



Planning and Development Acts 2000 to 2019

Planning Authority: Kerry County Council

Planning Register Reference Number: 18/878

Appeal by Carmel McCormack of Clogheen, Cahir, County Tipperary against the decision made on the 23rd day of September, 2019 by Kerry County Council to grant subject to conditions a permission to Shannon Clean Tech Limited care of David Eves of 3 Heather Park, Páirc Na Gloine, Kenmare, County Kerry in accordance with plans and particulars lodged with the said Council:

Proposed Development: A ten year permission to construct a Battery Energy Storage System (BESS) facility on a total site area of up to 0.6 hectares that will provide grid balancing services to the Irish Electricity Grid, to include up to 26 number self-contained battery container units with associated Heating Ventilation and Air Conditioning systems (HVAC), Power Conversion Systems (PCS), step-up transformers, control systems and ancillary electrical components, one number single storey electricity control building, one number 110kV ESB substation, single storey substation control building and associated electrical infrastructure, one number 110kV Generator Transformer, all necessary ground and foundation works, associated compound cabling and ducting, palisade security fencing and lighting, CCTV

security cameras, new site access from existing private road, temporary construction compound and all associated ancillary infrastructure and site development works, at Kilpaddoge, Tarbert, County Kerry, as amended by further public notices received by the planning authority on the 6th day of February, 2019 and on the 2nd day of May, 2019.

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.

Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Lower River Shannon Special Area of Conservation (Site Code Number: 002165), and River Shannon and River Fergus Estuaries Special Protection Area (Site Code Number: 004077) are the European sites for which there is a likelihood of significant effects.

The Board considered the Natura impact statement, and all other relevant submissions carried out an appropriate assessment of the implications of the proposed development for European Sites Lower River Shannon Special Area of Conservation (Site Code Number: 002165), and River Shannon and River Fergus Estuaries Special Protection Area (Site Code Number: 004077), 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 Appropriate Assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts, particularly in relation to water quality, arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures within the Natural impact statement and the Construction Environmental Management Plan, 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 aforementioned European Sites, having regard to the sites' 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 Sites, in view of the Sites' Conservation Objectives.

Reasons and Considerations

Having regard to national policy objectives in relation to renewable energy, to the industrial zoning of the site within the Tarbert/Ballylongford Industrial Landbank as set out in the Kerry County Development Plan 2015 – 2021, to the nature and scale of the proposed development which is compatible with existing and proposed energy and industrial facilities within the zoned area, it is considered that the proposed development, subject to compliance with the conditions set out below, would be in accordance with national and local policy objectives, would not seriously injure the visual amenities of the area or give rise to a serious risk to public health and safety, and would be acceptable in terms of traffic safety. The Board considered that 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 plans and particulars submitted to the planning authority on the 21st day of January, 2019, the 16th day of April, 2019, and on the 30th day of July, 2019 and by the further particulars received by An Bord Pleanála on the 20th day of November 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. 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 development, the Board considers it appropriate to specify a period of validity of this permission in excess of five years.

3. This permission shall be for a period of 20 years from the date of commissioning of the battery energy storage system facility. Decommissioning of the battery energy storage system facility and the removal of all structures from the site, shall occur within the said 20 years period, unless a further planning permission for its longer duration on site is granted.

Reason: To enable the planning authority to review the operation of the proposed development in the light of the circumstances then prevailing.

4. A colour scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. 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. This scheme shall include the following:
- (a) A plan to scale of not less than 1:500 showing –
 - (i) The species, variety, number, size and locations of all proposed trees and shrubs, which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder.
 - (ii) Hard landscaping works, specifying surfacing materials and finished levels.
 - (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
 - (c) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

6. The measures outlined in the Construction Environmental Management Plan and the Design Stage Fire Risk Assessment submitted to the planning authority on the 30th day of July, 2019 shall be fully implemented, unless otherwise agreed in writing with the planning authority.

Reason: In order to avoid pollution.

7. Construction traffic to or 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.

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

8. 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.

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

Dated this day of 2020