



An  
Bord  
Pleanála

Board Order  
ABP-312288-21

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: 21/457**

**Appeal** by Terra Solar II Limited care of HW Planning of 5 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 22<sup>nd</sup> day of November, 2021 by Kerry County Council to refuse permission for the proposed development.

**Proposed Development:** A 10 year permission for a solar farm which will connect to the national grid on lands with a total area of circa 84 hectares, consisting of solar panels on ground mounted frames, 19 number single storey electrical inverter/transformer stations (one number to include customer switchgear) and associated spare equipment container, underground and overground cabling, security fencing, CCTV, access tracks, temporary construction compound, landscaping and all associated ancillary development works. Construction and operational access to the solar farm will be provided via an existing agricultural entrance from the L-1008 which will be upgraded. The project will connect to the national grid via the 110kV substation permitted under An Bord Pleanála's appeal number ABP-305106-19, with the connection between the proposed solar farm and permitted substation comprising overhead cabling on poles and underground cabling. As part of the proposal, permission is also sought for minor amendments to permission

granted under An Bord Pleanála's appeal number ABP-302681-18 (Kerry County Council's planning register reference number 18/720) comprising the laying of underground cabling under the access track from the site entrance (L-1009) to permitted substation to connect the proposed project to the grid. The project will have an operational lifespan of 35 years, all at Ballydonohue, Glouria, Coolard, Knockenagh South, Carhoonaknock East, Coolkeragh and Tullamore (Townlands), Listowel, County Kerry.

## **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.**

## **Reasons and Considerations**

Having regard to the provisions of national and regional policy objectives in relation to renewable energy, to the 'Rural General' designation of the area in the current Kerry County Development Plan 2015-2021, the nature and scale of the proposed development, the continued agricultural use and improved biodiversity which would result and the proximity of a potential grid connection, it is considered that, subject to compliance with the conditions set out below, the proposed development would support national and regional renewable energy policy objectives, would not be contrary to the provisions of the development plan, would not seriously injure the residential amenities of property in the vicinity, would not have unacceptable impacts on the visual amenities of the area, would not adversely affect the archaeological or natural heritage and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Appropriate Assessment Stage 1**

The Board considered the Screening Report for Appropriate Assessment, the Natura Impact Assessment and all the other relevant submissions and carried out both 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 agreed with the screening assessment and conclusion carried out in the Inspector's report that the Lower River Shannon candidate Special Area of Conservation (Site Code: 002165) is the only European Site in respect of which the proposed development has the potential to have a significant effect and must, therefore, be subject to Appropriate Assessment.

## **Appropriate Assessment Stage 2**

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 European Site, namely, the Lower River Shannon candidate Special Area of Conservation (Site Code: 002165), 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. 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 Site.

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 Site, having regard to the site's 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 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, 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 may be carried shall be 10 years from the date of this Order.

**Reason:** In the interest of clarity and having regard to the scale and nature of the proposed development.

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3. 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.

4. (a) All structures including foundations hereby authorised shall be removed not later than 35 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, substation, 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.

5. The mitigation measures identified in the Natura Impact Statement and other plans and particulars submitted with the planning application, shall be implemented in full by the developer, except as may otherwise be required in order to comply with the conditions of this permission.

**Reason:** In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

6. The developer shall comply with the following requirements:
- (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) 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.

**Reason:** In the interest 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.

7. The landscaping proposals shall be carried out within the first planting season following commencement of construction of the solar PV array. All existing hedgerows (except at access track openings) shall be retained. The landscaping and screening shall be maintained at regular intervals. Any trees or shrubs planted in accordance with this condition which are removed, die, become seriously damaged or diseased within two years of planting shall be replaced by trees or shrubs of similar size and species to those original required to be planted.

**Reason:** To assist in screening the proposed development from view and to blend it into its surroundings in the interest of visual amenity, and to mitigate any glint impact from the proposed development upon adjoining residential amenities.

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.
  - (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, which shall include a programme of archaeological testing, 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, avoidance and/or 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 site and to secure the preservation and protection of any remains that may exist within the site.

9. The construction of the development shall be managed in accordance with a final 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 hours of working, noise management measures, invasive species management plan and off-site disposal of construction /demolition waste.

**Reason:** In the interests of public safety and residential amenity.



10. The developer shall comply with the transportation requirements of the planning authority for such works and services as appropriate.

**Reason:** In the interest of traffic and pedestrian safety.

11. 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.

12. Additional vegetative screening including native species hedgerows shall be provided to minimise glint and glare at the four road receptor points (R32, R34, R35 and R36) that have been identified as having potential for residual glare after existing screening and added mitigation screening. Prior to commencement of the development, details of these proposals shall be submitted to and agreed with the planning authority.

**Reason:** In the interest of minimising glint and glare impacts on road receptors.

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 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.

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 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. The application of any indexation required by this condition 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.

**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.

*Patricia Calleary*

**Patricia Calleary**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

Dated this *19<sup>th</sup>* day of *May* 2022

