3 on Figure 7.4 of the environmental impact statement
 - b. the southern section of the local road shown as providing access to RDX 6 as indicated on Figure 7.5 of the environmental impact statement
 - c. the northern section of the local road shown as providing access to RDX 8 as indicated on Figure 7.6 of the environmental impact statement
 - d. the southern section of the local road shown as providing access to RDX 16 as indicated on Figure 7.10 of the environmental impact statement
- (b) construction traffic management related to access points onto the existing road network;

- (c) details of construction worker travel and transport arrangements. No construction or staff vehicles will be allowed to park on public roads or roadside verges;
- (d) proposals for restrictions on traffic movements at Tarbert Comprehensive School, which shall prohibit the movement of heavy goods vehicle traffic associated with the construction of the proposed development 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.

15. In the event that any blasting is required:

- (a) The vibration levels from the blasting shall not exceed a peak particle velocity of 12 millimetres per second.
- (b) Blasting shall not give rise to air overpressure values at noise sensitive locations exceeding 125 dB (Lin) max peak.
- (c) Blasting shall only take place between the hours of 1000 to 1700 Monday to Friday. Prior to the firing of any blast, the undertaker shall give notice of his intention to the occupiers of all dwellings and the operators of all equine facilities 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, riding schools and stud farms adjacent to the site.

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

16. The undertaker shall facilitate the local authorities in preserving, recording or otherwise protecting archaeological materials or features which exist within the site. In this regard, the undertaker shall notify the local authorities in writing at least four weeks in advance of the commencement of development works on the site.

The undertaker shall also comply with the following requirements:-

- (a) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, including river crossings;
- (b) archaeological testing shall be carried out at the locations identified in the environmental impact statement at Cockhill, Carhoon and Knockabooley;

the archaeological excavation and underwater assessment shall be carried out prior to the commencement of development, and no site preparation or construction work shall be carried out until the archaeologist's report has been submitted to and agreed in writing with the relevant local authority;

- (c) provide satisfactory arrangements for the preservation *in situ*, recording, and removal of any archaeological material which may be considered appropriate to remove. In this regard, a comprehensive report on the completed archaeological excavation shall be prepared and submitted to the relevant local authority within a period of six months or within such extended period as may be agreed with the local authority.

Reason: In order to conserve the archaeological heritage of the site, it is considered reasonable that the undertaker should facilitate and assist the local authorities in securing the preservation by record of any archaeological features or materials which may exist within it. In this regard, it is considered reasonable that the undertaker should be responsible for carrying out properly supervised archaeological excavations in circumstances where the permitted development works would be likely to result in the unavoidable disturbance or destruction of such features or materials.

- 17. A landscaping scheme for the proposed above ground installations shall be submitted to and agreed with the relevant local authorities prior to the commencement of development.

Reason: In the interest of visual amenity.

- 18. A survey for breeding sites and resting places of badgers (setts), otters (holts and couches), and bats (all roost types) shall be carried out prior to construction works commencing. If any of these features are found, then appropriate mitigation measures shall be submitted to and agreed in writing with the relevant local authority, prior to commencement of development. Any mitigation measures in relation to badger, otter or 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 local authority.

Reason: In the interest of wildlife protection.

- 19. Prior to commencement of development, the undertaker shall submit to and agree with the relevant local authority, full details of the phased reinstatement of the site. All reinstatement works shall be completed within 3 months of the first use of the pipeline.

Reason: To limit the impact of the development on the amenities of the area, to ensure appropriate reinstatement of the site and in the interests of public safety.

20. Prior to commencement of development, the undertaker shall lodge with the local authorities a cash deposit, a bond of an insurance company, or other security to secure the satisfactory reinstatement of the site and the reinstatement and repair of roads and/or services as a result of the development, coupled with an agreement empowering the relevant local authority to apply such security or part thereof to the satisfactory completion of the reinstatement. The form and amount of the deposit shall be as agreed between the local authorities and the undertaker or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory reinstatement of the site and in the interests of visual amenity and road safety.

9.0 RECOMMENDATION – CAO

I recommend that the Board should grant the compulsory acquisition order and confirm the deviation limits without modification for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

Having considered the objections made to the compulsory acquisition order and the report of the person who conducted the oral hearing into the objections, and having regard to:

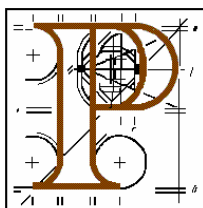
- (a) The provisions of the National Development Plan in relation to security of energy supply,
- (b) the strategic goals of the government White Paper, entitled “Delivering a Sustainable Energy Future for Ireland”, published in 2007, which seek to ensure secure and reliable electricity and gas supplies, 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 at the Shannon above ground installation and the Shannon LNG Terminal which the pipeline will connect to the national gas transmission network,

it is considered that the acquisition of the lands in question by the applicant is necessary for the purpose stated in the order and the objections cannot be sustained having regard to this necessity and further it is considered that the deviation limits proposed are reasonable and appropriate.

