



Planning and Development Acts 2000 to 2018

Planning Authority: Wexford County Council

Planning Register Reference Number: 20180837

Appeal by Joe Hudner and others care of Polldoon, Foulksmills, County Wexford and by Highfield Solar Limited of Design Studio 7, Old Castle View, Kilgobbin Road, Dublin and by Others against the decision made on the 10th day of August, 2018 by Wexford County Council to refuse a permission to Highfield Solar Limited for the proposed development.

Proposed Development: The development will consist of a ten year permission for a solar farm on a site of approximately 152.8 hectares consisting of the following; solar photovoltaic panels on ground mounted steel frames; IPP electrical control building and associated compound; inverter/transformer stations; battery storage units and associated hard standings; storage containers for spare parts; underground power and communication cables and ducts; boundary security fencing; upgraded internal access tracks; new internal access tracks and associated drainage infrastructure; CCTV cameras and all associated site services and works, all in the townlands of Coolcliffe, Rosspile, Haresmead, Raheenduff, and Horetown North, situated near the village of Foulksmills, 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

In arriving at its decision, the Board had regard to:

- (a) the nature, scale and extent of the proposed development,
- (b) the national targets for renewable energy contribution of 40% gross electricity consumption by 2020,
- (c) national and local policy support for developing renewable energy, in particular the:-
 - (i) 'Strategy for Renewable Energy, 2012-2020' issued by the Department of Community, Energy and Natural Resources,
 - (ii) National Planning Framework, 2018,

- (iii) Delivering a Sustainable Energy Future for Ireland – the Energy Policy Framework, 2007-2020
 - (iv) Regional Planning Guidelines for the South-East Region, 2010-2022, and
 - (v) Objective EN07 in relation to renewable energy development, of the Wexford County Development Plan, 2013-2019,
- (d) the location of the proposed development within moderate grade agriculture land and within a Lowlands Landscape Character Unit, as set out in the current Development Plan for the area,
- (e) the distance to dwellings or other sensitive receptors from the proposed development,
- (f) the planning history of the immediate area including proximity to the proposed electrical substation and associated 110kV and MV infrastructure required to connect ground-mounted solar PV generation to the electricity transmission and all associated ancillary site development works (An Bord Pleanála Reference Number ABP-302731-18),
- (g) the submissions made in connection with the planning application and appeal,
- (h) the documentation submitted with the application, including the Appropriate Assessment Screening Statement, Natura impact statement and the Planning and Environmental Report, and
- (i) the report of the Planning Inspector.

Appropriate Assessment Stage 1

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. 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 of the Inspector.

The Board agreed with the screening assessment and conclusion carried out by the Inspector. The Board concluded that, having regard to the qualifying interests for which the sites were designated and in the absence of a hydrological connection between the application site and the European sites, that Ballyteige Burrow Special Area of Conservation (Site Code 000696), Hook Head Special Area of Conservation (Site Code 000764), Slaney River Valley Special Area of Conservation (Site Code 000781), Saltee Islands Special Area of Conservation (Site Code 000707) and River Barrow and River Nore Special Area of Conservation (Site Code 002162) could be screened out from the further consideration and that the proposed development, both individually or in combination with other plans or projects would not be likely to have a significant effect on these European sites in view of the sites' conservation objectives and that a Stage 2 appropriate assessment is, therefore, not required in relation to these European sites. The Board also concluded with reference to Bannow Bay Special Area of Conservation (Site Code 000697), Bannow Bay Special Protection Area (Site Code 004033), Ballyteige Burrow Special Protection Area (Site Code 004020), Keeragh Islands Special Protection Area (Site Code 004118) and Wexford Harbour and Slobbs Special Protection Area (Site Code 004076), and having regard to the qualifying interests for which these sites were designated, that significant

effects could not be ruled out and that the carrying out of an Appropriate Assessment, was necessary.

