



An  
Bord  
Pleanála

**Board Order**  
**ABP-301321-18**

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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Wexford County Council**

**Planning Register Reference Number: 20160690**

**Appeal** by Highfield Solar Limited care of Highfield Energy Services Limited of Design Studio 7, Old Castle View, Kilgobbin Road, Dublin against the decision made on the 10<sup>th</sup> day of August, 2016 by Wexford County Council to refuse permission for the proposed development.

**Proposed Development:** A 10 year permission for the construction of a Solar PV Energy development within a total site area of up to 89.46 hectares to include one single storey electrical substation building and electrical compound, a second single storey electrical building, electrical transformer/inverter station modules, solar PV panels ground mounted on steel support structures, access roads, fencing and associated electrical cabling, ducting and ancillary infrastructure at Ballyminaun Big, Grahormick, Hilltown, Jonastown, Newhouse, Gibboghstown, Garryhask and Crosstown, Killinick and Tomhaggard, County Wexford.

## **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 nature, scale and extent of the proposed development,
- the decisions made in respect of an appropriate assessment,
- national and local policy support for developing renewable energy, in particular the:-
  - Government’s Strategy for Renewable Energy, 2012-2020,
  - National Planning Framework, 2018, and,
  - Objective EN07 of the Wexford County Development Plan, 2013-2019,
- the location of the proposed development within moderate grade agriculture land and within a Lowlands Landscape Character Unit as set out in the Development Plan,

the Board considered that the proposed development, subject to compliance with the conditions set out below, would:-

- not have an unacceptable impact on the character of the landscape or on the cultural or archaeological heritage,
- not seriously injure the visual and residential amenities of the area,
- be acceptable in terms of public health, traffic safety and convenience,
- not have an unacceptable impact on the ecology,
- make a positive contribution to Ireland's requirements for renewable energy,
- be in accordance with:-
  - Government's Strategy for Renewable Energy, 2012-2020,
  - the National Planning Framework, 2018 and
  - Objective EN07 of the Wexford County Development Plan, 2013-2019.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to:-

- the location of the proposed development within moderate grade agriculture land,
- the Operational Visual Impact Assessment of Heritage Assets and mitigation measures proposed in the planning application, and

- the Natura impact statement, including the results of the Winter Bird Survey 2016-2017, the detailed Surface and Earthworks Management Plan submitted by the applicant on the 19<sup>th</sup> day of July 2018 and to the Inspector's addendum report,

The Board was satisfied that the development of a solar farm at this location, notwithstanding its scale, would not be detrimental to the overall agricultural output of the area and would not be contrary to the local, regional and national policy for renewable energy.

### **Appropriate Assessment**

Whereas the Inspector's original report raised concerns regarding appropriate assessment, the Board considered that these concerns were resolved by the further information received on the 19<sup>th</sup> day of July 2018 and adopted the addendum report in this regard.

The Board noted that the proposed development is not directly connected with, or necessary for, the management of a European site and considered the nature, scale and location of the proposed development, as well as the report and addendum report of the Inspector. The Board considered the Screening Report for Appropriate Assessment, the Natura impact statement and all other relevant submissions and carried out an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European sites.

**Appropriate Assessment Screening (Stage 1):** The Board agreed with the screening assessment carried out by the Inspector (addendum report) which concluded that the following European sites are that for which a Stage 2 appropriate assessment is required, and that significant effects on any other European sites can be ruled out:

Tacumshin Lake Special Area of Conservation, (Site Code 000709), 1.7 kilometres from the site,

Tacumshin Lake Special Protection Area, (Site Code 004092), 1.9 kilometres from site, and

Wexford Harbour and Slobs Special Protection Area, (Site Code 00406), three kilometres from the site.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's addendum report that the aforementioned European sites are the European sites for which there is a likelihood of significant effects, in view of the sites' conservation objectives.

#### **Appropriate Assessment (Stage 2):**

The Board considered the Natura impact statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites Tacumshin Lake Special Area of Conservation (Site Code 000709), Tacumshin Lake Special Protection Area (Site Code 004092) and Wexford Harbour and Slobs Special Protection Area (Site Code 00406).

The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the assessment, the Board considered, in particular, the:-

- i) likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects,
- ii) mitigation measures which are included as part of the proposal,
- iii) Conservation Objectives for these European sites,

- iv) view of the Department of Arts, Heritage and the Gaeltacht, and
- v) statement in the Site Synopsis for these European sites.

In completing the assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's addendum report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board is satisfied that, subject to the implementation of the identified mitigation measures, the proposed development, either individually or in combination with other plans or projects, would not adversely affect the integrity of European sites in view of the site's Conservation Objectives.

### **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 6<sup>th</sup> day of September 2016 and on the 19<sup>th</sup> day of July 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. (a) 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.
- (b) 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.
- (c) 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. (a) Existing field boundaries shall be retained, notwithstanding any exemptions available and new planting undertaken in accordance with the plans submitted to the planning authority with the application and as amended by plans submitted to An Bord Pleanála on the 6<sup>th</sup> day of September 2016 and on the 19<sup>th</sup> day of July 2018.
- (b) 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 interests of biodiversity, the visual amenities of the area, and the residential amenities of property in the vicinity.

6. (a) Other than the motion activated lighting proposed at the substations, no additional 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) Cables within the site shall be located underground.
- (d) 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 slate or tiles.

**Reason:** In the interests of clarity, and of visual and residential amenity.

- 7. Before construction commences on site, 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.

- 8. 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.

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. 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.

11. 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.

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**Dave Walsh**

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

**Dated this            day of            2019.**