Anne Marie O'Connor
Senior Planning Inspector

21 January 2009

An Bord Pleanála



PROCEEDINGS OF ORAL HEARING

PL08.GA0003

PL08.DA0003

Application under Section 182C of Planning & Development Act 2000 (as amended) & Compulsory Acquisition Order under the Gas Act, 1976.

DEVELOPMENT: Natural gas pipeline from the Shannon LNG Terminal at Ralappane, County Kerry to the existing natural gas network at Leahys, County Limerick..

Type of Application: Strategic Infrastructure Development (GA0003)
Compulsory Acquisition Order (DA0003)

Applicant: Shannon LNG Ltd

Planning Authority: Kerry County Council
Limerick County Council

SUBMISSIONS & OBSERVATIONS

Prescribed Bodies: Yes

Observers: Yes

DATE OF SITE INSPECTION 20 & 21 November 2008

DATE OF ORAL HEARING 1 & 2 December 2008

INSPECTOR: Anne Marie O'Connor

ATTENDANCE

Applicant <i>Shannon LNG Ltd</i>	
Jarleth Fitzsimons	Barrister
Paddy Power	Managing Director, Shannon LNG
Brendan Mangan	ARUP (Route selection)
Ria Lyden	ARUP (Cumulative Impact)
Leon Bowdoin	Shannon LNG (Design, Operations, Maintenance and Health & Safety)
Ger Breen	ARUP (I.S. 328 and Construction)
John Redding	ARUP (Geology, Soils, Hydrology, and Hydrogeology)
Daniel Garvey	ARUP (Landscape and Visual, Air Quality, and Climate)
Tony Lynch	ARUP (Traffic)
Carl Dixon	Dixon Brosnan Environmental Consultants (Ecology)
Rose Cleary	Project Archaeologist
Colin Doyle	ANV (Noise & Vibration)
Michael Biggane	Shannon LNG (Human Beings)
Eoghan Lynch	ARUP (Project Director)
Andrew Franks	ERM (Safety/ Risk)
Samy Ibrahim	Shannon LNG (Project Manager)
Paul Brady	Shannon LNG (Project Manager)
Martin Regan	Shannon LNG (Commercial)
Mario Tavolieri	Shannon LNG (Pipeline Engineer)
Nicola Daly	Matheson Ormsby Prentice Solicitors
Sinead Carr	Shannon LNG (Solicitor)
Alison Hough	Barrister
Local Authorities	
Michael McMahon	Director of Services, Kerry County Council
Paul Stack	Senior Engineer, KCC
Declan O'Malley	Senior Executive Planner, KCC
Kieran O'Gorman	Senior Executive Engineer, Limerick County Council
Gráinne O'Keeffe	Executive Planner, LCC
Prescribed Bodies	
Denis Cagney	Commission for Energy Regulation
Patrick Conneely	Health & Safety Authority
Catherine McMullen	An Taisce
Observers (Planning Application)	
Tarbert Development Association	Joan Murphy Mr. Fox

Ballylongford Enterprise Association	Noel Lynch Tim McElstrom
Kilcolgan Residents Association & Safety Before LNG	Johnny McElligott Raymond O'Mahony Peter North
Catriona Griffin	
Thomas O'Donovan	
Padraig O'Sullivan	
Observers (CAO)	
Kilcolgan Residents Association & Safety Before LNG	Johnny McElligott

SUBMISSIONS TO THE ORAL HEARING

Applicant	Statement of Evidence by: <i>Brendan Mangan</i> <i>Paddy Power</i> <i>Ria Lyden</i> <i>Brendan Mangan</i> <i>Leon Bowdoin</i> <i>Ger Breen</i> <i>John Redden</i> <i>Daniel Garvey</i> <i>Tony Lynch</i> <i>Carl Dixon</i> <i>Rose Cleary</i> <i>Colin Doyle</i> <i>Michael Biggane</i> Survey for Marsh Fritillary
Kerry County Council	Statement by Paul Stack
Kilcolgan Residents Association & Safety Before LNG	Oral Hearing Submission (incl. Appendix I & II)

1.0 INTRODUCTION

This hearing was held on the 1 and 2 December 2008 at the Listowel Arms Hotel, Listowel, Co. Kerry.

