



Planning and Development Acts 2000 to 2018

Planning Authority: Kerry County Council

Planning Register Reference Number: 17/851

Appeal by Robert O'Mahony of The Lane Cottage, Trieneragh, Duagh, Listowel, County Kerry against the decision made on the 20th day of October, 2017 by Kerry County Council to grant subject to conditions a permission to Terra Solar Limited care of McCarthy Keville O'Sullivan Limited of Block 1, G.F.S.C., Moneenageisha Road, Galway in accordance with plans and particulars lodged with the said Council.

Proposed Development: Ten-year permission for a solar PV farm consisting of circa 36,950 square metres of solar panels on ground mounted steel frames, one number substation, three 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 at Trieneragh, Duagh, Listowel, County Kerry.

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 scale, extent and layout of the proposed development and to the "Rural General" designation of the local area in the Kerry County Development Plan 2015-2021, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual and residential amenities of the area, would not be prejudicial to public health or endanger 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.

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 to the planning authority 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 sites' conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a Natura Impact Statement) is not, therefore, required.

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 shall 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. (1) 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.
- (2) Prior to commencement of development, a detailed restoration plan, including a timescale for its implementation, 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.
- (3) 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 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. 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.

6.
 - (1) Existing field boundaries shall be retained, notwithstanding any exemptions available and new planting undertaken in accordance with the plans submitted to the planning authority.
 - (2) 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 during the operative period of the solar farm as set out by this permission, 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, 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. (1) No artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.
- (2) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the road.
- (3) 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.
- (4) The solar panels shall have driven or screw pile foundations only, unless otherwise agreed in writing with the planning authority.
- (5) 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. 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.
- (c) preserve a 20 metre buffer zone around the recorded monument Ke011 033. The buffer zone shall be measured from the outer edge of the possible ditch feature exposed during testing, and
- (d) security fence the buffer zone during construction works on the site.
- (e) ensure no storage of materials, excavation or traffic of machinery shall be permitted within the buffer zone.

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.

10. The developer shall provide sightlines of 120 metres in both directions of the proposed entrance to the site in accordance with the details submitted to the planning authority on the 28th day of August, 2017.

Reason: In the interest of traffic safety.

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 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.

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 3 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 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.

Michelle Fagan
Member of An Bord Pleanála
duly authorised to authenticate

the seal of the Board.

Dated this day of 2018.