



Planning and Development Acts 2000 to 2019

Planning Authority: Westmeath County Council

Planning Register Reference Number: 19/6168

Appeal by Sharon Griffith of Hightown, Coralstown, Mullingar, County Westmeath and by Geraldine McDermott and others of Clonfad, Milltownpass, Mullingar, County Westmeath and by JBM Solar Developments Limited care of Tom Phillips and Associates of 80 Harcourt Street, Dublin against the decision made on the 1st day of November, 2019 by Westmeath County Council to grant subject to conditions a permission to the said JBM Solar Developments Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: A 10-year permission for the construction of a solar PV energy development comprising installation of solar photovoltaic (PV) panels on ground mounted frames/support structures within existing field boundaries, underground cabling and ducting including along the R446, the L1007 and the L5008, 40 number inverter/transformer units, one number customer control building, one number communications and storage building, site perimeter (stock-proof) security fencing, CCTV security cameras, new construction site entrance and road crossing point on the L5008, upgraded access points and internal site access tracks, section of asphalt road widening

along the L5008 north of the R446 to facilitate construction access, landscaping including screen planting and all associated site development works. A number of temporary construction compounds will also be provided. All on a site of circa 260 hectares in the townlands of Clonfad, Enniscoffey or Caran, Hightown or Ballyoughter, Lowtown or Balleighter, Pass of Kilbride and Rattin, County Westmeath.

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:

- (a) the nature, scale and extent of the proposed development,

- (b) the national targets for a renewable energy contribution of 40% to gross electricity consumption by 2020,
- (c) national and local policy support for developing renewable energy, in particular the: Government's Strategy for Renewable Energy 2012-2020, National Planning Framework, 2018, Delivering a Sustainable Energy Future for Ireland - the Energy Policy Framework 2007-2020, Government Policy Statement on the Strategic Importance of Transmission and Other Energy Infrastructure 2012, Regional Planning Guidelines for the Midland Region 2010 – 2022, Policies P-EN1 and P-EN5 of the Westmeath County Development Plan 2014-2020,
- (d) the location of the proposed development on moderate grade agriculture land in fields surrounded by hedgerows which assist with visual absorption and where the Landscape Character designation as set out in the development plan requires no particular landscape protection,
- (e) the distance to dwellings or other sensitive receptors from the proposed development,
- (f) the submissions on file, and
- (g) the documentation submitted with the planning application, including the Appropriate Assessment Screening Statement and the Planning and Environmental Report,

it is considered that, subject to compliance with the conditions set out below, the proposed development would:

- (a) not have an unacceptable impact on the character of the landscape or on the cultural or archaeological heritage,
- (b) not seriously injure the visual or residential amenities of the area,
- (c) be acceptable in terms of public health, traffic safety and convenience,
- (d) not have an unacceptable impact on ecology,
- (e) make a positive contribution to Ireland's requirements for renewable energy, and
- (f) be in accordance with:-
 - (i) Government's Strategy for Renewable Energy 2012-2020,
 - (ii) the National Planning Framework 2018, and
 - (iii) the Westmeath County Development Plan 2014-2020.

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

Appropriate Assessment Screening

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of the European Sites which could potentially be affected, 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. In particular, the Board noted the hydrological connectivity between the site and the River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299) and the River Boyne and River Blackwater Special Protection Area (Site Code: 004232) but was satisfied in view of the sites' conservation objectives and the location of these sites, approximately 19 kilometres downstream, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on these European Sites, or any other European Site, 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, as amended by the further plans and particulars submitted on the 7th day of October, 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 proposed development, the Board considered it reasonable and appropriate to specify a period of validity of this permission in excess of five years.

3. (a) The permission shall be for a period of 30 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, substation, 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.

4. All of the environmental, construction and ecological mitigation measures set out in the Ecological Impact Assessment and the Planning and Environmental Report, and other particulars submitted with the planning 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) Existing field boundaries shall be retained, notwithstanding any exemptions available and new planting undertaken in accordance with the landscape plans submitted to the planning authority on the 25th day of June, 2019 and the further information submitted on the 7th day of October, 2019.
- (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 during the operative period of the solar farm as set out by this permission, 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.