The hearing was generally conducted in the following order:

- a) Brief description of the proposed development by the applicant
- b) Applicant's submission
- c) Prescribed Bodies & HSA
- d) Local Authorities
- e) Observers

- f) Cross-questioning
- g) Closing Submissions (in the reverse order)

The applicant's submission on Day 1 of the hearing was paused approximately midway through in order to hear the submission on behalf of the HSA and Commission for Energy Regulation (CER), and to facilitate cross-questioning of the representatives by the observers.

2.0 APPLICANT'S DESCRIPTION OF DEVELOPMENT

The applicant's introduction to the development was presented by Paddy Power, managing director of Shannon LNG Ltd. Under the following headings:

- The need for the project
- Project overview
- Alternatives considered
- Project description
- Benefits to Ireland from the Shannon Pipeline.

The applicant then called the following expert witness to present evidence on their stated areas of expertise:

1. ***Paddy Power*** – This submission highlighted the need for LNG to provide security of supply in the energy sector and to meet Ireland's projected demand for gas. The LNG pipeline is consistent with and supports national, regional, and local policies. Natural gas is more environmentally friendly than alternative fuels for power generation such as coal, oil and turf. It would be technically feasible to connect the Tarbert Power Station to the pipeline using a spur if the station converted to gas in the future (it is currently powered by oil). It was stressed that the pipeline would not have been routed any differently even if a connection to Tarbert was included in the current application. The applicant is not aware of any plans or even speculation to convert Moneypoint Power Station from coal to gas. It is hoped that Bord Gáis and the CER might assess the feasibility of distributing natural gas to towns in the region from the pipeline. It would be premature, however, to speculate as to the location of any such future spurs.
2. ***Ria Lyden*** – This submission addressed the potential cumulative impacts. It is expected that the construction of the pipeline will coincide with the final years of the four year period of construction of the LNG terminal. The proposed upgrade of the Tarbert to Ballylongford coast road will occur before the main construction phase of the terminal and will be completed well in advance of the construction of the pipeline.
3. ***Brendan Mangan*** – This submission outlined the criteria for route selection as set out in the EIS. Details of construction in areas of peat are also outlined. It is stated that significantly deeper depths of peat (up to 5 to 6 meters) were successfully dealt with on the Bord Gáis

Mayo-Galway pipeline which was constructed in 2006 through the boglands of north Mayo.

4. **Leon Bowdoin** – This submission deals with design, operations, maintenance and health & safety. It is stated that the pipeline will be constructed, operated and maintained in accordance with the I.S. code 328: Code of Practice for Gas Transmission Pipelines and Pipeline Installations. All Bord Gáis pipelines constructed to date are in compliance with this design standard. The Shannon pipeline will implement a Health & Safety management system which includes the setting of objectives and targets, measuring progress, and reporting results. Audits will be employed to ensure its controls are effective. A Quantitative Risk Assessment (QRA) was carried out on the proposed pipeline and was submitted to the CER, the agency tasked with overseeing the safety of gas pipelines in Ireland. As a result of strict conformance to the IS 328 Standard, and the application of prudent design, routing and material selection, the QRA shows that risks to individuals along the pipeline are within the levels that are broadly acceptable as insignificant.
5. **Ger Breen** – This submission sets out the background and scope of the above mentioned I.S. 328. It is argued that the CER stated in its Decision Paper entitled *Safety Gas Guidelines* (December 2007) that I.S. 328 is suitable and relevant to the activities falling within the scope of this document. If Shannon LNG did not comply with this Standard, it is most unlikely that the CER would permit the construction or operation of the pipeline. An overview of the construction process was also contained in this submission, including road and river crossings, and temporary construction compounds and parking.
6. **John Redding** – This submission deals with geology, soils, hydrology, and hydrogeology. Details of construction in alluvial and peat areas are specifically addressed. It is stated that slope instability is not an issue in any of the peat areas crossed by the pipeline because of the shallowness of the ground slope in these areas. It is intended that pipeline construction will take place during summer to take advantage of the depressed groundwater levels and low-flow conditions in streams and rivers. Pre-development ground investigations are proposed to inform the construction techniques. The construction will not affect ground water abstractions such as wells, boreholes and springs because the pipeline is installed at shallow depth compared to the groundwater level, and because there is no interference with the source of recharge to the abstraction. An inventory of extant supply abstraction will be prepared to ensure that no damage will result, and to protect against the risk of pollution.
7. **Daniel Garvey** – This submission addresses the issues of landscape and visual impact, air quality, and climate as set out in the EIS. The pipeline will operate as an almost completely closed system. No significant adverse impacts are predicted for people or the natural environment. In relation to the impact of the proposed development on the setting of Ralappane House, it is stated that once the pipeline route

has been reinstated, there will be no longer term impact on the building, which is located some 100 m south of the pipeline corridor. Mitigation measures will be employed to reduce dust from construction.

