



Planning and Development Acts 2000 to 2021

Planning Authority: Meath County Council

Planning Register Reference Number: 21/396

Appeal by Edward Casserly of Moyaugher, Cortown, Kells, County Meath, by Harmony Solar Meath Limited care of Fehily Timoney of Core House, Pouladuff Road, Cork, and by Others against the decision made on the 31st day of August, 2021 by Meath County Council to grant subject to conditions a permission to Harmony Solar Meath Limited in accordance with plans and particulars lodged with the said Council:

Proposed Development: The development consists of a 10 year permission and 35 year operation for a solar farm on two sites: North Parcel (Milltown Townland) approximately 41.2 hectares; South Parcel (Moyagher Lower Townland) approximately 80.3 hectares, for a total site area of approximately 121.5 hectares. The proposed development on these two sites comprises up to 734,000 square metres of solar photovoltaic panels on ground mounted steel frames, inverter/transformer stations, underground power and communication cables and ducts, boundary security fencing, new internal access tracks, associated drainage infrastructure, new site entrances to the L6835 public local road (North Parcel) and the L8003 public local road (South Parcel), one number vehicle passing area on lands adjoining the L6835 local

road, CCTV cameras and all associated site services and works. Provision of control building and associated compound within the South Parcel, all at Milltown and Moyagher Lower, Cortown, Kells, County Meath. The proposed development was revised by further public notices received by the planning authority on the 12th day of July, 2021. As part of a separate Strategic Infrastructure Development (SID) planning application, provision of 110KV electrical substation with electrical control building, associated compound with palisade fence and two number overhead line masts, which is to be located within the North Parcel, will be lodged with An Bord Pleanála in due course.

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

In coming to its decision, the Board had regard to:

- (i) the nature, location, scale and extent of the proposed development, and the characteristics of the site and its general vicinity,
- (ii) European, national, regional, and county level support for renewable energy development such as:
 - the Climate Action Plan 2021, as updated,
 - Project Ireland 2040 National Planning Framework,
 - the Regional Spatial and Economic Strategy 2019-2031, published by the Eastern and Midland Regional Assembly, and
 - the Meath County Development Plan 2021-2027, as adopted by Meath County Council,
- (iii) the documentation submitted with the application, including the Natura Impact Statement, the Planning and Environmental Report and appendices, and the Construction and Environmental Management Plan,
- (iv) the nature of the landscape and absence of any specific conservation or amenity designation for the site,
- (v) the mitigation measures proposed for construction, operation and decommissioning of the site,
- (vi) the submissions on file, including those from prescribed bodies, the planning authority, and other third parties and
- (vii) the report of the Inspector.

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Appropriate Assessment – Stage 1

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the only European Sites in respect of which the proposed development has the potential to have a significant effect are 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).

Appropriate Assessment – Stage 2

The Board considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein and the Inspector's assessment. The Board completed an Appropriate Assessment of the implications of the proposed development for the European sites, namely, 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), 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 arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures 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.

Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with European, national, and regional, renewable energy policies and with the provisions of the Meath County Development Plan 2021-2027, would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would not interfere with a protected view and prospect of importance or have an unacceptable impact on the character of the landscape or on cultural or archaeological heritage, would not have a significant adverse impact on ecology, would be acceptable in terms of traffic and pedestrian safety and convenience, and would make a positive contribution to Ireland's renewable energy requirements. 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 on the 30th day of June 2021, 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. All of the environmental, construction, ecological and heritage-related mitigation measures, as set out in the Planning and Environmental Report and its associated appendices, the Natura Impact Statement, and the Construction and Environmental Management Plan, 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 interests of clarity and of the protection of the environment during the construction and operational phases of the development.

4. (a) This permission shall be for a period of 35 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, control building, 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 circumstances then prevailing, and in the interest of orderly development.

5. Prior to commencement of any development on site, the developer shall submit to and agree in writing with the planning authority, the specific layout plan to be implemented on site.

Reason: In the interest of clarity.

6. Having regard to the relevant provisions in the Meath County Development Plan 2021-2027 in which it is a policy to consider the Department of Environment, Heritage and Local Government/Office of Public Works publication 'The Planning System and Flood Risk Management, Guidelines for Planning Authorities' in November 2009 and to the fact that part of the site is situated in Flood Zone B, the developer shall ensure, to the satisfaction of the planning authority, that all essential infrastructure, including inverter/transformer stations and substations, are located outside of Flood Zones A and B.

Reason: In the interests of flood risk prevention and the proper planning and sustainable development of the area.

7. (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 control building shall be finished in a neutral colour such as light grey or off-white and the roof shall be black/grey/off-white.

Reason: In the interests of clarity and of visual and residential amenity.

8. Prior to commencement of development, details of the structure of the security fence showing provision for the movement of mammals shall be submitted to and agreed in writing with the planning authority. This shall be facilitated through the provision of mammal access gates every 50 metres along the perimeter fence and in accordance with standard guidelines for provision of mammal access (NRA 2008).

Reason: To allow wildlife to continue to have access across the site and in the interest of biodiversity protection.

9. 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 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 Housing, Local Government and Heritage.
 - (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.

10. The landscaping scheme shown on drawing numbers LD.MLTWN 1.1 and LD.MLTWN 1.2, as submitted to the planning authority on the 2nd day of March 2021 shall be carried out within the first planting season following commencement of development, except in relation to the following:
 - (a) Landscaping mitigation along the public road to the west and south of the South Parcel shall be carried out prior to commencement of any development on the South Parcel.
 - (b) Landscaping mitigation of semi-mature woodland mix/thicket species shall be in place around the property immediately adjacent to the west of the South Parcel (the Butler property) prior to commencement of any development on the South Parcel. Details of this mitigation shall be agreed in writing with the planning authority prior to commencement of development on the South Parcel.
 - (c) Temporary screening mitigation shall be provided to screen potential glint and glare reflectance from the road receptor points until proposed planting matures as set out in section 2.5.3 of the Glint and Glare Assessment dated December 2020 submitted with the planning application. Details in this regard shall be agreed in

writing with the planning authority prior to commencement of any development on the South Parcel.

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.

11. The construction of the development shall be managed in accordance with a Construction and Environmental 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 prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (g) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (h) 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;
- (i) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (j) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains; and
- (k) Hours of construction.

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 amenities, public health, and safety.

12. (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 Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive,
 - (ii) An Leq,15 min value of 45 dB(A) at any other time; 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.

13. 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.

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 at the developer's expense. Prior to commencement of development, a road condition survey shall be carried out 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.



Dave Walsh

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *28th* day of *March* 2022.

