



Planning and Development Acts 2000 to 2019

Planning Authority: Tipperary County Council

Planning Register Reference Number: 19/600111

Appeal by Kieran Timmons of Kilmore, Capparoo, Nenagh, County Tipperary against the decision made on the 15th day of August, 2019 by Tipperary County Council to grant subject to conditions a permission to John Fogarty care of McCarthy Keville O'Sullivan Limited of Block 1, G.F.S.C., Moneenageisha Road, Galway in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of a solar PV panel array consisting of up to 22,500 square metres of solar panels on ground mounted steel frames, two number electricity control cabins, four number inverter units, underground cable ducts, hard standing area, boundary security fence, site entrance, access track, landscaping, CCTV and all associated site works at Lisbrien, Nenagh, County Tipperary.

Decision

GRANT permission 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, 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

Having regard to:

- the nature, scale and extent of the proposed development,
- the decision made in respect of Appropriate Assessment screening,
- the national targets for renewable energy contribution of 40% gross electricity consumption by 2020,
- national and local policy support for developing renewable energy, in particular:
 - the Government's Strategy for Renewable Energy, 2012-2020,
 - the National Planning Framework, 2018, and,
 - Policy RE10: Ground Mounted for Solar PV Installations as set out in the Tipperary Renewable Energy Strategy 2016 (the North Tipperary County Development Plan 2010-2016, as amended and as extended),

- the location of the proposed development within an area characterised as ‘Plains, Lowland Pasture and Arable lands’ in the Planning Authority Landscape Character Assessment,
- the distance to dwellings or other sensitive receptors from the proposed development,
- the planning history of the site and immediate area,
- the submissions made in connection with the planning application and appeal, and
- the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European Sites.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not have an unacceptable impact on the character of the landscape or on cultural or archaeological heritage, would not seriously injure the visual and residential amenities of the area, would be acceptable in terms of public health, traffic safety and convenience, would not have an unacceptable impact on the ecology of the area, would make a positive contribution to Ireland’s requirements for renewable energy, would be in accordance with the Government’s Strategy for Renewable Energy, 2012-2020, the National Planning Framework, 2018, and Policy RE10: Ground Mounted for Solar PV Installations as set out in the Tipperary Renewable Energy Strategy 2016 (the North Tipperary County Development Plan 2010-2016, as amended and as extended), and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board considered the Screening Report for Appropriate Assessment and all other relevant submissions and carried out an appropriate assessment screening exercise in relation to the potential effects of the proposed development on designated European sites. The Board noted that the proposed development is not directly connected with, or necessary for the management of, a European Site and considered the nature, scale and location of the proposed development, as well as the report of the Inspector.

The Board agreed with the screening report submitted with the application and with the screening exercise carried out by the Inspector. The Board concluded that, having regard to the qualifying interests for which the sites were designated and in the absence of a hydrological connection between the application site and the European Sites at Silvermines Mountains West Special Area of Conservation, (Site Code:002258); Silvermines Mountain Special Area of Conservation, (Site Code:000939); Lower River Shannon Special Area of Conservation, (Site Code:002165); Bolingbrook Hill Special Area of Conservation, (Site Code:002124); Keeper Hill Special Area of Conservation, (Site Code:001197); Lough Derg North-East Shore Special Area of Conservation, (Site Code:002241); Lough Derg (Shannon) Special Protection Area (Site Code: 004058); and the Slievefelim to Silvermines Mountains Special Protection Area, (Site Code:004165), and the separation distance between the appeal site and the nearest European Sites, the proposed development, individually or in combination with other plans and projects, would not be likely to have a significant effect on these European Sites or any other European Sites in view of the conservation objectives and that a Stage 2 Appropriate Assessment is, therefore, not required in relation to these European Sites.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 20th day of May, 2019 and 25th day of July, 2019, and by the further documentation received by An Bord Pleanála on the 8th day of October 2019, 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. This permission shall not be construed as any form of consent or agreement to a connection to the national grid or to the routing or nature of any such connection.