8. **Tony Lynch** – This submission assesses that traffic impact of the proposed development as set out in the EIS. During the construction phase additional traffic will be generated at each of the road crossings for a short period of time. A detailed traffic Management Plan will be prepared in advance of construction.
9. **Carl Dixon** – This submission deals with terrestrial and freshwater ecology. A Survey for Marsh Fritillary on the fen at Doonard Upper was submitted. Although the species (a butterfly) was not recorded, it could potentially utilise the habitat in the future. The area of the fen to be removed should be kept to a minimum and should be resurveyed prior to the commencement of works. Badger setts and bat roosts were found within the route corridor, and the Irish hare and red squirrel were also identified. Most of the species which use the hedgerows affected are common and are relatively mobile. Although there will be short term displacement of these species, they will generally persist in the wider landscape and will be able to decolonise the replaced hedgerows as they develop.
10. **Rose Cleary** – This submission deals with archaeology. The route selection was guided by national policy of avoidance of archaeological remains and preservation in situ. A geophysical survey has been undertaken where the planning corridor runs through the zone of constraint of the aforementioned ringfort/rath at Tieraclea upper (KE003-024), and is negative on archaeological deposits. Pre-construction testing is recommended at three locations. An underwater archaeological survey including metal detection was submitted as part of the EIS. No archaeological remains were detected. Information regarding all newly discovered sites can be conveyed to local historical and heritage societies.
11. **Colin Doyle** – This submission addresses the issue of noise and vibration as set out in the EIS.
12. **Michael Biggane** – This submission addresses the impact of the proposed development on human beings and proposes the payment of a contribution of €4,000 per km of the pipeline in respect of community gain. It is the experience in Ireland that a significant proportion of people engaged in pipeline construction are local. A range of consultation exercises were carried out with farming organisations and individual landowners regarding the CAO.

3.0 LOCAL AUTHORITIES

The submission by Paul Stack on behalf of *Kerry County Council* refers to the Managers Report, and states that the proposed development is not considered to contravene the County Development Plan 2003, and is in accordance with

all relevant international, national and regional policies and the provisions of the CDP. It is recommended that planning permission is granted subject to conditions. The Council confirmed that the reference to an IPPC licence in their written submission to the Board was in respect of the LNG terminal, and not the current development before the Board.

Kieran O’Gorman and Gráinne O’Keefe, on behalf of *Limerick County Council*, read into the record the written submission previously submitted to the Board. It is requested that issues outlined by the various internal departments in relation to roads, water services and archaeology are taken into consideration in determining the application.

4.0 PRESCRIBED BODIES

Denis Cagney, Director of Gas with the **Commission for Energy Regulation** confirmed that the Commission received a request from Shannon LNG to construct the pipeline under Section 39 of the 1976 Gas Act as amended on 5th September 2008. The application is currently under review which involves advice from technical consultants, particularly in regard to the safety aspect of the pipeline, environmental consultants, and also submissions received. One such submission has been received from the Kilcolgan Residents' Association. The most recent development in the review is the receipt of the Quantitative Risk Assessment last week, a copy of which has been posted on the Shannon LNG website, and a copy has also been forwarded or is being forwarded to Kilcolgan Residents' Association. A final decision is anticipated about February or March of next year.

The criteria for deciding whether to give consent to construct or not or what conditions to apply are set out in Statute (SI 264 of 2002). The emphasis is very much on the overall safety and integrity of the gas system and of its interoperability with other systems. Since those criteria were set out, the Commission’s responsibility in the areas of gas safety have been considerably strengthened under the Energy Miscellaneous Provisions Act of 2006 and a safety framework has been developed. Shannon LNG will have to comply fully with this framework and will have to make their own safety case.

The question of whether the CER should hold a public hearing under the gas legislation will be determined objectivity in its own right. A decision in respect of the substantive issues from the CER's perspective will be reached in the CER decision.

Mr Cagney of the **Health and Safety Authority** read into the record the written submission sent to the Bord on October 6th, which sets out the HSA’s position clearly.

Catherine Mc Mullen made a submission on behalf of **An Taisce**. Attention was drawn to the section of rich fen and flush in the townland of Dunnard Upper. The Board was asked to consider if there was any alternative to going through it and destroying it.

