

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Wexford County

Planning Register Reference Number: 20160717

An Bord Pleanála Reference Number: PL 26.247179

APPEAL by Highfield Solar Limited care of Highfield Energy Services Limited of Design Studio 7, Old Castle View, Kilgobbin Road, Dublin against the decision made on the 18th day of August, 2016 by Wexford County Council to refuse permission for the proposed development.

PROPOSED DEVELOPMENT: A ten year permission for the construction of a Solar PV Energy development within a total site area of up to 19.9 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 Tomfarney, Clonroche, 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

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 would not be likely to have significant effects on European Sites, either by itself or in combination with other plans or projects. The Board accepted the assessment of the Inspector on this matter, and shared her conclusions. In doing so, the Board had regard to the limited scale of excavation arising, the low potential to generate effects accordingly and their localised nature, the low drainage connectivity involved, and measures proposed to protect water quality during construction in accordance with good industry practice.

Environmental Impact Assessment

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, and concurred with the overall analysis set out in the Inspector's report in this regard. The Board, therefore, concluded that the submission of an environmental impact statement was not required.

Having regard to the nature and scale of the proposed development, the suitability of the topography of the site, the proximity of a grid connection, the pattern of development in the vicinity, the planning history of the area, including the wind turbines permitted under An Bord Pleanála appeal reference number PL 26.246321, 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 have acceptable impacts on visual amenity, would not seriously injure the residential amenities of property in the vicinity, would be acceptable in terms of traffic safety and convenience, would not prejudice the operation of a national road, and would 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 had regard to the very low level of operational traffic that would arise as a result of the proposed development, and to the levels of existing traffic generated by current agricultural and arboricultural activities. The Board was satisfied that no material intensification would arise as a result of the operation of the proposed development, and that the safety and carrying capacity of the national road would accordingly not be prejudiced. It was considered that the effects of construction traffic on the operation of the national road would be acceptable in light of the temporary duration involved. In coming to this conclusion, the Board also had regard to the development permitted under PL 26.246321. It was considered that the alternative construction access proposed would address concerns arising in relation to sightlines. For these reasons, the Board was satisfied that the proposed development would not be contrary to the provisions of the "Spatial Planning and National Roads – Guidelines for Planning Authorities," and would not be contrary to the objectives of the Wexford County Development Plan in relation to national roads. The Board also noted the long-term proposals for a bypass of Clonroche. In light of the above, the Board also had regard to the contribution that the proposed development would make to national, regional and County policy and objectives in relation to the provision of renewable energy.

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. The access to be used for construction shall be in accordance with the proposal set out in Figure B of the documentation submitted with the appeal. Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Within one month of completion of construction, this access shall be permanently closed to the written satisfaction of the planning authority.

Reason: In the interest of construction traffic safety.

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 grey or off-white; 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) Existing field boundaries shall be retained and supplementary planting undertaken in accordance with the Landscape Masterplan set out in Figure L6 of the Landscape and Visual Appraisal submitted with the application.

- (2) All landscaping shall take place in the first planting season following commencement of development and in accordance with the scheme submitted with the application. 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 and the visual amenities of the area.

14. (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.

15. Prior to commencement of development, the archaeological monument shall be securely fenced off to a distance of 30 metres, in accordance with details that shall be submitted to, and agreed in writing with, the planning authority.

Reason: To protect the archaeological monument during the construction stage.

16. 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.

17. 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.

18. 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.

19. 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 the satisfactory reinstatement of the site on cessation of the project.

20. 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 2016.