



Planning and Development Acts 2000 to 2019

Planning Authority: Carlow County Council

Planning Register Reference Number: 18/23

Appeal by William Rooney of Ardoe House, Kellistown East, County Carlow on behalf of the “Rathoe Says No” Group against the decision made on the 30th day of January, 2019 by Carlow County Council to grant subject to conditions a permission to ENGIE Developments Ireland Limited of Mynydd Awel, Mold Business Park, Maes Gwern, Mold, Flintshire, United Kingdom in accordance with plans and particulars lodged with the said Council:

Proposed Development: Ten year planning permission for development of an up to 100MW Battery Energy Storage Facility that will provide energy services to the national grid. The development will consist of construction and operation of up to 34 metal containers to store up to a project total of up to 100MW (13.2 tons of lithium Ion) sealed battery cells each with entrances, fire suppression systems, heating ventilation and air conditioning systems, Inverters, control systems, other electrical components, security lighting and ancillary infrastructure and all associated works including security fencing, landscaping and ancillary grid infrastructure on lands at Kellistown East, County Carlow. The proposed development was revised by further public notices received by the planning authority on the 28th day of November, 2018. The further information submitted included a Natura Impact statement,

extension of the red line application boundary of the application site to include grid connection route which runs between the application site and Kellistown substation, amendments to battery storage compound layout, bunding of battery storage compounds, provision of additional internal access roads, provision of fire hydrants in accordance with fire regulations, provision of additional surface water drainage measures and provision of static water tank.

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

Appropriate Assessment Stage 1

The Board considered the Screening Report for Appropriate Assessment, the Natura impact statement and all the other relevant submissions and carried out both 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 agreed with the screening assessment and conclusion carried out in the Inspector's report that the River Barrow and Nore Special Area of Conservation (Site Code: 002162), is the only European Site in respect of which the proposed development has the potential to have a significant effect.

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, namely, the River Barrow and Nore Special Area of Conservation (Site Code: 002162), in view of the site's Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the Appropriate Assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for the 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 afore-mentioned European Site, having regard to the site's Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site, in view of the site's Conservation Objectives.

Reasons and Considerations

Having regard to the provisions of national policy objectives in relation to renewable energy, the provisions of the Carlow County Development Plan 2015 – 2021, the nature and scale of the proposed development, the landscape character and the site layout, it is considered that, subject to compliance with the conditions set out below, the proposed development would support national and regional renewable energy policy objectives, would not conflict with the provisions of the development plan, would not be visually obtrusive or seriously injure the residential amenities of the area, would not pose a serious risk to public health and safety, would be acceptable in terms of traffic safety and convenience and 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, as amended by the further plans and particulars submitted on the 16th day of November 2018 and on the 28th day of November 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: In the interest of clarity.

3. The permission shall be for a period of 25 years from the date of commissioning of the battery energy storage system and the following conditions shall be adhered:
 - (a) All structures including foundations hereby authorised shall be removed not later than 25 years from the date of commissioning of the development, and the site reinstated, unless planning permission has been granted for their retention for a further period prior to that date.
 - (b) Prior to commencement of development, a detailed restoration plan for return to an agricultural field and providing for the removal of the Battery Energy Storage System (BESS), including all containers, foundations, 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. On full or partial decommissioning of the BESS, or if the BESS ceases operation for a period of more than one year, the containers, 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 energy storage system over the stated time period, having regard to the circumstances then prevailing, and in the interest of orderly development.

4. The mitigation measures identified in the Natura impact statement and the Drainage Design Report, submitted to the planning authority on the 16th of November, 2018 and Technical Appendix 7 - Outline Construction Environmental Management Plan, submitted to the planning authority on the 1st day of February 2018, and other plans and particulars submitted with the planning application shall be implemented in full by the developer, except as may otherwise be required in order to comply with the following conditions.

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

5. The landscaping proposals shall be carried out within the first planting season following commencement of development. All existing hedgerows (except at access track openings) shall be retained where practicable. The landscaping and screening shall be maintained at regular intervals. Any trees or shrubs planted in accordance with this condition which are removed, die, become seriously damaged or diseased within two years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

Reason: To assist in screening the proposed development from view and to blend it into its surroundings in the interest of visual amenity.

6. The inverter/transformer stations, storage module and all fencing shall be dark green in colour. The external walls of the proposed structures shall be finished in a neutral colour such as light grey or off-white; the roof shall be of black tiles/slates.

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

7. The construction of the development shall be managed in accordance with a Construction Management Plan, consistent with Technical Appendix 7 - Outline Construction Environmental Management Plan, submitted to the planning authority on the 1st day of February 2018, 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 prevent the spillage or deposit of clay, rubble or other debris on the public road network;

- (g) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (h) 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;
- (i) Off-site disposal of construction waste, and details of how it is proposed to manage excavated soil;
- (j) Means to ensure that surface water run-off is controlled, such that no silt or other pollutants enter local surface water drains; and
- (k) 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 interests of amenities, public health and safety.

8. The proposed underground grid connection shall be constructed such that there are no instream works of any kind to the drainage ditch along the northern boundary of the site.

Reason: In the interest of clarity.

9. (a) No 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) Each fencing panel shall be erected such that for a minimum of 300 millimetres of its length, its bottom edge is no less than 150 millimetres from ground level.

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

Reason: In the interest of visual and residential amenity, to allow wildlife to continue to have access to and through the site and to minimise impacts on drainage patterns.

10. Construction traffic to/from the site shall be managed in accordance with a Construction Traffic Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall, amongst other things, specify details of advance warning signs with respect to the proposed site entrance.

Reason: In the interests of good traffic management and road safety.

11. 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 environmental protection and public health.

12. The mitigation measures outlined in the Noise Impact Assessment, submitted to the planning authority on the 16th day of November 2018, shall be implemented in association with the commissioning of the development, and shall be maintained throughout the lifetime of the development.

- (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive locations, shall not exceed:-
 - (i) 45 dBLAeq,T during the period 0700 to 1900 hours.
 - (ii) 40 dBLAeq,T during the period 1900 to 2300 hours.
 - (iii) 35 dBLAeq,T during the period 2300 to 0700 hours.
- (b) All sound measurement shall be carried out in accordance with ISO Recommendations 1996-2007: Acoustics – Description and Measurement of Environmental Noise.

Reason: To protect the residential amenities of property in the vicinity of the site.

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 any archaeological heritage of the site, and to secure the preservation and protection of any remains that may exist within the site.

14. 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.

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.

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

Dated this day of 2019.