5.0 OBSERVERS

5.1 Tarbert Development Association

The submission by Joan Murphy stated that the proposed development was vital to the LNG project as the Board had specified that the gas from the terminal could only be sent by pipeline. Since its formation 50 years ago, the Association has worked extremely hard to try to bring development to the region known as the landbank. The proposed development will be beneficial in terms of job creation and will serve the national interest in terms of reducing carbon emissions.

Mr Fox reiterated support for the proposed development. He stated that although people had some initial concerns, they are more than satisfied that the vast majority of their complaints or their concerns were addressed by the Board at the time of the terminal application.

5.2 Ballylongford Enterprise Association Limited

The submission by Noel Lynch considers the proposed development a natural follow-on to the LNG terminal. It will bring welcome benefits to the community and the economy.

5.3 Catriona Griffin

Ms Griffin and her family live less than 900 metres from the LNG storage tanks. She believes that this oral hearing, like the oral hearing last January, is merely an illusion of going through the motions, and giving the appearance of public participation. Nothing said at the oral hearing will make any difference to the outcome of the planning application.

Catriona Griffin withdrew from the oral hearing after lunch on Day 2 on the grounds that the hearing was a complete waste of time, money and energy.

5.4 Thomas O'Donovan

Mr O'Donovan considered that tourism and fishing in the area would be decimated as a result of the proposed development as the Shannon is slowly becoming an industrial zone. Minister Eamon Ryan has stated that his goal is that energy needs should be supplied by renewable, sustainable, natural sources such as wind, tidal, solar, geothermal and hydroelectric. Fossil fuels are a major cause of climate change. The proposed development will not result in local employment as labour can be sought from other countries. The pipeline would have a detrimental impact on the Tarbert reservoir which supplies drinking water to the locality. Concern was also expressed regarding emissions of natural gas from the pipeline.

5.5 Kilcolgan Residents' Association & Safety Before LNG

Mr McElligott began by reading into the record a submission from an expert witness Mr. Steve Goldthorpe, an energy analyst from New Zealand. This evidence was objected to by Mr Fitzsimmons for the applicant on the grounds that it constituted hearsay, and in particular that the person who is purporting to provide the opinion is not being tendered for cross-examination. Mr McElligott referred to an email sent to the Board on Sunday 30th November (the day before the hearing) in which Mr Goldthorpe offered to give evidence to the hearing via audio or video communication technology. The Inspector agreed with the applicant's objection. It was suggested to McElligott that he could incorporate the points made by Mr. Goldthorpe, into his own submission, but that he could be questioned on the material. Mr McElligott then moved on to outline a Section 5 referral to Kerry County Council on whether changes to the Shannon LNG project constitute work on the original project, which is or is not development, and is or is not exempted development. It is argued that:

1. The commencement of archaeological investigation constitutes the commencement of development. Any modifications (i.e. the proposed pipeline) to this project, therefore, constitutes a project to which the European Court of Justice ruling of July 3 2008 (Derrybrien) applies because this project has been executed in part.
2. The proposed pipeline constitutes a material change to the permitted LNG terminal, as it is an integral part of the project. This is an example of project splitting, which is contrary to the EIA Directive.
3. No EPA licences have been granted for the LNG terminal. It is contended that there is no integrated assessment of this project. The European Commission has recently decided to refer Ireland to the European Court of Justice for the failure of Irish legislation to fully ensure the assessment of interactions between different factors as required by Directive 85/337/EEC.
4. The extension of the LNG project represents a broadening of the public affected by this project, and therefore renders, among others, conditions 37 and 38 of the original planning permission unenforceable as the local communities between Kilcolgan and Foynes have been disenfranchised and excluded from any benefits or protections.
5. Conditions 41 to 45 of the LNG terminal decision are missing, and this planning permission is therefore invalid as unenforceable.
6. An Bord Pleanála made its decision in respect of the LNG terminal application without obtaining any HSA expertise on any risk assessment of an LNG spill on water from LNG tankers travelling in the estuary. The proposed pipeline means that gas will be able to leave the site so that the transport of LNG to the site on the estuary will now be able to realistically take place. This represents a material change to the original project, and an assessment of the risks and consequences of an LNG spill on water from a moving vessel on the estuary needs to be analysed.

Reference was made to the observer's objection to the Section 39 application before the CER for consent to construct the pipeline. Concern was expressed that no one body is taking control of the assessment of an LNG spill on water from a moving tanker. The CER will assess some of the safety aspects under the S.39 application, the HSA assessed some of the safety aspects, but not "moving danger" or deliberate harm. It was argued that An Bord Pleanála should coordinate health and safety issues with the advice of the HSA.

Mr McElligott read into the record an article in the Sunday Independent which quoted an internal CER memo stating that gas prices will soar by about 15 percent if Corrib and Shannon LNG start production.

