



Planning and Development Acts 2000 to 2018

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 17/818

Appeal by John and Colette Brett of Inch Mills, Sion Road, Kilkenny against the decision made on the 10th day of May, 2018 by Kilkenny County Council to grant subject to conditions a permission to Greener Ideas Limited care of Mott MacDonald Ireland Limited of South Block, Rockfield, Dundrum, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of a 100MW Battery Energy Storage System (BESS) with associated balance of plant, equipment and buildings including: a BESS building of eight metres height, 82 metres length and 44 metres width (comprising on the ground floor a battery rack room, meeting room, Contractor/Storeroom, wet room, UPS room, switch gear room, WC, Transformer rooms, Inverter rooms; and on a mezzanine floor a HVAC/store room); two number 905 cubic metres firewater storage tanks; an underground 830 cubic metres surface water attenuation tank; an underground 1,030 cubic metres firewater retention tank; a 110kV electrical substation and control building of 5.2 metres height; an access and circulation road with new junction onto an existing IDA private road; footpath, eight number car parking spaces; landscaped berm wall up to two metres height and native tree and scrub

planting, three metres paladin security fence; and all other associated site development works including surface water and foul drainage required to facilitate the development, all at the Industrial Development Agency (IDA) Business and Technology Park, Purcellsinch, Dublin Road, Kilkenny.

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:

- (a) the provisions of the current Kilkenny City and Environs Development Plan 2014-2020, and the zoning of the site as “Industrial/Technology Park”;
- (b) EU and National Policy in relation to energy, in particular the development of increased use of renewable energy at national level;
- (c) the requirement in EU and National policy to develop technologies for greater and improved efficiency in the production, storage and consumption of energy;

- (d) the nature and pattern of uses in the vicinity;
- (e) the nature, scale and design of the proposed development, and
- (f) the availability of infrastructure in the area,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board considered the nature, scale and location of the proposed development, the documentation and further information on file, the submissions made, the context of the site, its planning and development history, the hydrological distance to the River Barrow and River Nore Special Area of Conservation (Site Code 002162) and the River Nore Special Protection Area (Site Code 004233), the poor potential for connectivity to the European sites, the report of the Inspector, and the revised screening statement submitted by the applicant. The Board undertook an Appropriate Assessment screening exercise, and concluded that the proposed development would not be likely to have significant effects on any European sites, either by itself or in combination with other plans or projects.

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 on the 16th day of April, 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 interests of clarity.

2. All environmental measures set out in the Planning and Environmental Considerations Report and associated documentation submitted by the applicant shall be implemented in full, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of protection of the environment.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour of the dwellings shall be blue-black, black, dark brown or dark grey in colour only.

Reason: In the interest of visual amenity.

4. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interests of amenity and of traffic and pedestrian safety.

5. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority, a proposal for an environmental management system in respect of the proposed development, incorporating provisions for the water, noise, and air monitoring measures required under the conditions of this permission generally, and for the following: -

- (a) monitoring of ground and surface water quality,
- (b) monitoring of noise levels,
- (c) a complaints management procedure,
- (d) details of the site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility,
- (e) a method statement for the ongoing monitoring of groundwater wells, and
- (f) associated procedures for reporting to the planning authority.

Reason: In the interests of orderly development and of the amenities of the area.

6. The berm and boundary works along the Sion Road boundary shall be carried out in accordance with the revised details submitted to the planning authority on the 16th day of April, 2018 and shall provide for the sightline and visibility splay indicated. Removal of hedgerows shall only be carried out outside the designated bird nesting season between the 1st day of September and the 28th day of February. All non-native species referred to in the landscape master plan shall be replaced by native species. Suitable mammal passes shall be provided along all perimeter fencing.

Reason: In the interests of amenity, public safety, and biodiversity.

7. All service cables associated with the proposed development (such as electrical and telecommunications) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

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 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. 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.

10. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

11. Construction waste shall be managed in accordance with a construction waste 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 prevention, 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.

12. 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.

John Connolly

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

Dated this day of 2019.