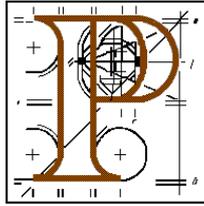


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

**Wexford County**

**Planning Register Reference Number: 20160811**

An Bord Pleanála Reference Number: PL 26.247366

**APPEAL** by Harmony Solar Ralphtown Limited care of Fehily Timoney and Company of Core House, Pouladuff Road, Cork against the decision made on the 7<sup>th</sup> day of September, 2016 by Wexford County Council to refuse permission to the said Harmony Solar Ralphtown Limited for development comprising solar photovoltaic array consisting of up to 88,600 square metres of solar panels on ground mounted steel frames. The proposal is located in two separate land parcels, the southern array consisting of up to 54,610 square metres of solar panels is located within the townlands of Ralphtown and Muchtown and the northern array located within the townland of Newtown Big consists of up to 33,990 square metres of solar panels. The overall development will include the following: three number electricity control cabins, one number communications building, 16 number inverter/transformer stations, underground electricity cable and ducts, hardstanding areas, boundary security fences, new entrance onto public road within the townland of Ralphtown, upgrade to an existing entrance within the townland of Newtown Big, CCTV; and all associated site services and works. The overall development is located within the townlands of Ralphtown, Muchtown and Newtown Big, close to the settlement of Baldwinstown and Bridgetown, County Wexford. Planning permission is sought for a period of 10 years.

**DECISION**

**GRANT permission for the northern solar array at Newtown Big in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for the southern solar array at Ralphtown and Muchtown based on the reasons and considerations marked (2) under.**

## **MATTERS CONSIDERED**

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

## **REASONS AND CONSIDERATIONS (1)**

### *Appropriate Assessment Screening*

In undertaking a screening exercise in relation to the proposed development, the Board had regard to the Appropriate Assessment screening report submitted in support of the application, the nature, scale and location of the proposed development, the distances to and potential for connectivity with European Sites, the planning history for similar development in the vicinity, and the report of the Inspector. In relation to the potential for hydrological linkages, the Board is satisfied that the proposed development would not be likely to have significant effects on European Sites in light of the absence of direct connectivity with those Sites, either by itself or in combination with other plans or projects, with the exception of the Ballyteigue Burrow Special Area of Conservation (Site Code 000696) and the Ballyteigue Burrow Special Protection Area (Site Code 004020), for which a Stage 2 Appropriate Assessment is required. The Board accepted the assessment of the Inspector on this matter, and shared her conclusions in this respect.

The Board did not share the Inspector's conclusions in relation to the potential for significant effects on protected bird species. The Board was satisfied that

the proposed spacing between rows of solar panels appropriately addresses any concern that birds might mistake the proposed development for a water body, and this is reinforced by the proposals for re-seeding following construction. The Board also noted that the development would be divided into four separate fields having substantial hedgerows surrounding them. The Board also accepted the information on file in relation to the low likelihood of use of the area by wintering water fowl.

The Board, therefore, concluded that the proposed development would not be likely to have significant effects on bird species associated with Special Protection Areas in the area, either by itself or in combination with other plans or projects, and considered that a Stage 2 Appropriate Assessment would not be required. The Board noted the Inspector's view that more detailed bird surveys would be desirable, but considered that this would not be necessary in light of the conclusion that a Stage 2 analysis would not be required. In forming its conclusions, the Board also had regard to the other permitted solar arrays in the area.

#### *Appropriate Assessment*

The Board was satisfied that the information before it was adequate to undertake an Appropriate Assessment of the proposed development. Having regard to the nature, scale and location of the proposed development, the Natura Impact Statement submitted, the documentation and submissions on file generally, the planning history for similar development in the vicinity, and the report of the Inspector, the Board undertook an Appropriate Assessment in relation to the effects of the development on the water quality of the Ballyteigue Burrow Special Area of Conservation and the Ballyteigue Burrow Special Protection Area, and adopted the report of the Inspector in this respect. The Board, therefore, concluded that, by itself or in combination with other plans or projects, the proposed development would not be likely to adversely affect the integrity of the Ballyteigue Burrow Special Area of Conservation or the Ballyteigue Burrow Special Protection Area in the light of their conservation objectives. In doing so, the Board had regard to the scale of excavation arising, the localised nature of potential effects, the hydrological distance involved, and the measures proposed to protect water quality during construction in accordance with good industry practice.

#### *Environmental Impact Assessment Screening*

Having regard to the nature, characteristics, scale and location of the proposed development, and to the characteristics and scale of its potential impacts, the documentation and submissions on file generally, the planning history for similar development in the vicinity, the categories of development set out in Schedule 5 to the Planning and Development Regulations, 2001, as amended, and the criteria set out in Schedule 7 to these Regulations, the Board is satisfied that the proposed development would not be likely to have significant effects on the environment, either by itself or in cumulation with other development in the vicinity, including other permitted solar arrays in the area, and concurred with the analysis set out in the Inspector's report in this regard. The Board, therefore, concluded that the submission of an environmental impact statement was not required.

