

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

**Kerry County**

**Planning Register Reference Number: 16/877**

An Bord Pleanála Reference Number: PL 08.247653

**APPEAL** by Terra Solar Limited care of McCarthy Keville O'Sullivan Limited of Block 1, G.F.S.C, Moneenageisha Road, Galway against the decision made on the 4<sup>th</sup> day of November, 2016 by Kerry County Council to refuse permission for the proposed development.

**PROPOSED DEVELOPMENT:** Ten year permission for the development of a Solar PV farm consisting of up to 30,072 square metres of solar panels on ground mounted steel frames, one number substation, two number inverter cabins, underground cable ducts, a temporary site compound area and ancillary facilities, boundary security fencing, site landscaping, a site entrance and access track, CCTV and all associated site works. The proposed solar farm will be connected to the National Grid, all in the townland of Ballygrenane, Listowel, County Kerry.

## **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*

In undertaking a screening exercise in relation to the proposed development, the Board had regard to the Appropriate Assessment screening report submitted in support of the application, the nature, scale and location of the proposed development, the distances to and potential for connectivity with European Sites and the report of the Inspector. The Board accepted the assessment of the Inspector that the proposed development, either individually or in combination with other plans and projects, would not be likely to have a significant effect on any European site in view of those sites' conservations objectives and shared her conclusions that a Stage 2 Appropriate Assessment is not required.

### *Environmental Impact Assessment Screening*

Having regard to the nature, characteristics, scale and location of the proposed development, and to the characteristics and scale of its potential impacts, the documentation and submissions on file generally, the categories of development set out in Schedule 5 to the Planning and Development Regulations, 2001, as amended, the Inspector's report and the criteria set out in Schedule 7 to these Regulations, the Board concurred with the Inspector's conclusion that the proposed development is not of a class specified in Schedule 5 and is accordingly satisfied that the submission of an Environmental Impact Statement is not required.

Having regard to the scale, extent and layout of the proposed development and to the "Rural General" designation of the local area in the current Kerry County Development Plan, it is considered that, subject to compliance with the conditions set out below, the proposed solar farm would not seriously injure the visual and residential amenities of the area, would not endanger human health or the environment and would be acceptable in terms of landscape impacts and of traffic safety and convenience. The proposed development 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 considered that the scale of the proposed development combined with the proposed layout and screening would not result in unacceptable injury to the visual amenities of the area or the depreciation of property in the vicinity.

## 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 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 in the light of the circumstances then prevailing.

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

**Reason:** In the interest of public health.

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. 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. Existing field boundaries including hedgerows and trees shall be retained.

**Reason:** In the interest of biodiversity, the visual amenities of the area, and the amenities of dwellings 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. (i) No artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.
- (ii) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the road.
- (iii) 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.
- (iv) The solar panels shall have driven or screw pile foundations only, unless otherwise agreed in writing with the planning authority.
- (v) Cables within the site shall be located underground.

**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.

9. (i) 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.
- (ii) 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.

10. 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.

11. 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.

12. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the satisfactory reinstatement of the site as envisaged in condition number 8 above. 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 completion and maintenance of the development until taken in charge.

13. 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.

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

**Dated this            day of            2017.**