



Planning and Development Acts 2000 to 2019

Planning Authority: Longford County Council

Planning Register Reference Number: 19/222

Appeal by Residents and Farmers of Ballykenny, Tully and Brianstown care of Sean Lucy and Associates of 23E Lough Sheever Corporate Park, Mullingar, County Westmeath against the decision made on the 24th day of October, 2019 by Longford County Council to grant subject to conditions a permission to Ballykenny Solar Limited care of Grasstec Limited of Kilpatrick, Ballyclough, Mallow, County Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: A 25 year permission for a solar farm up to 19 hectares with an export capacity of approximately 9 Mega Watts comprising of photovoltaic panels on ground mounted steel frames, a single storey DNO building, customer room, control building, storage container, HV kiosk, switch gear housing and 6 number inverter transformer enclosures, ducting and electrical cabling, perimeter fencing, mounted CCTV cameras, new internal access tracks and associated drainage infrastructure and all associated site works at Ballykenny, County Longford. The site is adjacent to the existing ESB Richmond Electricity Substation.

Decision

GRANT permission outline 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 Screening

The Board noted the Natura Impact Statement submitted with the application, which indicated that a Stage 2 Appropriate Assessment was required in respect of the subject development in relation to certain European sites. The Board also noted the Appropriate Assessment screening carried out by the Inspector, which agreed with this conclusion. The Board accepted and adopted the Inspector's screening assessment and conclusions in respect of the identification of the European sites which could potentially be affected by the proposed development, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' conservation objectives. The Board was satisfied that the only European sites that could be potentially be affected by the proposed development, individually or in combination with other plans or projects, are the Lough Forbes Complex Special Area of Conservation (site code 001818),

and the Ballykenny-Fisherstown Bog Special Protection Area (site code 004101), in view of the sites' conservation objectives.

Appropriate Assessment

The Board noted the Natura Impact Statement submitted with the application, and the mitigation measures proposed. The Board also noted the Appropriate Assessment carried out by the Inspector and the impact of the proposed development on the Lough Forbes Complex Special Area of Conservation (site code 001818), and the Ballykenny-Fisherstown Bog Special Protection Area (site code 004101) in the context of the implementation of these measures. The Board accepted the Inspector's conclusions in relation to this matter and adopted her report. The Board was therefore satisfied that, subject to compliance with the mitigation measures as set out in the submitted Natura Impact Statement, as modified by the Inspector in her report, the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of these two European sites, in the light of their conservation objectives and qualifying interests.

Reasons and Considerations

Having regard to:

- the nature and scale of the proposed development,
- the suitability of the topography of the site,
- the pattern of existing development in the vicinity,
- the provisions of the Longford County Development Plan 2015-2021, and

- regional and national policy objectives in relation to renewable energy,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant or detrimental impacts on visual amenity, would not seriously injure the residential amenities of property in the vicinity and would be generally acceptable in terms of pedestrian and traffic safety. 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, 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 for implementing this permission shall be 10 years from the date of this Order.

Reason: In the interest of clarity.

3. (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, providing for the removal of the solar arrays, including all foundations, anchors, inverter/transformer stations, 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 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 set out in the submitted Natura Impact Statement shall be implemented in full. In addition, a buffer of not less than three metres shall be maintained between the stream along the western boundary and any development works. The installation of the perimeter fence and security cameras along the stream shall be carried out under the supervision of an ecologist, prior to any work on the installation of the solar panels.

Reason: To protect the environment.

6. Prior to commencement of development, the developer shall submit to, and obtain the written consent of the planning authority for, a biodiversity management plan for the site. Such plan shall be prepared by a qualified ecologist with professional indemnity insurance, taking account of the document “BRE National Solar Centre Biodiversity Guidance for Solar Developments”, published by bre.co.uk, and addressing all relevant issues, including: -

- The species to be used in hedgerow reinforcement and new hedgerow planting.
- Details of hedgerow management.
- Details of the management of the land beneath and between the solar panels.
- Details of the management of the land around the field edges.

Reason: In order to safeguard and enhance biodiversity.

7. (a) Existing field boundaries shall be retained, and new planting undertaken in accordance with the plans submitted to the planning authority, as modified by the biodiversity plan required under condition number 6 of this Order.
- (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 within five years from planting 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 property or public roads.
- (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) The solar panels shall have driven or screw pile foundations only, unless otherwise authorised by a separate grant of planning permission.
- (e) Cables within the site shall be located underground.

- (f) The inverter/transformer stations, HV kiosk, storage container and all associated fencing shall be dark green in colour. The external walls of the proposed DNO building, control building and customer room shall be finished in a neutral colour such as light grey or off-white and the roof shall be of black tiles or slates.

Reason: In the interests of clarity, 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 and surface water quality.

- 9. 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) Engage the services of a suitably qualified archaeologist (licenced under the National Monuments Acts 1930-2004) to carry out pre-development testing at the site. No sub-surface work shall be undertaken in the absence of the archaeologist without his/her express consent.
 - (b) The archaeologist is required to notify the Department of Culture, Heritage and the Gaeltacht in writing at least four weeks prior to the commencement of site preparations. This will allow the archaeologist sufficient time to obtain a licence to carry out the work.
 - (c) The archaeologist shall carry out any relevant documentary research and may excavate trenches at locations chosen by the archaeologist, having consulted the proposed development plans.

- (d) Having completed the work, the archaeologist shall submit a written report to the planning authority and the Department of Culture, Heritage and the Gaeltacht.
- (e) Where archaeological material is shown to be present, avoidance, preservation in situ, preservation by record (excavation) and/or monitoring may be required and the Department of Culture, Heritage and the Gaeltacht will advise the developer regarding these matters.
- (f) No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the planning authority in consultation with the Department of Culture, Heritage and the Gaeltacht.
- (g) No groundworks shall take place within at least 20 metres of the external perimeter of the 19th Century House.

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.

10. 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 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.

11. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

12. 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 reinstatement of public roads which may be damaged by construction transport, 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 secure the reinstatement of public roads that may be damaged by construction transport.

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 secure satisfactory reinstatement of the site.

14. 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.

Philip Jones

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

Dated this day of 2020.