



Planning and Development Acts 2000 to 2018

Planning Authority: Westmeath County Council

Planning Register Reference Number: 17/6239

Appeal by Martin and Alan Maher and Philomena Sullivan care of Sean Lucy and Associates Limited of 23E Lough Sheever Corporate Park, Mullingar, County Westmeath against the decision made on the 12th day of February, 2018 by Westmeath County Council to grant subject to conditions a permission to Harmony Solar Mullingar 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: The development will consist of a ground mounted solar photovoltaic (PV) farm consisting of the following; up to an area of 139,520 square metres of solar panels on ground mounted steel frames within a site area of 46.3 hectares; a fenced electricity substation compound to include one number electricity control building and hardstands for ancillary electrical equipment; 12 number inverter/transformer stations; underground cable and ducts; internal access tracks and hardstanding areas; boundary security fence; CCTV and all associated site services and works, two number new site access points from the public road, one for construction/decommissioning traffic purposes only, and one for operational traffic. Permission is sought for a period of 10 years as amended by the

revised public notice received by the planning authority on the 16th day of January, 2018 at Clondardis and Slane More Townlands, Walshestown, Mullingar, County Westmeath.

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 national, regional and local planning policy which supports the development of renewable energy, the temporary nature of the development, its limited effect on the long term potential of the agricultural land comprising the appeal site, the landscape context for the proposed development and the proposals for additional planting and biodiversity enhancement, it is considered that, subject to compliance with the conditions set out below, the proposed solar farm, by itself and in combination with permitted development, would not seriously injure the visual and residential amenities of the area or depreciate the value of property in the vicinity and would not give rise to the risk of flooding. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

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 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 as amended by the further plans and particulars submitted to the planning authority on the 14th day of December, 2017, and the 16th day of January, 2018, 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 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. Prior to the commencement of development, the applicant shall submit to the planning authority for written agreement:

- (a) detailed arrangements for the management of the biodiversity of the site over the operational phase of the development, and
- (b) provision of a discreet 5 metre radius buffer zone around the 'fairy tree' in Field 5.

An annual report on the implementation and effectiveness of conservation and biodiversity measures shall be submitted to, and agreed in writing with, the planning authority and be available on the public file.

Reason: In the interest of biodiversity and to conserve the archaeological heritage of the area.

6. 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.

7. The proposed development shall be undertaken in compliance with all environmental commitments made in the documentation supporting the application. A report demonstrating compliance with these shall be submitted to the planning authority prior to the commissioning of the solar array.

Reason: To protect the environment.

8. (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 on the 14th December, 2017.

- (2) All landscaping 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 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 amenities of dwellings in the vicinity.

9. The inverters/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, the roof shall be black tiles.

Reason: In the interest of the visual amenity of the area.

10. (1) No artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission, with the exception of emergency lighting for the electricity substation compound. The emergency lighting shall only be illuminated in emergency circumstances for the repair or maintenance of the substation.
- (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) The solar panels shall have driven or screw pile foundations only, unless otherwise agreed in writing with the planning authority.

(4) Cables within the site shall be located underground.

Reason: In the interest of clarity, visual and residential amenity, traffic safety and to allow wildlife to continue to have access to and through the site.

11. Prior to commencement of development, details of the structures of the security fence showing provision for the movement of mammals at regular intervals along the perimeter of the site shall be submitted for prior approval to the planning authority. This shall be facilitated through the provision of mammal access gates designed generally in accordance with standard guidelines for provision of mammal access (NRA 2008).

Reason: To allow wildlife to continue to have access across the site, in the interest of biodiversity protection.

12. All OPW maintainable channels shall be provided with a 10 metre wide maintenance strip adjacent to the channel. This strip shall not be fenced, paved or landscaped in a manner that would prevent access by maintenance plant.

Reason: In the interest of flood prevention and mitigation.

13. (1) Prior to commencement of development, a detailed restoration plant, 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.

- (2) On full or partial decommissioning of the solar farm, or if the solar farm ceases operation for 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 ensure the satisfactory reinstatement of the site on full or partial cessation of the proposed development.

14. 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.

15. 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) hours of working,
- (e) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (f) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (g) 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,
- (h) details of on-site refuelling arrangements, including use of drip trays,
- (i) details of how it is proposed to manage excavated soil,
- (j) 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 available for inspection by the planning authority.

Reason: In the interest of environmental protection, amenities, public health and safety.

16. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the present, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

17. Prior to commencement 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 the satisfactory reinstatement of the site.

18. 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.

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

Dated this day of 2019.