#### *Proper Planning and Sustainable Development of the Area*

Having regard to the provisions of national and regional policy objectives in relation to renewable energy, the provisions of the Wexford County Development Plan 2013 – 2019, the nature and scale of the proposed development, the proximity of a potential grid connection, the pattern of development in the vicinity, and the planning history of the area, including other permitted solar arrays, it is considered that, subject to compliance with the conditions set out below, the reduced scale of development of the northern array would support national and regional renewable energy policy objectives, would not conflict with the provisions of the Development Plan, would not seriously injure the residential amenities of property in the vicinity, would not have unacceptable impacts on the visual amenities of the area, would not result in a serious risk of pollution, would be acceptable in terms of traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission for the entire development, the Board considered that the reduced scale of the northern array would be acceptable. The Board did not concur with her view that unacceptable visual effects would be likely to arise as a result of the proposed development, having regard to the relatively flat landscape, the substantial tree and hedgerow screening surrounding the proposed development, the proposals to supplement landscaping, and the separation distance across fields to the public road and to dwellings generally. Neither did the Board consider that the scale of development hereby permitted would undermine agriculture in the area, either by itself or in cumulation with other permitted solar arrays.

The Board considered that a thorough analysis had been undertaken by two consultants for the applicant in relation to predicted glint and glare. Both analyses indicated a limited level of effects at some houses, that would be of

short duration, seasonal in occurrence, and considerably mitigated by climate. The Board accepted the results of the analyses undertaken, and considered that the predicted effects would not be unacceptable and would not merit refusal of permission. Moreover, the Board was satisfied that the separation distance provided to houses, the substantial existing level of screening to dwellings, and the proposals for supplementary hedgerow provision, would further mitigate predicted glint and glare. Similarly, the Board was satisfied that potential effects on roads had been thoroughly assessed, that similar mitigatory factors would apply, and concluded that the intensity of effects would not be such as to merit refusal of permission by reason of traffic hazard.

## CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this Order.

**Reason:** Having regard to the nature of the proposed development, the Board considered it reasonable and appropriate to specify a period of the permission in excess of five years.

3. The permission shall be for a period of 30 years from the date of the commissioning of the solar array. The solar array and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

**Reason:** To enable the planning authority to review the operation of the solar array in the light of the circumstances then prevailing.

4. The proposed development shall be undertaken in compliance with all environmental commitments made in the documentation supporting the application.

**Reason:** To protect the environment.

5. (1) Existing field boundaries shall be retained, and new planting undertaken in accordance with Section 11.5 of the Planning and Environmental Report and Section 5 of the Landscape and Visual Impact Assessment, and with drawings 6271-300-Rev00 (Landscape Masterplan) and 6271-301-Rev00 (Landscape Boundary Treatments) submitted with the application.  
  
(2) All landscaping, including augmentation of existing boundary trees and hedgerows, shall be planted to the written satisfaction of the planning authority prior to commencement of development. Any trees or hedgerow that are removed, die or become seriously damaged or diseased within five years from planting shall be replaced within the next planting season by trees or hedging of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of biodiversity, the visual amenities of the area, and the amenities of dwellings in the vicinity.

6. The inverter/transformer stations shall be dark green in colour. The external walls of the proposed substation shall be finished in a neutral colour such as light grey or off-white; the roof shall be of black tiles.

**Reason:** In the interest of the visual amenity of the area.

7. (1) No artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.  
  
(2) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the road.  
  
(3) Each fencing panel shall be erected such that for a minimum of 300 millimetres of its length, its bottom edge is no less than 150 millimetres from ground level.

- (4) The solar panels shall have driven or screw pile foundations only, unless otherwise agreed in writing with the planning authority.
- (5) Cables within the site shall be located underground.

**Reason:** In the interest of clarity, of visual and residential amenity, traffic safety, and to allow wildlife to continue to have access to and through the site.

8. (1) Prior to commencement of development, a detailed restoration plan, including a timescale for its implementation, shall be submitted to and agreed in writing with the planning authority.
- (2) On full or partial decommissioning of the solar array, or if the solar array ceases operation for a period of more than one year, the site, including access road, shall be restored and structures removed in accordance with the said plan within three months of decommissioning/cessation, to the written satisfaction of the planning authority.

**Reason:** To ensure the satisfactory reinstatement of the site on full or partial cessation of the proposed development.

9. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
  - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
  - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site,  
and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
  - (a) details of site security fencing and hoardings,
  - (b) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,
  - (c) measures to obviate queuing of construction traffic on the adjoining road network,
  - (d) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
  - (e) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
  - (f) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained; such bunds shall be roofed to exclude rainwater,
  - (g) details of on-site re-fuelling arrangements, including use of drip trays,
  - (h) details of how it is proposed to manage excavated soil,

- (i) means to ensure that surface water run-off is controlled such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interest of environmental protection, amenities, public health and safety.

11. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

## **REASONS AND CONSIDERATIONS (2)**

The proposed development as a whole would involve the use of an extensive area of land for a substantial scale of solar power. There is a lack of guidance at national, regional and local level in relation to the appropriate location, scale and distribution of future proposals for solar arrays. Having regard to the cumulative scale of both the northern and southern arrays, the potential impacts on the rural character of the area accordingly, and the potential effects of the southern array on the amenity and character of the village of Baldwinstown, the Board is not satisfied that the proposed development would not seriously injure the amenities of the area, or that the overall scale of development proposed would not be premature pending the adoption of national, regional or local guidance or strategy for solar power. The proposed southern array would, therefore, be contrary to the proper planning and sustainable development of the area.

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

**Dated this            day of            2017.**