



An
Bord
Pleanála

Board Order
PL 26.248364

Planning and Development Acts 2000 to 2017

Planning Authority: Wexford County Council

Planning Register Reference Number: 20170077

Appeal by Elgin Energy Services Limited care of Mott MacDonald Ireland Limited of South Block, Rockfield, Dundrum, Dublin against the decision made on the 24th day of March, 2017 by Wexford County Council to refuse permission to the said Elgin Energy Services Limited for development comprising solar photovoltaic (PV) panels laid out in arrays on ground mounted frames on a site of approximately 28.52 hectares. The solar farm will be known as Banoge Solar PV Farm and will include 15 number single storey inverter units (approximately 17.5 square metres) and three metres high each), one number single storey on-site ESB terminal substation (approximately 28.91 square metres and 2.9 metres high), four number steel storage containers (approximately 29.3 square metres and 2.6 metres high), 2.5 metres high security fencing, 18 number pole mounted CCTV approximately three metres high and all associated ancillary development works including ecologically beneficial landscape work and internal access tracks (approximately 1,536 metres in length) and minor improvement works to the existing right-of-way access from Fairy Lane, all in the townlands of Banoge, Tomsilla Upper and Tomsilla Lower, Gorey, County Wexford in accordance with the plans and particulars lodged with the said Council.

Decision

GRANT permission for the solar array on the southern section of the site from the proposed central hedgerow to the southern site boundary in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for the solar array on the northern section of the site from the proposed central hedgerow to the northern site boundary based on the reasons and considerations marked (2) under

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.

Appropriate Assessment

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 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.

REASONS AND CONSIDERATIONS (1)

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 solar array permitted under planning register reference 20161217, 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 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.

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 20th day of April, 2017, 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 proposed development shall be amended as follows: -
 - (a) The proposed solar array to the upper section of the site from the proposed central hedgerow to the northern site boundary shall be omitted from the scheme. The smaller field to the north of the access road is permitted.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

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. 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.
 - (a) New planting shall be undertaken in accordance with the plans submitted to the planning authority and to An Bord Pleanála on appeal.
 - (b) All landscaping shall be planted to the written satisfaction of the planning authority prior to commencement of development. Any trees or hedgerows 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 interests 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. 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 interests of the amenities of the area and of property in the vicinity.

9. Cables within the site shall be located underground.

Reason: In the interest of visual amenity.

10. (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.

11. 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 (including archaeological testing) 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.

12. 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.

13. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

14. 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 interests of orderly development and visual amenity and to ensure the satisfactory reinstatement of the site.

15. 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.

