

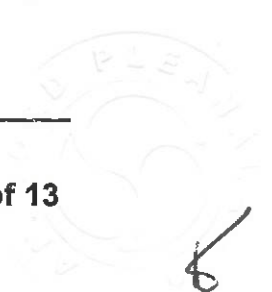
Planning and Development Acts 2000 to 2020

Planning Authority: Louth County Council

Planning Register Reference Number: 20187

Appeal by Gillian Rice on behalf of Kilcurly/Kilkerley community of Drumreaske, Kilkerley, Dundalk, County Louth and by others and by Harmony Solar Louth Limited care of Fehily Timoney and Company of Core House, Pouladuff Road, Cork against the decision made on the 18th day of December, 2020 by Louth County Council to grant subject to conditions a permission to the said Harmony Solar Louth Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: A ten year permission for a solar farm on the site of approximately 62.8 hectares consisting of the following: up to 319,500 square metres of solar photovoltaic panels on ground mounted steel frames; electrical substation with electrical control building and associated compound with palisade fence; inverter/transformer stations; underground power and communication cables and ducts; boundary security fencing; new internal access tracks and associated drainage infrastructure; new site entrance to the public local road which connects to the R178 road and two number vehicle passing areas on lands adjoining the public local road; CCTV cameras and all associated site services and works at Kilcurly, near Dundalk, County Louth. Further public notices were received by the planning authority on the 4th day of November, 2020.



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.

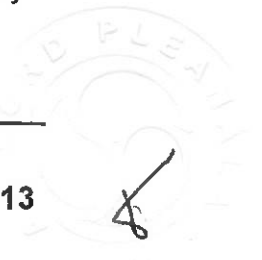
Matters Considered

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) 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 2018,
 - (iii) delivering a Sustainable Energy Future for Ireland - the Energy Policy Framework 2007-2020,
 - (iv) the Government Policy Statement on the Strategic Importance of Transmission and Other Energy Infrastructure 2012,
 - (v) the Eastern and Midlands Region Regional Spatial and Economic Strategy, and
 - (vi) the Louth County Development Plan 2015-2021, in particular policy RD 23,

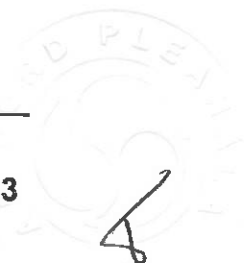


- (d) the location of the proposed development on moderate grade agriculture land in fields surrounded by hedgerows which assist its visual absorption and where the Landscape Character designation as set out in the Development Plan requires no particular landscape protection,
- (e) the distance to dwellings or other sensitive receptors from the proposed development,
- (f) the submissions on file,
- (g) the documentation submitted with the application, including the Natura Impact Statement and the Planning and Environmental Report, and
- (h) the report of the inspector,

the Board considered that the proposed development, would not have an unacceptable impact on the character of the landscape or on the cultural or archaeological heritage, would not seriously injure the visual and residential amenities of the area, would be acceptable in terms of public health, traffic safety and convenience, would not have an unacceptable impact on the ecology, 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 2018, and the Louth County Development Plan 2015-2021. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed a screening exercise in relation to the potential effects of the proposed development on designated European sites, Dundalk Bay Special Area of Conservation (site code 000455) and Dundalk Bay Special Protection Area (site code 004026), taking into account the nature, scale and location of the proposed development, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, on the basis of the information on the file,



there is a possibility of significant effects, and the proposed development must, therefore, be subject to Appropriate Assessment.

Appropriate Assessment

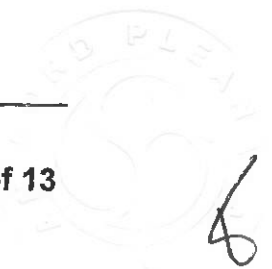
The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the aforementioned European sites in view of the sites' conservation objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's conservation objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered the following:

- (i) Site Specific Conservation Objectives for these European sites,
- (ii) Current conservation status, threats, and pressures of the qualifying interest,
- (iii) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (iv) the view of the Department of Arts, Heritage, and the Gaeltacht, and
- (v) mitigation measures which are included as part of the current proposal.

In completing the AA, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the implications of the proposed development on the integrity of 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 European sites in view of the site's conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.



This conclusion is based on a complete assessment of all aspects of the proposed project including the location outside of a European site, a full and detailed assessment of all aspects of the proposed project including the proposed mitigation measures, a detailed assessment of in combination effects with other plans and projects, and the Board is satisfied that there is no reasonable scientific doubt as to the absence of adverse effects on the integrity of Dundalk Bay Special Area of Conservation, and Dundalk Bay Special Protection 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 4th day of November, 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 this permission may be implemented shall be 10 years from the date of this Order.

Reason: In the interest of clarity.

3. 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.

