



Planning and Development Acts 2000 to 2019

Planning Authority: Waterford City and County Council

Planning Register Reference Number: 19/183

Appeal by Vincent and Mary Kelly of Curraghduff, Carrick on Suir, County Waterford and by others against the decision made on the 14th day of May, 2019 by Waterford City and County Council to grant subject to conditions a permission to BNRGN Mothel Limited care of Tobin Consulting Engineers of Block 10-4, Blanchardstown Corporate Park, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: A solar farm of up to 30 megawatt (MW) located at two sites in Curraghduff townland (northern parcel) and in Mothel townland (southern parcel) comprising of:

- photovoltaic panels on ground mounted steel frames on an area of approximately 145,000 square metres, up to 24 number battery storage containers, up to four number inverter/transformer stations, one storage container, new site access, temporary construction compound/material storage area in northern parcel;

- photovoltaic panels on ground mounted steel frames on an area of approximately 50,000 square metres, up to two number inverter/transformer stations, one storage container, new site access and temporary construction compound/material storage area in southern parcel; and
- underground cables and ducts, perimeter fencing and access gates, CCTV and all ancillary development services and work.

Permission sought for a period of ten years and 30-year operational life from the date of commissioning of the solar farm, all at Mothel and Curraghduff townlands, County Waterford.

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

Proper Planning and Sustainable Development

Having regard to:

- (a) the nature, scale and extent of the proposed development,
- (b) the decisions made in respect of an appropriate assessment,
- (c) Government target of 70% of national electricity generation to be from renewable sources by 2030,
- (d) national and local policy support for developing renewable energy, in particular:
 - the Government's Strategy for Renewable Energy,
 - the Climate Action Plan 2019,
 - the National Planning Framework 2018,
 - the Regional Planning Guidelines for the South-East Region 2010-2022 and,
 - Policy INF 26 of the Waterford County Development Plan 2011 2017 as extended,
- (e) the location of the proposed development,
- (f) the distance to dwellings or other sensitive receptors from the proposed development,
- (g) the planning history of the immediate area including proximity to the proposed electrical substation and associated 110kV infrastructure required to connect ground-mounted solar PV generation to the electricity transmission and all associated ancillary site development works (Reference ABP-303930-19),
- (h) the submissions made in connection with the planning application and appeal,

- (i) the documentation submitted with the application, including the Appropriate Assessment Screening Statement, the Natura impact statement and the Planning and Environmental Considerations Report, and
- (j) the Inspector's Report,

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

- would not have an unacceptable impact on the character of the landscape,
- would not seriously injure the visual and residential amenities of the area,
- would not have an unacceptable impact on biodiversity,
- would make a positive contribution to Ireland's requirements for renewable energy, and
- would be in accordance with:
 - the Government's Strategy for Renewable Energy,
 - the National Planning Framework, 2018, and
 - Policy INF 26 of the Waterford County Development Plan 2011-2017 as extended.

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

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, and 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, namely the Lower River Suir Special Area of Conservation (Site Code: 002137) and the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) 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 Lower River Suir Special Area of Conservation (Site Code: 002137) and the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) 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) the 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 infrastructure required to connect ground-mounted solar PV generation to the electricity transmission and all associated ancillary site development works (Reference ABP-303930-19), and other developments including agricultural activities,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the 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 these European Sites in view of the sites' conservation objectives.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. The mitigation measures contained in the Natura impact statement which was submitted with the application shall be implemented in full.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European sites.

4. All of the environmental, construction and ecological mitigation measures set out in the Planning and Environmental Considerations Report 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 interest of clarity and the protection of the environment during the construction and operational phases of the development.

5. (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, 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.

6. (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.

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 (National Roads Authority 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 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 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.

10. 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.

11. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity

12. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This schedule shall cover a period of at least five years and shall include details of the arrangements for its implementation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of visual amenity.

13. The construction of the development shall be managed in accordance with a Construction Management Plan, to include 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 provide details of intended construction practice for the development, including:

- (a) details of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) details 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; and
- (k) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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 amenities, public health and safety.

14. 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.

15. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:
- (i) An LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. The T value shall be one hour.
 - (ii) An LAeqT value of 45 dB(A) at any other time. The T value shall be 15 minutes. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

- (b) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 “Assessment of Noise with respect of Community Response” as amended by ISO Recommendations R 1996 1, 2 or 3 “Description and Measurement of Environmental Noise” as applicable.

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

16. 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.

17. 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.