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 the following European sites, Bannow Bay Special Area of Conservation (Site Code 000697), Bannow Bay Special Protection Area (Site Code 004033), Ballyteige Burrow Special Protection Area (Site Code 004020), Keeragh Islands Special Protection Area (Site Code 004118) and Wexford Harbour and Slobbs Special Protection Area (Site Code 004076) in view of the sites' conservation objectives. 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 –

- (i) likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, specifically the adjacent proposed electrical substation and associated 110kV and MV infrastructure required to connect ground-mounted solar PV generation to the electricity transmission and all associated ancillary site development works (An Bord Pleanála Reference 302731-18), and other developments including agricultural and forestry activities,
- (ii) mitigation measures which are included as part of the current proposal, and
- (iii) Conservation Objectives for these European sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's 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 was satisfied that the proposed development would not adversely affect the integrity of European sites in view of the sites' Conservation Objectives.

Planning Assessment

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

- (a) not have an unacceptable impact on the character of the landscape or on the cultural or archaeological heritage,
- (b) not seriously injure the visual and residential amenities of the area,
- (c) be acceptable in terms of public health, traffic safety and convenience,
- (d) not have an unacceptable impact on the ecology,
- (e) make a positive contribution to Ireland's requirements for renewable energy, and
- (f) be in accordance with:-

- (i) Government's Strategy for Renewable Energy, 2012-2020,
- (ii) the National Planning Framework, 2018, and
- (iii) 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.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and by the further plans and particulars received by An Bord Pleanála on the 6th day of September, 2018 and on the 8th day of October, 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. All of the environmental, construction and ecological mitigation measures, as set out in the Planning and Environmental Report, including the Natura impact statement and other particulars submitted with the application, shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this Order.

Reason: In the interests of clarity and of the protection of the environment during the construction and operational phases of the development.

4. (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.

- 5. (a) 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 storage containers 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.

6. Prior to the commencement of development, details of the structures of the security fence showing provision for the movement of mammals shall be submitted for prior approval to the planning authority. This shall be facilitated through the provision of mammal access gates every 100 metres along the perimeter fence and in accordance with standard guidelines for provision of mammal access (NRA 2008).

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

7. Prior to the commencement of development, the developer shall submit a finalised Invasive Species Management Plan for the written agreement of the planning authority. This plan shall include updated details of invasive species surveys, the location of such species, and the proposed method of managing these species during the construction and operational phase of the development.

Reason: To ensure that the spread of invasive species is minimised.

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. 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. (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 on the 19th day of June, 2018 and by plans submitted to An Bord Pleanála on the 6th day of September, 2018 and on the 8th day of October, 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.

11. The developer shall appoint a suitably qualified ecologist to monitor and ensure that all avoidance/mitigation measures relating to the protection of flora and fauna are carried out in accordance with best ecological practice and to liaise with consultants, the site contractor, the National Parks and Wildlife Service and Inland Fisheries Ireland. A report on the implementation of these measures shall be submitted to the planning authority and retained on file as a matter of public record.

Reason: To protect the environmental and natural heritage of the area.

12. 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) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) location of areas for construction site offices and staff facilities;
 - (c) details of site security fencing and hoardings;
 - (d) details of on-site car parking facilities for site workers during the course of construction;
 - (e) 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;

- (f) measures to obviate queuing of construction traffic on the adjoining road network;
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (i) 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;
- (j) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (k) details of on-site re-fuelling arrangements, including use of drip trays;
- (l) details of how it is proposed to manage excavated soil; and
- (m) 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 kept for inspection by the planning authority.

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

13. All road surfaces, culverts, watercourses, verges and public lands shall be protected during construction and, in the case of any damage occurring, shall be reinstated to the satisfaction of the planning authority. Prior to commencement of development, a road condition survey shall be taken to provide a basis for reinstatement works. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to ensure a satisfactory standard of development.

14. 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.

15. 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.

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

Dated this day of 2019.