Reason: In the interest of clarity.

3. All of the environmental, construction and ecological mitigation measures set out in the Planning and Environmental Report, including the Ecological Impact Assessment, and other particulars submitted with the application shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this Order.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

4. (a) The date of commissioning of the solar PV development shall be notified to, and established in writing with, the planning authority prior to the commencement of operation. The permission shall be for a period of 25 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.
- (b) Prior to commencement of development, a detailed restoration plan, including a timescale for its implementation, providing for the removal of the solar arrays, including all foundations, anchors, inverter/control cabins, substation, CCTV cameras, fencing and site access to a specific timescale, shall be submitted to, and agreed in writing with, the planning authority.
- (c) On full or partial decommissioning of the solar farm, or if the solar farm ceases operation for a period of more than one year, the solar arrays, including foundations/anchors, and all associated equipment, shall be dismantled and removed permanently from the site. The site shall be restored in accordance with this plan and all decommissioned structures shall be removed within three months of decommissioning.

Reason: To enable the planning authority to review the operation of the solar farm over the stated time period, having regard to the circumstances then prevailing, and in the interest of orderly development.

5. (a) No additional artificial lighting or security lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.

- (b) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the road.
- (c) Cables within the site shall be located underground.
- (d) The control cabins, inverter units and external fencing shall be dark green in colour.

Reason: In the interests of clarity, and of visual and residential amenity.

- 6. Prior to commencement of development, details of the structures of the security fence, showing provision for the movement of mammals at regular intervals along the perimeter of the site, shall be submitted to and agreed in writing with the planning authority.

Reason: To allow wildlife to continue to have access across the site, in the interest of biodiversity protection

- 7. (a) The developer shall employ a suitably qualified archaeologist to monitor all topsoil stripping and ground disturbance associated with the development. No ground works are to take place in the absence of the archaeologist, and four weeks written notice regarding the commencement of works on the site shall be submitted to the Department of Culture, Heritage and the Gaeltacht in advance of works commencing.
- (b) Details of how any archaeological material that is uncovered during monitoring is to be treated and recorded shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

- (c) Within six months of the date of commissioning of the development, the Department of Culture, Heritage and the Gaeltacht shall be furnished with a written report describing the result of the monitoring that has been carried out.

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.

8. Water supply and drainage arrangements, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

9. (a) Existing field boundaries shall be retained, except where its removal is necessary to facilitate the construction of the site entrance, internal access road and site compound and in accordance with the documentation and layout indicated in the documentation received by the planning authority and An Bord Pleanála.
- (b) All landscaping 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 during the operative period of the solar farm as set out by this permission, 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 interests of biodiversity, the visual amenities of the area, and the residential amenities of property in the vicinity.

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) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) construction working hours;
 - (c) details of site security fencing and hoardings;
 - (d) details of on-site car parking facilities for site workers during the course of construction;
 - (e) 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 and to avoid HGV movements during normal school hours;
 - (f) measures to obviate queuing of construction traffic on the adjoining road network;
 - (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (h) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
 - (i) 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;

- (j) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (k) details of on-site re-fuelling arrangements, including use of drip trays;
- (l) details of how it is proposed to manage excavated soil; and
- (m) 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. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:
- (i) An LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. [The T value shall be one hour.]
 - (ii) An LAeqT value of 45 dB(A) at any other time. [The T value shall be 15 minutes]. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

- (b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise, as applicable.

Reason: To protect the amenities of houses, local primary school and other property in the vicinity of the site

- 12. All road surfaces, culverts, watercourses, verges and public lands shall be protected during construction and, in the case of any damage occurring, shall be reinstated to the satisfaction of the planning authority. Prior to commencement of development, a road condition survey shall be taken to provide a basis for reinstatement works.

Reason: In order to ensure a satisfactory standard of development.

- 13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site on cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. 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 satisfactory reinstatement of the site.

14. 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.

Dave Walsh

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

Dated this day of 2020.