

**An
Bord
Pleanála**

**Board Direction
BD-017468-24
ABP-317577-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 13/09/2024.

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 European, national, regional, and county level support for renewable energy development in the following:

- (i) the Cork County Development Plan 2022-28
- (ii) the Climate Action Plan 2024
- (iii) Project Ireland 2040: National Planning Framework
- (iv) the Regional Spatial and Economic Strategy for the Southern Region

In addition to the nature, scale, and extent of the proposed development, in addition to:

- (v) the documentation submitted with the planning application, including the Natura Impact Statement, Ecological Impact Assessment; Biodiversity Habitats Management Plan; Landscape Management Plan, Landscaping Layout Plan; Transport Management Plan, Environmental Noise Assessment; Landscape and Visual Impact Assessment; Geophysical Survey and Archaeological, Architecture and Cultural Heritage Report, Glint and Glare Report; Aquatic Report and Mammal Survey; and Whooper Swan Survey Report.

- (vi) the nature of the landscape and its capacity to visually accommodate the proposed development without significant adverse effects,
- (vii) mitigation measures proposed for the construction, operation, and decommissioning of the proposed works and in particular the suitability of the road network for construction access,
- (viii) The submissions and observations on file including those from prescribed bodies, the planning authority and other third parties.
- (ix) the location of the proposed development within a generally ecologically and visually robust landscape,
- (x) the separation distances between the proposed development and dwellings or other sensitive receptors,
- (xi) the planned connection of the proposed development to the national electricity grid,
- (xii) 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 absence of likely significant effects of the proposed development on European Sites.

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with European, national, and regional renewable energy policies and with the provisions of the Cork County Development Plan 2022-2028, would not seriously injure the visual or residential amenities of the area or otherwise of property in the vicinity or have an of unacceptable impact on the character of the landscape or on cultural or archaeological heritage, would not have a significant adverse impact on ecology or European Sites, would be acceptable in terms of road access and safety and would make a positive contribution to Ireland's renewable energy and security of energy supply requirements. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Stage

The Board considered the Appropriate Assessment Screening Report and relevant submissions and concluded that the Blackwater River (Cork/Waterford) SAC 002170

and the Kilcolman Bog SPA 004095 are the only European Sites in respect of which the proposed development has the potential to have a significant effect and must, therefore, be subject to Appropriate Assessment.

Appropriate Assessment Stage 2

The Board considered the submitted Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment in relation to the potential effects of the proposed development on the Blackwater River (Cork/Waterford) SAC 002170 and the Kilcolman Bog SPA site code 004095, in view of these sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In carrying out the Appropriate Assessment, the Board considered, in particular, the following:

- The likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects,
- The mitigation measures which are included as part of the current proposal, and
- The conservation objectives of the European Sites.

In completing the Appropriate Assessment, the Board was not satisfied with the Appropriate Assessment carried out by the Inspector and was not in agreement with the conclusion of the Inspector. The Board considered that the omission of a substantial portion of the proposed development at the south eastern extent of the site, as recommended in the submission of the Development Application Unit, Department of Housing, Local Government and Heritage, was warranted to ensure that the proposed development, by itself, or in combination with other plans or projects in the vicinity, would not adversely affect the integrity of the European Sites, in view of the site's conservation objectives.

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 the 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. All development within the area identified in grey in Figure 2.0 'Solar Setback Area' (pg. 12) of the submission by the Development Application Unit, Department of Housing, Local Government and Heritage (received by the planning authority on 16th June 2023) shall be omitted from the development. Prior to the commencement of development, the developer shall submit a revised site layout plan to the planning authority in this regard for written agreement and also provide for additional landscaping/biodiversity measures for this area of the site.

Reason: To protect the integrity of European Sites.

3. The mitigation measures contained in the submitted Natura Impact Statement (NIS) shall be implemented.

Reason: To protect the integrity of European Sites.

4. The period during which development hereby permitted may be carried out shall be 5 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.

5. The permission shall be for a period of 40 years from the date of the commissioning of the solar array. The solar array and related ancillary structures shall be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

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.

6. 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.

7. The Planning and Environmental Statement, the Construction and Environmental Management Plan and landscaping plans shall fully incorporate the mitigation measures contained in the Natural Impact Statement and in subsequent correspondence with An Bord Pleanála. The Planning and Environmental Statement, the CEMP and related plans shall then be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

8. The developer 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, and the planning authority. 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.

9. 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. The developer shall agree such details in writing with the planning authority prior to commencement of development.

Reason: In the interest of environmental protection.

10. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, to include a Construction Traffic Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including:
- i) Details of the site access and all arrangements for safe delivery of materials.
 - (ii) Details of the site and material compounds, including areas identified for the storage of construction refuse.
 - (iii) Details of areas for construction site offices and staff facilities.
 - (iv) Details of site security fencing and hoardings;
 - (v) Details of on-site car parking facilities for site workers during the course of construction.
 - (vi) 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 if necessary.
 - (vii) Measures to obviate queuing of construction traffic on the adjoining road network:
 - (viii) Measure to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (ix) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels'
 - (x) The 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;
 - (xi) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
 - (xii) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- A record of daily checks that the works are being undertaken in accordance with the CEMP shall be kept for inspection by the planning authority.
- Reason: In the interest of amenities, public health and safety.

11. All road surfaces, culverts, watercourses, verges, underground services and public lands shall be protected during construction, and, in the case of any damage

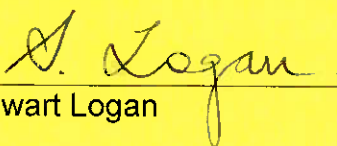
occurring, shall be reinstated to the satisfaction of the planning authority. Prior to commencement of development, a road condition survey shall be taken to provide a basis for reinstatement works. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Reason: In order to ensure a satisfactory standard of development.

12. 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 of 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.
- All sound measurements shall be carried out in accordance with ISO Recommendation 1996-2007: Acoustics – Description and Measure of Environmental Noise.
- Reason: To protect the amenities of property in the vicinity of the site.
13. Prior to the commencement of development, the developer shall lodge with Cork County Council 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 facilitating development in the area of the planning authority that is provided or intended to be provided by or on behalf of an 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.

Board Member


Stewart Logan

Date: 16/09/2024

Note:

The Board noted the Appropriate Assessment undertaken by the Inspector for the proposed development as detailed in section 8.12 of the Report of the Inspector. However, the Board did not accept the assessment of the Inspector that the proposed development would not adversely affect the integrity of European Sites numbers 002170 and 004095, in view of the Conservation Objectives of those sites. The Board considered that, based on the information provided and the development proposed, it cannot be concluded beyond reasonable scientific doubt that there is no adverse impact on the Whooper Swan, a qualifying species of the Kilcolman Bog SPA. The Board were in agreement with the recommendation in the submission of the Development Application Unit, Department of Housing, Local Government and Heritage that a precautionary approach to the proposed development was warranted

and that a suitable setback area for development was appropriate. Accordingly, the Board attached condition No.2 which omits a portion of the development in order to provide for such an appropriate set back.

