



An
Bord
Pleanála

Board Order

PL 10.247616

Planning and Development Acts 2000 to 2017

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 16/592

Appeal by Solar Sense SPV 3 Limited care of Fehily Timoney and Company of Core House, Pouladuff Road, Cork, against the decision made on the 26th day of October, 2016 by Kilkenny County Council to refuse permission for the proposed development.

Proposed Development: Development consisting of solar photovoltaic installation comprising up to 26,100 square metres of solar panels on ground mounted frames, four number inverters housed in two units, one number 20kV substation, security fencing, new entrance onto public road, access tracks, CCTV, underground cable and ducts including underground cable and ducts along the public road to the entrance of the existing Ballyhale substation within the townland of Kiltorcan, and all associated ancillary development works and services located within the townlands of Ballyhale and Kiltorcan, County Kilkenny. Planning permission is sought for a period of 10 years.

Decision

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

Having regard to the nature of the proposed development in open countryside on lands used for intensive tillage, and the provisions of the current County Development Plan and regional and national policy, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area, the residential amenities of the village of Ballyhale, or the ecology of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the application and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and also accepted the conclusions of the Screening Report submitted by the applicant and concluded that, by itself or in combination with other development in the vicinity, the proposed development, would not be likely to have a significant effect on any European Site in view of the site's conservation objectives, with the exception of the River Barrow and River Nore Special Area of Conservation (Site Code 002162) and the River Nore Special Protection Area (Site Code 004233) are the only sites requiring a Stage 2

Appropriate Assessment, the latter of being a special conservation interest for the Kingfisher, which is a qualifying interest.

Appropriate Assessment

The Board undertook an Appropriate Assessment in relation to the effects of the proposed development on the River Barrow and River Nore Special Area of Conservation (Site Code 002162) and the River Nore Special Protection Area (Site Code 004233). Having regard to the nature, scale and location of the proposed development, the Natura impact statement, submitted to the planning authority by the applicant, including the mitigation measures proposed, the Inspector's report and the submissions on file, the Board concluded that the proposed development, by itself or in combination with other plans or projects, would not be likely to adversely affect the integrity of the European Site, in view of the site's conservation objectives. In doing so, the Board concurred with the conclusions of the Inspector and adopted his report in this respect and also agreed with the conclusion of the Appropriate Assessment Screening Report submitted with the application, which states that while there is potential for the project to have significant indirect impacts on the River Barrow and River Nore Special Area of Conservation and the River Nore Special Protection Area, with the implementation of the detailed mitigation measures identified in the Natura impact statement, the integrity of the European sites as natural habitats will not be adversely affected. The Board accepted that, with the implementation of the detailed mitigation measures identified in the Natura impact statement, there is no scientific doubt remaining as to the absence of the potential adverse effects.

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 received by An Bord Pleanála on the 22nd day of November 2016, 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: In the interest of clarity.

3. The permission shall be for a period of 25 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 having regard to the circumstances then prevailing and in the interest of orderly development.

4. Prior to commencement of development, a detailed restoration plan, providing for removal of all structures, foundations and access roads to a specific timescale shall be submitted to the planning authority for written agreement. 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, shall be dismantled and removed from the site. The site (including all access roads) shall be restored in accordance with the said plan and all decommissioned structures shall be removed within three months of decommissioning.

Reason: In the interest of orderly development.

5. No external artificial lighting shall be installed or operated on site, unless otherwise authorised by a prior grant of planning permission.

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

6. Cables from the solar arrays to the inverters and substation shall be located underground.

Reason: In the interest of visual amenity.

7. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

8. The developer shall facilitate an 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.

9. 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 noise management measures and off-site disposal of construction/demolition waste.

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

10. 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.

11. Details of proposed fencing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Each fencing panel shall be erected such that, for a minimum of 300 millimetres of its fencing and its bottom edge is no less than 150 millimetres from ground level.

Reason: In the interests of visual amenity and to allow wildlife to have access to and through the site.

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

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

13. 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 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.

14. 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 and the roof shall be of black tiles/slates.

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

15. 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.

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 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 as well as any arrangements relating to the phasing or staging of payments 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.

