

An  
Bord  
Pleanála

**Board Direction**  
**BD-016362-24**  
**ABP-317916-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/05/2024.

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**

In coming to its decision, the Board had regard to the following:

- (a) Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives),
- (b) the National Planning Framework - Ireland 2040,
- (c) the Climate Action Plan 2023,
- (d) the Regional Spatial and Economic Strategy for the Northern and Western Region,
- (e) the policies and objectives of the Cavan County Development Plan 2022-2028,
- (f) the nature, scale and design of the proposed development, the planning history of the site, and the pattern of development in the vicinity of the site,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,

- (h) 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,
- (i) the submissions received in relation to the proposed development, and
- (j) the report and recommendation of the Inspector, including the examination, analysis and evaluation undertaken in relation to the appropriate assessment and environmental impact assessment screening.

## **Proper Planning and Sustainable Development**

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 Cavan County Development Plan 2022-2028, would not seriously injure the visual or residential amenities of the area or have an unacceptable impact on the character of the landscape or on cultural or archaeological heritage, would not significantly adversely affect biodiversity in the area, would be acceptable in terms of traffic safety and would make a positive contribution towards 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 1**

The Board considered the Screening Report for Appropriate Assessment 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 and adopted the screening assessment and conclusion carried out in the Inspector's report that the Lough Kinale and Derragh Lough Special Protection Area (site code 004061) is the European site for which there is a likelihood of significant

effects. The Board concluded that, having regard to the qualifying interests for which the site was designated and in the absence of viable connections to, and distance between, the application site and the European Sites Lough – the Sheelin Special Protection Area (site code 004065), the Lough Derravarragh Special Protection Area (site code 004043), the Derragh Bog Special Area of Conservation (site code 002201), the Moneybeg and Clareisland Bog Special Area of Conservation (site code 002340), the Garriskil Bog Special Area of Conservation (site code 000679), Garriskil Bog Special Protection Area (site code 004102), the Ardagullion Bog Special Area of Conservation (site code 002341), the White Lough, Ben Loughs and Lough Doo Special Area of Conservation (site code 001810), could be screened out from further consideration and that the proposed development, individually or in combination with other plans and projects would not be likely to have significant effects on these European Sites or any other European Sites in view of the sites conservation objectives and that the Stage 2 appropriate assessment, is therefore, not required in relation to these European Sites.

## **Appropriate Assessment - Stage 2**

The Board considered the Natura Impact Statement and carried out an appropriate assessment of the implications of the proposal for the Lough Kinale and Derragh Lough Special Protection Area (site code 004061), in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment as well as the report of the Inspector.

In completing the assessment, the Board considered the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans and projects, the mitigation measures which are included as part of the current proposal and the conservation objectives for this European Site. In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspectors report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the conservation objectives. In overall conclusion, the Board was

satisfied that the proposed development would not adversely affect the integrity of the Lough Kinale and Derragh Lough Special Protection Area (site code 004061) or any other European Site in view of the sites' conservation objectives.

## **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 submitted on the 25<sup>th</sup> day of May, 2023 and the 13<sup>th</sup> day of June 2023, 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 considers it appropriate to specify a period of validity of this permission in excess of five years.

3. (a) 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 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, inverter stations, ESB terminal station, storage container, 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, 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.

- 4. 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.

- 5. The mitigation measures identified in the Natura Impact Statement, Planning and Environmental Report, the Ecological Impact Assessment and other plans and particulars submitted with the planning application shall be implemented in full by the developer, except as may otherwise be required in order to comply with the conditions of this permission.

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

- 6. 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 incorporate all mitigation measures set out in the application

documentation and provide details of intended construction practice for the development, including:

- (a) location of site and material compound (s) including areas (s) identified for the storage of construction refuse, site offices, construction parking and staff facilities, re-fuelling arrangements, security fencing and hoardings,
- (b) a comprehensive construction phase traffic management plan including details of the timing and routing of construction traffic to and from the construction site and associated signage,
- (c) measures to prevent the spillage or deposit of clay, rubble, or other debris on the public road network,
- (d) details of appropriate mitigation measures for noise and dust, and monitoring of such levels,
- (e) containment of all construction related fuel and oil within specifically constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,
- (f) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil,
- (g) 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,
- (h) an audit list of all construction and operational mitigation measures, their timelines for implementation and responsibility for reporting.

