

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Wexford County

Planning Register Reference Number: 20160689

An Bord Pleanála Reference Number: PL 26.247176

APPEAL by Highfield Energy Services Limited of Design Studio 7, Old Castle View, Kilgobbin Road, Dublin against the decision made on the 3rd day of August, 2016 by Wexford County Council to refuse permission for the proposed development.

PROPOSED DEVELOPMENT: A 10 year planning permission for the construction of a Solar PV Energy development within a total site area of 12.7 hectares, to include one single storey electrical substation building, electrical transformer/inverter station modules, solar PV panels ground mounted on steel support structures, access roads, fencing and associated electrical cabling, ducting and ancillary infrastructure at Monfin, Enniscorthy, County Wexford.

DECISION

GRANT permission for the above proposed development in accordance with the plans and particulars lodged with the said council, 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

Appropriate Assessment Screening

Having regard to the Appropriate Assessment Screening Report submitted with the application, the report of the Inspector, the nature, scale and location of the proposed development, and the separation distances to European Sites, the Board is satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have significant effects on European Sites in view of their conservation objectives. The Board accepted the assessment of the Inspector on this matter, and shared her conclusions. In doing so, the Board had regard to the scale of excavation arising, the localised nature of potential effects, the hydrological distance involved, and the measures proposed to protect water quality during construction in accordance with good industry practice.

Environmental Impact Assessment Screening

Having regard to the nature, characteristics, scale and location of the proposed development, and to the characteristics of its potential impacts, the Board is satisfied that the proposed development would not be likely to have significant effects on the environment, either by itself or in cumulation with other development in the vicinity, including other permitted solar arrays, and concurred with the overall analysis set out in the Inspector's report. The Board, therefore, concluded that the submission of an environmental impact statement was not required.

Conclusions on proper planning and sustainable development

Having regard to the nature and scale of the proposed development, the proximity of a grid connection, the pattern of development in the vicinity, the planning history of the area, including the solar arrays permitted under An Bord Pleanála appeal reference numbers PL26.246966 and PL26.247179, the provisions of the Wexford County Development Plan 2013–2019, and of regional and national policy objectives in relation to renewable energy, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of property in the vicinity, would not have unacceptable impacts on the visual amenities of the area, would not result in a serious risk of pollution, would be acceptable in terms of traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board did not concur that the visual impact of the proposed development would merit a refusal of permission. In particular, the Board did not consider that the site is notably prominent or elevated especially from views in proximity to the site. The northern part of the site rises from the public road at a gentle slope of less than 4 %. The southern site area is relatively flat. This contributes significantly to the effectiveness of hedgerow screening. Neither did the Board consider that the site is especially open or exposed. It is well-screened on the whole, being bounded by mature trees and hedgerow on most sides, as illustrated in Figure L2 (Visual Analysis) and Figure L7 (Landscape Masterplan) of the Landscape and Visual Appraisal submitted in support of the application, and as set out in the Planning Authority's report. In respect of those sections of boundaries that are less well screened, it is proposed to manage these hedgerows to a more effective height, and the Board considered it appropriate to supplement this approach with semi-mature planting by means of condition. Additional new boundaries are also proposed to the west of the northern plot and to the south of the southern plot. The Board noted the concerns raised that the effectiveness of existing and proposed screening might be compromised by the effect of rising topography, and did not share those concerns in light of the gentle slope involved. The Board was satisfied that, following the implementation of the proposed landscaping measures, the visual impact would be acceptable, and that no serious injury would arise in respect of the visual amenities of the area or the residential amenities of property in the vicinity.

Similarly, the Board did not share the Inspector's concerns in relation to the potential for serious injury to the residential amenity of dwellings from glint or glare. The Board was satisfied that the separation distance provided to houses, the existing level of screening to the houses on their eastern boundaries, and the proposals for new hedgerow boundaries, would mitigate risk of glint and glare to an acceptable degree. The Board also noted the Inspector's view in relation to the absence of natural screening to the houses to the west of the site and did not concur on this matter, having regard to the evidence on file. For these reasons, the Board did not share the Inspector's view that permission should be refused for the proposed development.

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 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 considered it reasonable and appropriate to specify a period of the permission in excess of five years.

3. The permission shall be for a period of 30 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.

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 proposed development shall be undertaken in compliance with all environmental commitments made in the documentation supporting the application.

Reason: To protect the environment.

6. (1) Existing field boundaries shall be retained, and new planting undertaken in accordance with Section 4 of the Landscape and Visual Appraisal submitted with the application and with the Landscape Masterplan set out in Figure L7 of that document.
- (2) Supplementary planting of semi-mature tree and hedgerow species shall be provided to the western roadside boundary of the northern site area, on the L2045, as well as to the eastern roadside boundary of the southern site area. Plans and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (3) 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 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 residential amenities of property in the vicinity.

7. The inverter/transformer stations shall be dark green in colour. The external walls of the proposed substation shall be finished in a neutral colour such as light grey or off-white and the roof shall be of black tiles.

Reason: In the interest of the visual amenity of the area.

8. Prior to commencement of development, plans and particulars of the proposed infrared or motion-controlled lighting shall be submitted to, and agreed in writing with, the planning authority. The lighting shall be directed onto the site and away from adjacent property and roads; and shall be directed and cowled such as to reduce, as far as possible, light scatter in the vicinity. No artificial lighting otherwise shall be installed or operated on site, unless authorised by a prior grant of planning permission.

Reason: In the interest of visual and residential amenity and traffic safety.

9. CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the road.

Reason: In the interest of the amenities of the area and of property in the vicinity.

10. 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.

Reason: To allow wildlife to continue to have access to and through the site.

11. The solar panels shall have driven or screw pile foundations only, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of clarity.

12. Cables within the site shall be located underground.

Reason: In the interest of visual amenity.

13. (1) 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.
- (2) 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, including access road, 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.

14. 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:

- (i) the nature and location of archaeological material on the site, and
- (ii) 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.

15. 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) details of site security fencing and hoardings,
 - (b) 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,
 - (c) measures to obviate queuing of construction traffic on the adjoining road network,
 - (d) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
 - (e) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
 - (f) 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,
 - (g) details of on-site re-fuelling arrangements, including use of drip trays,
 - (h) details of how it is proposed to manage excavated soil, and
 - (i) 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.

16. 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 which may be damaged by construction transport, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. 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: In the interest of traffic safety and convenience.

17. 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: In the interest of orderly development and visual amenity and to ensure the satisfactory reinstatement of the site.

18. 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.

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

Dated this day of 2017.