



An  
Bord  
Pleanála

**Board Direction**  
**BD-003319-19**  
**ABP-302731-18**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 14/06/2019.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

### **Reasons and Considerations**

Having regard to:

- the nature, scale and extent of the proposed development,
- 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,
  - National Planning Framework, 2018,
  - Delivering a Sustainable Energy Future for Ireland - the Energy Policy Framework, 2007-2020,
  - Government Policy Statement on the Strategic Importance of Transmission and Other Energy Infrastructure 2012,
  - Regional Planning Guidelines for the South East Region 2010-2022
  - Objective EN07 of the Wexford County Development Plan, 2013-2019,

- the location of the proposed development within moderate grade agriculture land and within a Lowlands Landscape Character Unit as set out in the Development Plan,
- the distance to dwellings or other sensitive receptors from the proposed development,
- the planning history of the immediate area including proximity to the Rosspile Solar Array (An Bord Pleanála Reference 302475-18 (Wexford County Council Planning Reg Ref 20180837)). This development will serve as the grid connection for this generating asset infrastructure,
- the submissions on file including those from prescribed bodies and the Planning Authority,
- the documentation submitted with the application, including the Appropriate Assessment Screening Statement, Natura Impact Statement and the Planning and Environmental Report, and
- the report of the Planning Inspector.

### **Appropriate Assessment Stage 1**

The Board considered the Screening Report for Appropriate Assessment and the Natura Impact Statement which were prepared in respect of the solar farm and the proposed substation, and all other relevant submissions and carried an appropriate assessment screening exercise and an appropriate assessment 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.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that Bannow Bay Special Area of Conservation (Site Code: 000697) and Bannow Bay Special Protection Area (Site Code: 004033), Ballyteige Burrow Special Protection Area (Site Code: 004020), Keeragh Islands Special Protection Area (Site Code: 004118) and Wexford Harbour & Slobbs Special Protection Area (Site Code: 0004076) are the European sites for which there is a likelihood of significant effects.

## **Appropriate Assessment Stage 2**

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for these European Sites in view of the sites' Conservation Objectives (Bannow Bay Special Area of Conservation (Site Code: 000697) and Bannow Bay Special Protection Area (Site Code: 004033), Ballyteige Burrow Special Protection Area (Site Code: 004020), Keeragh Islands Special Protection Area (Site Code:004118) and Wexford Harbour & Slobbs Special Projection Area (Site Code: 0004076). The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered, in particular

- i) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, specifically the adjacent Rosspile Solar Array (An Bord Pleanála Reference 302475-18) and other developments including agricultural and forestry activities.
- ii) mitigation measures (including buffer zones around natural watercourses and the use of directional drilling to avoid in-stream works) set out in Table 4-9 of the Natura Impact Statement which are included as part of the current proposal, and the
- iii) Conservation Objectives for these European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report (Section 11) in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European sites, in view of the sites' Conservation Objectives.

## **Planning Assessment**

The Board considered that the proposed development, subject to compliance with the conditions set out below, would:

- not have an unacceptable impact on the character of the landscape or on the cultural or archaeological heritage,
- not seriously injure the visual and residential amenities of the area,
- be acceptable in terms of public health, traffic safety and convenience,
- not have an unacceptable impact on the ecology,
- make a positive contribution to Ireland's requirements for renewable energy, and
- be in accordance with:-
  - Government's Strategy for Renewable Energy, 2012-2020,
  - the National Planning Framework, 2018 and
  - Objective EN07 of the Wexford County Development Plan, 2013-2019.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 1.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars including the mitigation measures specified in the Planning & Environmental Report, lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**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. All of the environmental, construction and ecological mitigation measures set out in the Planning and Environmental Report, the Natura Impact Statement, 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 permission shall be for a period of 25 years from the date of the commissioning of the Rosspile Solar Array (An Bord Pleanála Reference 302475-18 (Wexford County Council Planning Reg Ref 20180837)). The substation 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 substation and all related ancillary structures, including all foundations, CCTV cameras and fencing to a specific timescale, shall be submitted to, and agreed in writing with, the planning authority.

- c) On full or partial decommissioning of the Rosspile Solar Farm, or if the solar farm ceases operation for a period of more than one year, the substation and all related ancillary structures and 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 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. Their location within the compound shall be agreed with the Planning Authority prior to commencement of work on site.
- a) Cables within the site shall be located underground.
- b) The substation and all related ancillary structures shall be dark green in colour.

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

6. Prior to the commencement of development, the developer shall submit a finalised Invasive Species Management Plan for the written agreement of the Planning Authority. This plan shall include updated details of invasive species surveys, the location of such species, and the proposed method of managing these species during the construction and operational phase of the development.

**Reason:** To ensure that the spread of invasive species is minimised.

7. 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:

- a) the nature and location of archaeological material on the site, and
- b) 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.

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

**Reason:** In the interest of public health.

9. 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 applicant shall appoint a suitably qualified ecologist to monitor and ensure that all avoidance/mitigation measures relating to the protection of flora and fauna are carried out in accordance with best ecological practice and to liaise with consultants, the site contractor, the NPWS and Inland Fisheries Ireland. A report on the implementation of these measures shall be submitted to the planning authority and retained on file as a matter of public record.

**Reason:** To protect the environmental and natural heritage of the area.

11. 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) location of areas for construction site offices and staff facilities
  - 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,
  - 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,
- 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.

12. 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 R 1996 “Assessment of Noise with respect of Community Response” as amended by ISO Recommendations R 1996 1, 2 or 3 “Description and Measurement of Environmental Noise” as applicable.

**Reason:** To protect the amenities of property in the vicinity of the site.

13. 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. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

14. 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

15. Prior to the commencement of development, the community gain proposals shall be submitted to, and agreed in writing with the planning authority.

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

16. 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.

**Note:** The Board noted an inconsistency in the Inspector's concluding wording on Appropriate Assessment between Section 11 Appropriate Assessment and Section 12 Conclusions within the Inspector's report but considered this a typographical error and decided to accept and adopt the Appropriate Assessment carried out in the Inspector's report based on the assessment and conclusions set out in Section 11.

**Board Member**

**Date:** 17/06/2019

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Maria FitzGerald