



Planning and Development Acts 2000 to 2018

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 18/814

Appeal by ENGIE Developments (Ireland) Limited care of McCarthy Keville O'Sullivan Limited of Block 1, G.F.S.C., Moneenageisha Road, Galway against the decision made on the 12th day of February, 2019 by Kilkenny County Council to refuse permission for the proposed development.

Proposed Development: The construction and operation of solar PV arrays mounted on metal frames on a 10.3 hectare site, inclusive of an electrical substation compound, up to 3 inverter units, a temporary construction area and ancillary facilities, (inclusive of gross floor space of proposed works up to 111.6 square metres) at Farranmacedmond, Aglish, County 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 the provisions of the current development plan for the area and to national policy objectives, it is considered that, subject to compliance with the conditions set out below, the proposed solar PV farm would not seriously injure the visual and residential amenities of the area, would not impact on the identified line of the future National Road Scheme, the N24 bypass of Mooncoin, or on the ecology of the area, and would be acceptable in terms of pedestrian and traffic safety and convenience. 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, as amended by the further particulars received by An Bord Pleanála on the 11th day of March 2019, 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. Prior to commencement of development, the developer shall inform the planning authority of any deviations required as a result of micro-siting of any element of the development (of not more than 20 metres, as measured from drawings submitted with this application).

Reason: In the interest of safeguarding residential amenity.

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, sub-station, CCTV cameras, satellite dish and fencing, 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. All of the mitigation measures outlined in the Technical Appendices (Volume 2), which accompanied the planning application submitted to the planning authority shall be undertaken during the construction, operational and decommissioning phases of the development.

Reason: In the interest of orderly development and residential amenities of the area.

6. Details of the two swales of 209 cubic metres and 126 cubic metres capacity, referred to in Technical Appendix 6-2 (Farm Drainage Strategy) of Volume 2, submitted with the planning application shall be submitted for the written agreement of the planning authority prior to commencement of development. The proposed development shall not be commissioned until such time as these two swales are in place and fully operational.

Reason: To avoid any excessive surface water run-off from this site, to protect the farming interests of adjacent landowners, and to lessen any impact which this development might have on flows within the Mill Stream at Ballynamountain Bridge on the N24, to the southeast of the site.

7.
 - (a) Existing field boundaries shall be retained, notwithstanding any exemptions available.
 - (b) A hedgerow of native species shall be planted along the entire southwestern boundary of the site with the farm access track.

- (c) 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 PV farm, 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 residential amenities of property in the vicinity.

- 8. (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 lands or the access track.
- (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 sub-station 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 interest of clarity, and of visual and residential amenity.

9. Mammal access gates, designed generally in accordance with standard guidelines for provision of mammal access (National Roads Authority, 2008), shall be provided within the perimeter fence of the site.

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

10. 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.

11. The construction of the development shall be managed in accordance with a Construction Environmental 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.

12. All HGV trips arriving at the site shall be from the direction of Waterford along the N24. All HGV trips leaving the site shall be in the direction of Mooncoin on the N24.

Reason: To obviate the need for HGVs to cross into the lane of oncoming traffic on the N24, in order to execute turning movements into or out of the L74321-4, in the interest of traffic safety.

13. 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.

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 any damage to the L74321-4 access road which may occur arising from the use of this road by machinery and plant associated with the construction phase 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 access road.

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 the 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.