



Planning and Development Acts 2000 to 2018

Planning Authority: Kerry County Council

Planning Register Reference Number: 16/1123

Appeal by Terra Solar Limited care of HW Planning of 5 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 3rd day of November, 2017 by Kerry County Council to grant subject to conditions a permission in accordance with plans and particulars lodged with the said Council.

Proposed Development: A 10-year permission for the construction of a solar PV energy development comprising installation of circa 93,588 square metres of photovoltaic panels on ground mounted frames/support structures within existing field boundaries, underground cabling and ducting, seven number inverter/transformer cabins, two number MV substations and two number communication masts, perimeter security fencing, closed circuit television security cameras, site access tracks, landscaping and all associated site development works. A temporary construction compound will also be provided. All on a site of circa 29.9 hectares in the townland of Ballyenaghty, Tralee, County Kerry.

Decision

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to AMEND conditions numbers 2 and 3 so that they shall be as follows for the reasons set out.

2. The developer shall pay to the planning authority a financial contribution of €210,000 (two hundred and ten thousand euro) in respect of roads and transport €63,000 (sixty-three thousand euro) and community and infrastructure €147,000 (one hundred and forty-seven thousand euro) 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 the 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. The application of any indexation required by this condition 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.

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.

3. 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 the value of €100,000 (one hundred thousand euro), 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.

Reasons and Considerations

Condition 2: It is considered that the proposed development does not come within the scope of the 'Tralee Levy' as set out in the Kerry County Council Development Contribution Scheme 2017.

Condition 3: Having regard to the likely impact of the proposed development on the lands affected, it is considered that the value of the security required by condition number 3 is excessive and it is also considered that the value of security sought is inconsistent with previous security required for similar developments in the county.

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.

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

Dated this day of 2018.