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

- 7. (a) Details of the materials, colours, textures and finishes to the inverter stations, terminal station, storage container shall be submitted to, and

agreed in writing with, the planning authority prior to commencement of development.

- (b) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the public road.
- (c) Cables within the site shall be located underground.

**Reason:** In the interests of visual and residential amenity.

8. (a) Prior to the commencement of development, a revised Landscape Management Plan shall be submitted to, and agreed in writing with, the planning authority making provision for semi-mature woodland mix/thicket species screen planting along the field boundary to the east adjacent the site of the terminal building.
- (b) The Landscaping Management Plan shall be carried out within the first planting season following commencement of development.
- (c) All landscaping shall be planted to the written satisfaction of the planning authority. 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 interests of biodiversity and the visual and residential amenities of the area.

9. Prior to the commencement of development, details of additional screening and/or planting shall be submitted to, and agreed in writing with, the planning authority to ensure there is no glint impact on the adjoining dwelling house as a result of the development.

**Reason:** To mitigate against any glint impact and in the interest of residential amenity.

10. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
- (a) notify the planning authority and the Department of Housing, Local Government and Heritage in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works,
  - (c) provide arrangements, acceptable to the planning authority and the Department of Housing, Local Government and Heritage for the recording and for the removal of any archaeological material which it considers appropriate to remove,
  - (d) should archaeological material be found during the course of monitoring, the archaeologist may have work on the site stopped, pending as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigation action (e.g. preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found, and
  - (e) the planning authority and the Department of Housing, Local Government and Heritage shall be furnished with a report describing the results of the monitoring.

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 site and to secure the preservation and protection of any archaeological remains that may exist within the site.

11. Prior to the commencement of the development, a Stage 1/2 Road Safety Audit shall be carried out by a Transport Infrastructure Ireland approved team and a Stage 3 Road Safety Audit shall be carried out by a Transport Infrastructure Ireland approved team on completion of the development and agreed in writing with the planning authority.

**Reason:** In the interest of road safety.

12. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

13. Water supply and drainage arrangements, including the disposal of surface water shall comply with the requirements of the planning authority for such works in respect of both the construction and operation phases of the proposed development.

**Reason:** In the interests of environmental protection and public health.

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 reinstatement of public roads that may be damaged by construction transport 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 the reinstatement of public roads that may be damaged by construction transport.

15. 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 upon 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.

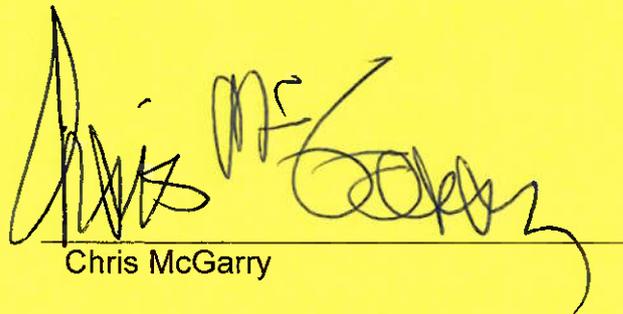
**Reason:** To ensure the satisfactory reinstatement of the site upon cessation of the project

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 the recommendation of the Inspector to attach 35 year operational period for the permitted development, rather than the 40 years as sought and for which the planning authority issued a decision to grant. On consideration of the totality of the documentation on file and having considered the commentary of the Inspector on this matter, the Board determined that 40 years, as sought and as decided upon by the planning authority was appropriate and that the commentary of the Inspector, while fully acknowledged, did not introduce any material planning consideration which would warrant a revision to 35 years in this instance.

**Board Member**



Chris McGarry

**Date:** 21/05/2024