



An
Bord
Pleanála

**Board Order
PL 27.249025**

Planning and Development Acts 2000 to 2017

Planning Authority: Wicklow County Council

Planning Register Reference Number: 17/601

Appeal by Stephen Behan and Others of Milltown North, Ashford, County Wicklow against the decision made on the 18th day of July, 2017 by Wicklow County Council to grant subject to conditions a permission to BNRGN Millvale Limited care of Fehily Timoney and Company of Core House, Pouladuff Road, Cork in accordance with plans and particulars lodged with the said Council:

Proposed Development: A solar farm within a site area of approximately 27 hectares consisting of solar photovoltaic panels covering an area of up to 182,120 square metres on ground mounted steel frames, one number on-site substation, six number inverter/transformer stations, underground cables and ducts, boundary security fence, new internal tracks, CCTV cameras and all associated site services. Planning permission is sought for 10 years, all at Milltown North and Clonroe, Rathnew, County Wicklow.

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.

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, 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. In this regard, the Board concurred with and adopted the Planning Inspector's conclusions in respect of Appropriate Assessment Screening.

Reasons and Considerations

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 provisions of the Wicklow County Development Plan 2016-2022, and to 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 and would be acceptable in terms of flood risk. The proposed development 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, 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 considers it appropriate to specify a period of validity of this permission in excess of five years.

3. (a) All structures including foundations hereby authorised shall be removed not later than 25 years from the date of commissioning of the development and the site reinstated, unless planning permission has been granted for their retention for a further period prior to that date.

- (b) Prior to commencement of development, a detailed restoration plan, providing for the removal of the solar arrays, including all foundations, anchors, inverter/transformer stations, substation, CCTV cameras, fencing and site access to a specific timescale, shall be submitted to, and agreed in writing with, the planning authority. 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/anchors, and all associated equipment, shall be dismantled and removed permanently from the site. The site shall be restored in accordance with this plan and all decommissioned structures shall be removed within three months of decommissioning.

Reason: To enable the planning authority to review the operation of the solar farm over the stated time period, having regard to the circumstances then prevailing, and in the interest of orderly development.

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 lodged supporting the application.

Reason: To protect the environment.

6. Prior to commencement of development, a detailed tree planting and landscaping scheme prepared by a qualified landscape architect shall be submitted to, and agreed in writing with, the planning authority which shall include:

- (i) Proposals for the provisions of a five metres band of hedgerow/screen planting along the eastern boundary of the site in lieu of the 'proposed new hedgerow' as detailed on Site Layout Plan Drawing Number P0631-0100-0003.
- (ii) An assessment of the existing hedgerows along the perimeter of the site to establish where additional planting is required in order to ensure the provision of continuous screen planting at a minimum height of three metres.
- (iii) Details of the number, type, height and location of all trees to be planted.
- (iv) The construction compound shall be removed at the end of the construction phase and the resultant area covered with topsoil and reseeded.

The landscaping and tree planting shall be carried out before or during the first planting season or part thereof occurring after the commencement of development. Any plants which become seriously damaged shall be replaced by others of similar size and species.

Reason: In order to assimilate development on this site into the surrounding area in the interests of visual amenity and proper planning and development.

7.
 - (a) No artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.
 - (b) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the road.
 - (c) 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.
 - (d) The solar panels shall have driven or screw pile foundations only, unless otherwise authorised by a separate grant of planning permission.
 - (e) Cables within the site shall be located underground.

Reason: In the interests of clarity, visual and residential amenity, to allow wildlife to continue to have access to and through the site, and to minimise impacts on drainage patterns and surface water quality.

8. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
 - (a) Engage the services of a suitably qualified archaeologist (licenced under the National Monuments Acts 1930-2004) to carry out pre-development testing at the site to include the potential archaeological geophysical anomalies identified together with areas where topsoil is to be stripped. No sub-surface work shall be undertaken in the absence of the archaeologist without his/her express consent.

- (b) The archaeologist is required to notify the Department of Culture, Heritage and the Gaeltacht in writing at least four weeks prior to the commencement of site preparations. This will allow the archaeologist sufficient time to obtain a licence to carry out the work
- (c) The archaeologist shall carry out any relevant documentary research and may excavate trenches at locations chosen by the archaeologist, having consulted the proposed development plans.
- (d) Having completed the work, the archaeologist shall submit a written report to the planning authority and the Department of Culture, Heritage and the Gaeltacht.
- (e) Where archaeological material is shown to be present, avoidance, preservation in situ, preservation by record (excavation) and/or monitoring may be required and the Department of Culture, Heritage and the Gaeltacht will advise the Developer with regard to these matters.
- (f) No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the planning authority in consultation with the Department of Culture, Heritage and the Gaeltacht.

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 but not limited to, hours of working, noise and dust management measures, surface water management proposals, the management of construction traffic and off-site disposal of construction waste.

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

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

Reason: In the interests of environmental protection and public health.

11. 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.

12. 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 satisfactory reinstatement of the site.

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

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

Dated this day of 2018