

An
Bord
Pleanála

Board Direction
BD-017244-24
ABP-318785-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 14/08/2024.

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 National Planning Framework – Ireland 2040,
- The Eastern & Midland Regional Spatial & Economic Strategy 2019-2031,
- The Government of Ireland Climate Action Plan, 2024,
- The policies of the planning authority as set out in the Kildare County Development Plan, 2023-2029,
- The distance to dwellings or other sensitive receptors,
- The submissions made in connection with the application,
- 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 report and recommendation of the Inspector

and to the nature, and scale of the proposed development, it is considered that subject to compliance with the following conditions, the proposed development would

not seriously injure the amenities of the area or of property in the vicinity or give rise to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, including the Further Information received by the planning authority on the 1st day of November 2023, and the information received by an Bord Pleanála on the 2nd day of January 2024, 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 development shall be amended as follows:
 - (a) The parcel of land located within Harristown Demesne, referred to in the documentation as Parcel 1, shall be omitted from the development in its entirety.
 - (b) A 15m wide route along both sides of the former track bed of the Tullow to Harristown Railway where it traverses the site (referred to in the documentation as Parcel 4) shall be maintained free of development.

Reason: In the interest of protecting architectural heritage and having regard to Objective AH051 and TM025 of the Kildare County Development Plan 2023-2029.

3. The mitigation measures identified in the CEMP, Ecological Impact Assessment report, Biodiversity Management Plan, and other plans and particulars, including 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 protection of the environment during the construction and operational phases of the proposed development.

4. 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.

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 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.

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 developer shall comply with the following additional nature conservation requirements:

- a. No felling or vegetation removal shall take place during the period 1st March to 31st August.
- b. The area of Marsh habitat located along Mullaghboy Stream and access tracks shall be marked and fenced off, and kept free from machinery and equipment, for the duration of the construction works.
- c. A pre-construction mammal survey shall be carried out by a suitably qualified ecologist to check for the presence of any protected species (including otter and badger).
- d. In the event of badger setts being identified proximate to the proposed development, the mitigation measures contained in the Ecological

Impact Assessment report shall be implemented in their entirety.

Derogation licences shall be obtained as required.

Reason: In the interest of biodiversity and nature conservation.

8. The developer shall comply with the following landscaping requirements:

- a. Existing field boundaries shall be retained, and new planting undertaken. Revised drawings indicating existing and proposed landscaping, including augmentation of existing boundary trees and hedgerows, new planting taking into account any roadside boundaries where a low hedgerow exists and any trees or planting proposed to be removed, shall be submitted for approval by the Planning Authority prior to commencement of the development.
- b. 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.

9. The developer shall comply with the transportation requirements of the planning authority. Prior to commencement of development, a transport management plan for the construction stage shall be submitted to, and agreed in writing with, the planning authority. The traffic management plan shall incorporate details of the road network to be used by construction traffic, including over-sized loads, and detailed arrangements for the protection of roads, bridges, culverts or other structures to be traversed, as may be required. The plan should also contain details of how the developer intends to engage with and notify the local community (including farmers and stud farms operators) in advance of the delivery of oversized loads.

Reason: In the interest of traffic safety and the proper planning and sustainable development of the area.

10. The developer shall comply with the following noise requirements: -

- (a) Noise from the construction stages of the development shall not give rise to sound pressure levels (L_{eq} 15 minutes) measured at noise sensitive locations which exceed 70dB(A) (LA_{eq} 1 hour) between the hours of 8.00 and 18.00 Monday to Friday inclusive (excluding bank holidays) and 8.00 and 13.00 on Saturdays when measured at any noise sensitive location in the vicinity of the site. Sound levels from the site development works shall not exceed 45dB(A) (LA_{eq} 1 hour) at any other time.
- (b) Noise from the operational stages of the development shall not give rise to sound pressure levels (L_{eq} 15 minutes) measured at noise sensitive locations which exceed which exceed the following limits:
 - a. 55dB(A) between the hours of 8.00 and 18.00 Monday to Friday inclusive (excluding bank holidays) and 45dB(A) at any other time.
 - b. There shall be no clearly audible tonal component or impulsive component in the noise emissions from the development any noise sensitive location.

A detailed noise study (with recommendations as appropriate) shall be carried out by a qualified and experienced noise/environmental consultant within three months of the development being fully operational and at any other time specified by the planning authority.

Reason: In the interest of public health, to avoid noise pollution and to ensure a proper standard of development.

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

Reason: In the interest of public health and to ensure a proper standard of development.

12. The developer shall comply with the following technical requirements: -

- a. No 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.
- c. 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.
- d. The solar panels shall have driven or screw pile foundations only, unless otherwise agreed in writing with the planning authority.
- e. Cables within the site shall be located underground.
- f. The inverter/transformer stations shall be dark green in colour.

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.

13. The developer shall comply with the following archaeological requirements:

- (a) Pre-development archaeological testing shall be undertaken by a suitably qualified archaeologist, licensed under the National Monuments Acts 1930-2004. No sub-surface work shall be undertaken in the absence of the archaeologist without his/her written consent.
- (b) 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. A copy of the report shall be submitted to the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.
- (c) The planning authority and the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs shall be notified in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development.

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.

14. The construction of the development shall be managed in accordance with a final Construction and Environmental 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 a construction traffic management plan, a surface water management plan, intended construction practice for the development, including hours of working, noise management measures, off-site disposal of waste, and an invasive species management plan.

Reason: In the interests of public safety and residential amenity.

15. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and 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 residential amenities of property in the vicinity.

16. The developer shall comply with the following restoration requirements:

- a. 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.
- b. 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 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.

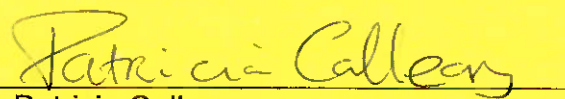
17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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. The application of any indexation required by this condition 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.

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.

18. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion of the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development.

Reason: To ensure the satisfactory completion of the development.

Board Member


Patricia Calleary

Date: 16/08/2024