Mr McElligott called an expert witness, Peter North, a consulting chemical engineer. Mr North made the following points:

- he could find no real argument with the justification of the need for LNG as outlined by Mr Power.
- the consideration of the location of the LNG facilities was cursory with not enough emphasis on co-location, proximity to markets, security and capital or operating costs analyses.
- users other than the applicant should be allowed to use the terminal and pipeline.
- the EIS appears to have covered most of the areas reasonably thoroughly, with some minor exceptions. A weather station should have been located on the site for a year or more, to gather data for local airflow modelling.
- The QRA submitted to the CER depends solely on reference to generic analysis and published data sets and not site or system specific. It is in that regard inadequate. Mr North then began to make a detailed submission in relation to the aforementioned QRA which had been submitted to the CER in respect of the application for consent to construct the pipeline. Having made their submissions and answered questions posed by the observers, both Mr Cagney and Mr Conneely had left the hearing by the time this issue was raised by the KRA. The applicant argued that there is no statutory requirement on the applicant to submit a QRA with the planning application, and that the QRA is not relevant because it is not a material consideration that the Board can have regard to. The Inspector determined that the QRA had not been submitted as part of the application and did not, therefore, form part of the application. It was a matter for the Board to decide if sufficient information had been submitted to allow it to make a decision. Mr McElligott stated that the oral hearing was not capable of having a proper safety assessment without the QRA. It was asserted that the Board was leaving itself open to legal challenge on this matter.

Mr McElligott then continued making the following points:

- There has still been no LNG marine risk assessment because the HSA's remit stops at the water's edge
- No strategic environmental assessment, SEA, has been undertaken. A number of other future developments on the land bank, which would

contribute to cumulative impacts, such as a power station and oil tank farm were referenced. A SEA should be carried out for the entire area.

- No consideration has been given to the consequences of an LNG accident or the consideration of an emergency plan.
- The all island strategy document for gas storage study on common approach to natural gas storage and liquified natural gas on an all island basis, November 2007, representing an official government policy document has been ignored by An Bord Pleanala in addressing the question of alternative sites.
- The interactions between the decision making bodies such as An Bord Pleanala, the EPA, the CER, the HSA and the government body dealing with the foreshore licence are inadequate. The procedural requirements of the EIA directive are not being respected. This is compounded by the level of project splitting in this development.

The Inspector advised that the purpose of the oral hearing was not to reopen the hearing into the terminal, and that submissions should address the current application.

Mr McElligott set out a number of legal and complaints procedures which were ongoing and the decision of which should be awaited before making a decision on the planning application. It was asserted that An Bord Pleanala is also legally obliged to await the outcome of the S.39 application to the CER before making any decision.

It is argued that any permission granted by An Bord Pleanala should be conditional on:

- obtaining any other Permits from the EPA and CER,
- the carrying out of a strategic assessment of the whole project, and of development in the area as a whole.
- gas is not to be for export to the U.K.

5.6 Padraig O'Sullivan

Mr O'Sullivan lives in Ballybunion. Any concerns he had were more than answered during the course of the oral hearing. The proposed development will benefit the local area in terms of economic development and jobs.

6.0 CROSS-QUESTIONING

In cross-questioning and general discussion on this issue the following points were noted.

- The original advice from the HSA to the Board in respect of the terminal application was based on the QRA submitted in respect of the planning application for the LNG terminal. The QRA included the AGI and the pipeline even though it was not part of the original planning application. There is a graphic in that QRA which shows the

risk around the AGI, which is minimal/ very low. The risk contours are based on the existence of the pipeline and the AGI, both of which were factored into the HSA's technical advice.

