



Planning and Development Acts 2000 to 2020

Planning Authority: Tipperary County Council

Planning Register Reference Number: 19/601012

Appeal by Michael Shanahan of Castlehall Farm Partnership, Rahealty, Thurles, County Tipperary against the decision made on the 20th day of February 2020 by Tipperary County Council to grant subject to conditions a permission to Engie Developments (Ireland) Limited care of MKO of Tuam Road, Galway in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction and operation of solar PV arrays mounted on metal frames on a 38.3-hectare site, inclusive of an electrical substation compound, up to 10 number indicative inverter units, a temporary construction area and ancillary facilities, (inclusive of gross floor space of proposed works up to 248 square metres) at Rahelty and Shanballyduff, Thurles, County Tipperary.

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 decisions made in respect of an Appropriate Assessment,
- (c) the national targets for renewable energy contribution of 40% gross electricity consumption by 2020,
- (d) the national and local policy support for developing renewable energy, in particular: -
 - (i) the Government's Strategy for Renewable Energy 2012-2020,
 - (ii) the National Planning Framework 2040,
 - (iii) the North Tipperary Development Plan 2010- 2016 (as varied) and

- (iv) the Tipperary Renewable Energy Strategy 2016,
- (e) the location of the proposed development,
- (f) the distance to dwellings or other sensitive receptors from the proposed development,
- (g) the submissions made in connection with the planning application and the appeal, and
- (h) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European Sites,

the Board considered that the proposed development, subject to compliance with the conditions set out below, would not have an unacceptable impact on the character of the landscape or on cultural or archaeological heritage, would not seriously injure the visual and residential amenities of the area, would be acceptable in terms of public health, flooding, traffic safety and convenience, would not have an unacceptable impact on the ecology of the area, 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 2012-2020, the National Planning Framework 2040, the North Tipperary Development Plan 2010-2016 (as varied) and the Tipperary Renewable Energy Strategy 2016. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

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 report submitted with the application and with the screening exercise carried out by the Inspector. The Board concluded that, having regard to the qualifying interests for which the sites were designated, and in the absence of a hydrological connection between the application site and the European Sites, being The Loughans Special Area of Conservation (Site Code 000407) and Spahill and Clomantagh Hill Special Area of Conservation (Site Code 000849), these sites could be screened out from further consideration and the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effects on these European Sites in view of the site's conservation objectives.

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 Lower River Suir Special Area of Conservation (Site Code 002137) in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

Appropriate Assessment

In completing the assessment, the Board considered the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, the mitigation measures which are included as part of the current proposal and the conservation objectives for this European Site. In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspectors report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the Lower River Suir Special Area of Conservation (Site Code 002137) or any other European Site in view of the site's 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 18th day of December 2019 and by the further plans and particulars received by An Bord Pleanála on the 8th day of May 2020, 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 proposed development shall be amended so that the existing agricultural access shall not be used for the proposed development. A new vehicular access shall be provided circa 50 metres north of the existing proposed access. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of traffic safety.

4. All of the environmental, construction and ecological mitigation measures set out in the Planning and Environmental Report, the Ecological Impact Assessment, the Natura Impact Statement, 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 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.

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. Prior to the commencement of development, details of the structures of the security fence showing provision for the movement of mammals shall be submitted for prior approval to the planning authority. This shall be facilitated through the provision of mammal access gates every 100 metres along the perimeter fence and in accordance with standard guidelines for provisions of mammal (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. 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.

10. (a) Existing field boundaries shall be retained, notwithstanding any exemptions available. New planting shall be undertaken in accordance with the plans which shall be submitted to, and agreed in writing with, the planning authority.

- (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 interests of biodiversity, the visual amenities of the area, and the residential amenities of property in the vicinity.

11. 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. 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.

12. 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 refuelling 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 interests of environmental protection, amenities, public health and safety.

13. (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.

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. 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.

16. 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 2021.