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

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. 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 -

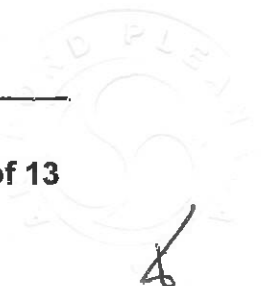
- (a) engage the services of a suitably qualified archaeologist (licenced under the National Monuments Acts 1930-2004) to carry out test trenching targeting specifically those anomalies highlighted by the geophysical report, submitted to the planning authority on the 4th day of November, 2020,
- (b) the archaeologist is required to notify the Department of Housing, Local Government and Heritage for consideration 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 Housing, Local Government and Heritage for consideration,
- (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 Housing, Local Government and Heritage will advise the Developer with regard to these matters, and
- (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 Housing, Local Government and Heritage.

Reason: To ensure the continued preservation (either *in situ* or by record) of places, caves, sites, features or other objects of archaeological interest.

6. The proposed development shall be undertaken in compliance with all environmental commitments made in the documentation supporting the application. In particular, all of the relevant measures to protect surface water from contamination, proposed in relation to the construction and decommissioning phases of the proposed development, shall apply to the installation and decommissioning of any associated cable outside the site.

Reason: To protect the environment.



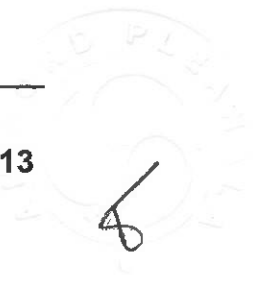
7. (a) No works shall commence on site until the visibility splays have been provided. The area within the visibility splay shall be cleared to provide a level surface no higher than 250 millimetres above the level of the adjoining carriageway and shall be retained and kept clear thereafter.
- (b) Entrance gates to be set back 10 metres, wing walls splayed at a 45 degree angle. A gradient of not greater than 2% shall be provided for a distance of 15 metres from the junction with the public road.
- (c) The developer shall fully implement all soil management procedures.
- (d) Road drainage across the entrance with the public road shall not be impacted.
- (e) No works shall commence until road strengthening works have been carried out.
- (f) No works shall commence until road adequate passing bays have been constructed.
- (g) Prior to commencement of development, the developer shall submit for the written agreement of the planning authority, a site-specific traffic management plan.
- (h) Any necessary measures to prevent spillage or deposit of clay, rubble or other debris on the public road, and to maintain the public road by removing material shall be implemented with full costs to be borne by the developer.

Reason: In the interest of traffic safety.

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 of construction traffic to and from the construction site and associated directional signage.
 - (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 waste, and
 - (k) construction hours – not to extend beyond 0800-1800 Monday to Friday and 0800-1400 on Saturdays and no construction work on Sundays and public holidays.

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 amenities, public health and safety.



9. Details of the materials, colours, textures and finishes to the ancillary structures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenity of the area.

10. CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards the adjoining property or the public road.

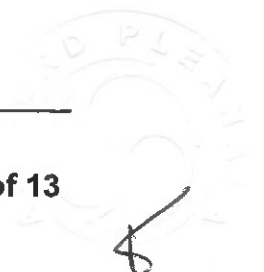
Reason: In the interests of the amenities of the area and of property in the vicinity.

11. Cables within the site shall be located underground.

Reason: In the interest of visual amenity.

12. Additional screening and/or planting shall be provided so as to ensure that there is no glint impact on adjoining houses as a result of the development. Upon commissioning of the development and for a period of two years following first operation, the developer shall provide detailed glint surveys on an annual basis to the planning authority to confirm that no such glint impact has taken place and shall provide such mitigation measures as the planning authority may specify in writing, to ensure this is achieved.

Reason: To mitigate against any glint impact and in the interest of residential amenity.



13. 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.

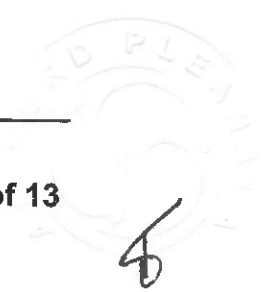
Reason: In the interests of biodiversity and the visual amenities of the area.

14. Prior to commencement of development, a detailed Restoration Plan, including a timescale for its implementation, shall be submitted to, and agreed in writing with, the planning authority. On full or partial decommissioning of the solar array, or if the solar array ceases operation for a period of more than one year, the site, including access roads, shall be restored and structures removed in accordance with the said plan within three months of decommissioning/cessation, to the written satisfaction of the planning authority.

Reason: To ensure the satisfactory reinstatement of the site on full or partial cessation of the proposed development.

15. The construction of the development shall be managed in accordance with the Construction Environmental Management Plan (CEMP) which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development. This plan shall provide details of intended construction practice for the development, including details of traffic and environmental management measures proposed including but not limited to operational controls for dust, noise and vibration, protection of groundwater.

Reason: In the interests of public safety, residential amenity and protection of the environment.

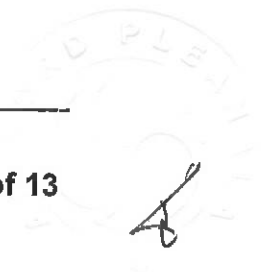


16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads that may be damaged by construction transport 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 ensure the reinstatement of public roads that may be damaged by construction transport.

17. 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 upon 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 the satisfactory reinstatement of the site upon cessation of the project.



18. 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



Terry Ó Niadh

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.

Dated this 2nd day of November 2021.