- The HSA gave no advice to the Board concerning the transport of ships or movement of ships up the estuary, into the estuary and up the estuary as far as the jetty (apart from the immediate approach to the jetty), or damage or accidents caused deliberately.
- The HSA calculate risk on a location basis, i.e. at a specific location.
- The pipeline is not considered too big and too high pressure for the Irish supply requirements. Initial gas flows are anticipated in the region of 400 million cubic feet per day, possibly rising as high as 600 million cubic feet. Some possible future expansion is also allowed for in the pipeline design. The concept behind the project is to supply gas into Ireland.
- Shannon LNG has no involvement with any other gas or any gas deposits in Ireland, and to the applicant's knowledge neither does Hess have any interest in gas deposits in Ireland.
- The pressure in the pipeline will be marginally higher than the pressure in the grid in order to move the gas from one system to the other.
- The construction phase will extend from March to November. It will be constructed in the fourth and final year of the construction of the terminal.
- There is approximately 8 kilometres of the pipeline in Kerry and 18 in County Limerick.
- The applicant estimates the risk to the pipeline or along the pipeline as less than 10^{-6} . Taking into account the error inaccuracy, Mr North contends that the probability ranges between 10^{-4} and 10^{-9} .
- The main function of the pipeline is to bring gas from the terminal to the national grid. Initially, during start-up and prior to the facility being completely commissioned, there will be a need for gas at the terminal, and it is envisioned that that gas would come from BGE to help commission the various individual pieces of equipment so that gas would be flowing initially from the system to the terminal. Once the terminal is up and running, it is expected that the gas will be transmitted in the opposite direction.
- If spurs were put on the pipeline, the pipeline would be capable of taking gas from either end, and delivering it to those spur points in the middle.
- There is no application of any sort on behalf of Shannon LNG Limited to fell trees.
- The gas emissions that may occur during testing will be minimum, negligible emissions of natural gas would quickly dissipate and no significant impacts will arise.

- The site area of the AGI at the Foynes end of the pipeline is 1.8 hectares, and the equivalent site area of the AGI at the terminal end of the pipeline is 0.6 hectares.
- There will be no lighting during the normal operation of the AGI. Lighting will only be turned on if maintenance is required at the AGI. The height of the lamp standards is 6 metres.
- Dewatering is carried out prior to the excavation of the trench in alluvial areas. This is done by well pointing, where individual or groups of small wells, typically less than two inches in diameter, are inserted into the ground in parallel to the pipeline route. Pumping from these is carried out in advance of excavation to lower the groundwater table to below the basin of the trench. This removal of the groundwater from the trench eliminates both the problem of water ingress during excavation, and also increases the stability of the soil so that the excavation can take place in the dry, and the pipeline can be installed into the trench without water being present within the trench. This is a very simple and very routine method of construction.
- The applicant has purposefully tried to contain the route to ground slopes of less than 5 degrees in peat areas. The cut-off of 5 degrees was determined through a historical review of bog slides in peat, looking at bog slides going back to the mid 1800s. Below that slope angle there are virtually no recorded incidents or instances of slides or instability taking place in blanket bog.
- Stream or rivers will be kept completely isolated from the construction process. Siltation traps installed downstream to trap any sediment or particulate material that finds its way into the water course.
- The river crossings involved are quite minor in nature, and can be crossed quite simply without any need for trenchless technology.
- The construction compound would entail a number of portacabins with associated facilities, car parking and lay down areas for equipment and consumables that will be used during the construction of the pipeline. It is quite likely that the compound can be accommodated within the terminal site, but this cannot be confirmed at this stage.
- As the construction of the pipeline is shallow by nature (only 2.5 metres deep), there are no issues with interfering with the groundwater.
- The applicant and local authorities reached agreement regarding the payment of a once-off community contribution of €104,000, based on a contribution of €4000 per km pipeline. The fund would be administered by Kerry County Council and Limerick County Council for the benefit of the local communities along the route of the pipeline development and is primarily to contribute to community projects of an educational nature.
- The water services department of Kerry County Council do not consider that there will be any interference with the quality of the water associated with the spring well adjacent to Tarbert. This well

makes a small contribution to the main water supply in the area. There should be no issues with existing watermains.

- A major emergency plan exists for the Cork-Kerry region. The local authority will coordinate with any other major plan prepared by specific industry or development. When the proposed development is in place the local authority will communicate with the developers to co-ordinate the emergency plan for the development with the regional plan.
- The local authority does not consider that an exclusion zone around that AGI site would affect the proposed intention to rezone lands for industrial use.
- Limerick County Council stated that there are no plans to significantly upgrade the N69, other than resurfacing programmes which are ongoing. The representative was not aware of any plans for a road from Foynes to the N21.

7.0 CLOSING SUBMISSIONS

Kilcolgan Residents' Association & Safety Before LNG

- The whole planning application has been handled in a cavalier, superficial and illegal manner.
- The selected route has not been justified sufficiently.
- There should be a dual carriageway bypass of Tarbert.
- The road between Ballylongford and the land bank should be closed to any commercial traffic
- A strategic environmental assessment should be carried out of energy projects in the southern shores of the Shannon Estuary.
- A condition should be attached requiring the applicant to obtain all other environmental permits.
- There has been no determination made of how the pipeline would link in with the ESB stations at Moneypoint and at Tarbert.
- A declaration of a mandatory exclusion zone around this development is required.
- The emergency plan should be known before any planning permission is given.
- Options to relocate residents should be provided.
- Farmers or land owners should get a yearly rent for use of land equivalent to what is done in other energy projects such as wind farms.
- All locals should have first options on jobs, if possible.
- There should be at least two local residents on the committees that distribute any funds.
- The applicants should be required to prove they have the money to build the development.