6.
 - (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) 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 substation 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. 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) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess and monitor all preparatory works and all site development works.
 - (b) investigate areas of archaeological potential by means of geophysical survey and, depending on the findings, carry out test excavations if deemed necessary following consultation with the National Monuments Services Section of the Department of Culture, Heritage and the Gaeltacht.

- (c) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development, and
- (d) submit a report to the planning authority, containing the results of the archaeological investigations and assessment.

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.

- 8. 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:
 - (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 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,
- (k) details of on-site re-fuelling arrangements, including use of drip trays,
- (l) details of how it is proposed to manage excavated soil, and
- (m) means to ensure that surface water run-off is controlled such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses.

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 environmental protection, amenities, public health and safety.

9. (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 1996-2007: Acoustics – Description and Measurement of Environmental Noise.

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

10. (a) Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority fully annotated construction design drawings showing:
- In accordance with Transport Infrastructure Ireland Publication: Geometric Design of Junctions (DN-GEO-03060):
 - L5008/R446 junction layout with sightlines of 2.4 metres by 160 metres.
 - New site access junction layouts on the L5008 and L5009 with sightlines of 2.4 metres by 120 metres.
 - New site access junction layouts on the L1007 with sightlines of 2.4 metres by 120 metres.
 - Proposed passing bay to be provided on the L5008 in accordance with preliminary design drawing 2017 C264_1/6V1.1 submitted for planning. The design to be in accordance with the Transport Infrastructure Ireland Publication: Guidance on Minor Improvements on National roads (DN-GEO-03030).
- (b) Sightlines of 2.4 metres by 160 metres shall be achieved and maintained at all times from the proposed existing access point on the R446.
- (c) Sightlines of 2.4 metres by 120 metres shall be achieved and maintained at the existing the L5008/L1007 junction.

- (d) Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority details of a road condition survey (which shall include Falling Weight Deflectometer tests) of the roads along all the local road network (L-5008 and L-1007) over which construction traffic will travel, as shown in Figure 2.2 – Construction Traffic Route of the Request for Further Information Traffic Response submitted for planning. This road condition survey shall be carried out by a qualified engineer both pre and post construction of the solar PV energy development at the developer's expense. The pre-construction road condition survey shall include a schedule of required works to enable the Designated Construction Traffic Routes to cater for construction-related traffic. The extent and scope of the survey and the schedule of works required shall be based on the survey results and shall be agreed in writing with the planning authority prior to commencement of development. The post construction road condition survey shall be completed within three months of satisfactory completion of the development.
- (e) If any construction damage arises to the public roads during construction, this shall be immediately rectified to the satisfaction of the planning authority.

- (f) Prior to commencement of development, the developer shall lodge with the planning authority, a cash deposit/bond of insurance company, or such other security as may be acceptable to the planning authority to secure the satisfactory reinstatement of public roads subjected to construction traffic, coupled with an agreement empowering the planning authority to apply such security or part thereof commensurate with the cost of satisfactory completion of the reinstatement. The form and amount of the security, which shall not exceed €200,000 (two hundred thousand euro) shall be agreed between the planning authority and the developer, or in default of agreement, shall be referred to An Bord Pleanála for determination.

- (g) The developer shall apply to the planning authority for a road opening licence for all road openings including road openings required for cabling along the R446, L-1007 and L-5008.

- (h) The developer shall carry out a Stage 3 Road Safety Audit post construction on the completed junctions and access points on all public roads in accordance with the provisions of Transport Ireland Infrastructure document 'GE-STY-01024 Road Safety Audit'. The recommendations of the Stage 3 Road Safety Audit shall be implemented within a timeframe to be agreed in writing with the planning authority.

Reason: In the interest of traffic safety,

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

Reason: In the interest of public health.

12. In the event that the proposed mitigation measures do not negate glint and glare along the M6, the developer shall be responsible for any mitigation costs or for the removal of elements of the solar farm as required to ensure that no glint or glare impact the M6 motorway.

Reason: In the interest of traffic safety.

13. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a biodiversity management plan for the site prepared by a qualified ecologist 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 the ecology of the area.

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 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.

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.

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

Dated this day of 2020.