Thomas O'Donovan

- The route and the destruction of the rural countryside would have a very deleterious effect on the quality of life and the natural drinking water in particular. A lot of environmental dangers seem to be glossed over in the rush to supply jobs to the area.

Ballylongford Development Association

- Nothing that has been said at this oral hearing has changed our view that this will be a very good development for our area. The fact that there are thousands of kilometres of pipelines safely installed around the country, and have been in place for many years without incident, confirms that this is a very safe and a relatively risk free development.

Tarbert Development Association

- Any concerns have been addressed over the course of the oral hearing.

Applicant

- Shannon LNG Ltd is now applying to the Bord for an acquisition order in respect of five wayleaves only.
- It is quite clear from the implementing legislation that plans and programmes which are subject to SEA include, for example, county development plans or national hazardous waste management plans or other programmes of that ilk. What is not included within the ambit of strategic environmental assessment are individual projects, such as a proposal to develop a 26 km pipeline in relation to strategic gas infrastructure. The point being made in relation to an SEA as applicable to this particular project is misconceived.
- The purported falling between stools where one or more regulatory body is dealing with various consents in respect of a project was the subject of a number of cases before the courts, in particular the Supreme Court case of *Martin v. An Bord Pleanala*, number 2 (May 2007).
- The issues relating to the QRA are matters more relevant to the CER and its consideration of the Section 39(a) application than to An Bord Pleanala and its consideration of the planning application. The applicant has, however, assessed the safety aspects of the pipeline, with particular reference to Irish Standard 328, in the Environmental Impact Statement for the avoidance of doubt.
- The QRA is required by the CER as part of its assessment of the design of the pipeline. There is, therefore no basis for the argument that that safety will fall between any stools in relation to the pipeline project.
- The European Court of Justice has clearly defined project splitting as an attempt to escape from the obligation to prepare an environmental impact statement. The applicant has now prepared two separate environmental impact statements, one in relation to the terminal planning application and one in relation to the pipeline. The issue of project splitting does not therefore arise in this application.

- The decision of the European Court of Justice in relation to Derrybrien does not apply to this case because there no retrospective approval is sought.

Anne Marie O'Connor
Senior Planning Inspector

21 January 2009

08.GA0003:**Shannon LNG Limited**

Gas pipeline to connect Shannon LNG terminal at Ralappane, Co. Kerry to existing natural gas network at Leahys, County Limerick.

Case Reference: 08.GA0003

Case Type: Application for approval

Website address to access information:

www.shannonpipelineplanning.ie

Status: Case is due to be decided by 18th February, 2009

Last day for making a submission to the Board: 7th October, 2008

<u>Date of Correspondence:</u>	<u>Details of Correspondence</u>
14 th August, 2008	Application for approval received on 14 th August, 2008.
21 st August, 2008	Letter of acknowledgement issued to the applicant and letters issued to Kerry County Council and Limerick County Council regarding the application.
4 th September, 2008	Letter issued to Commission for Energy Regulation seeking prescribed body observation. Last date for receipt of responses is Monday 6 th October, 2008.
2 nd October, 2008	Comments requested from HSE (Kerry and Limerick). Last date for receipt of responses is Thursday 20 th November, 2008.
2 nd October, 2008	Submission received from the Department of the Environment, Heritage and Local Government
3 rd October, 2008	Submission received from Tarbert Development Association
3 rd October, 2008	Submission received from Catriona Griffin
3 rd October, 2008	Submission received from the National Roads Authority

6 th October, 2008	Submission received from Kerry County Council
6 th October, 2008	Submission received from Limerick County Council
6 th October, 2008	Submission received from Commission for Energy Regulation
7 th October, 2008	Submission received from Health and Safety Authority
7 th October, 2008	Submission received from An Taisce
7 th October, 2008	Submission received from Patricia Anglim O'Connor
7 th October, 2008	Submission received from Patrick Houlihan, Amanda Robinson and Kerry O'Sullivan
7 th October, 2008	Submission received from Daniel and Nora O'Connell
7 th October, 2008	Submission received from Jeremiah O'Sullivan
7 th October, 2008	Submission received from Marie Horan
7 th October, 2008	Submission received from Shane Moore
7 th October, 2008	Submission received from Patrick O'Connor
7 th October, 2008	Submission received from Thomas O'Donovan
7 th October, 2008	Submission received from Kilcolgan Residents Association
7 th October, 2008	Submission received from Ballylongford Enterprise Association Limited