



An
Bord
Pleanála

Board Order
ABP-312712-22

Planning and Development Acts 2000 to 2022

Planning Authority: Limerick City and County Council

Planning Register Reference Number: 21/1565

Appeal by Harmony Solar Limerick Limited care of Fehily Timoney and Company of Core House, Pouladuff Road, Cork against the decision made on the 14th day of January, 2022 by Limerick City and County Council to refuse permission for the proposed development.

Proposed Development: A 10-year permission and 35 year operation for a solar farm on four land parcels as described herein; North Parcel (Gortnakistin townland) approximately 23.78 hectares, Central Parcel (Ballyvalode and Keeloges townlands) approximately 43.49 hectares, South Central Parcel (Gortyvahane and Moanroe townlands) approximately 34.7 hectares, South Parcel (Garryduff, Moanroe, Moanoola and Kilmacogue townland) approximately 39.27 hectares, (the Central Parcel, South Central Parcel and South Parcel are collectively referred to as the Main Solar Farm), a route corridor of 0.58 hectares for an underground internal network cable along the R507 and L5040 public roads for approximately 600 metres and within the solar farmlands for approximately 1,260 metres. The total site area for the proposed development is approximately 141.8 hectares. The proposed development on these parcels comprises of 755,000 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; site entrances to the R507 public road (site entrance to main solar farm) and the L5040 public local road (North Parcel); CCTV cameras and all associated site services and works. Works for the internal network cable comprise trenching for an underground medium voltage electrical cable and associated joint bays and infrastructure, for a distance of approximately 560 metres on the R507 Regional Road, approximately 100 metres on the L5040 Local Road and approximately 1,260 metres within the solar farmlands. As part of a separate Strategic Infrastructure Development (SID) planning application, provision of a 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 main solar farm, will be lodged with An Bord Pleanála in due course, all within the townlands of Ballyvalode, Garryduff, Gortnakistin, Gortyvahane, Keelogs, Kilmacogue, Moanoola and Moanroe, County Limerick.

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:

- (a) European, national, regional, and county level support for renewable energy development as follows:
 - (i) the government's Climate Action Plan 2023,
 - (ii) the government's Project Ireland 2040 the National Planning Framework,
 - (iii) the Regional Spatial and Economic Strategy for the Southern Assembly, and
 - (iv) the Limerick City and County Development Plan 2022-2028, as adopted by Limerick City and County Council,
- (b) the nature, scale, and extent of the proposed development,
- (c) the documentation submitted with the planning application, including the Natura Impact Statement, Planning and Environmental Report, Construction and Environment Management Plan Planning, Ecological Impact Assessment, Aquatic Ecological Impact Assessment, Flood Risk Assessment, Glint and Glare Assessment, Landscape and Visual Assessment, Landscape Management plan, and Archaeological Assessment,
- (d) the nature of the landscape and its capacity to visually accommodate the proposed development without significant adverse effects,
- (e) mitigation measures proposed for the construction, operation, and decommissioning of the site,
- (f) the submissions and observations on file, including those from prescribed bodies, the planning authority and other third parties,

p.c.

- (g) the location of the proposed development within an ecologically robust landscape,
- (h) the ongoing selection and assessment process for the N24 Cahir to Limerick Junction Road scheme,
- (i) the separation distances between the proposed development and dwellings or other sensitive receptors,
- (j) the planned connection of the proposed development to the national electricity grid (ABP-313667-22 refers),
- (k) 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 absence likely significant effects of the proposed development on European Sites, and
- (l) the Inspector's report and assessment,

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 Limerick City and County Development Plan 2022-2028, would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would not 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 safety and public health, and would make a positive contribution to Ireland's renewable energy and security of energy supply requirements. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

P. C.

Appropriate Assessment Stage 1 Screening

The Board considered the Screening Report for Appropriate Assessment and all other relevant submissions and carried out an Appropriate Assessment screening exercise 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, as well as 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 connections to and distance between the application site and the European Sites: the Lower River Suir Special Area of Conservation (Site Code: 002137), the Moanour Mountain Special Area of Conservation (Site Code: 002257), the Anglesea Road Special Area of Conservation (Site Code: 002125), the Slievefelim to Silvermines Mountains Special Protection Area (Site Code: 004165), the Philipston Marsh Special Area of Conservation (Site Code: 001847), the Clare Glen Special Area of Conservation (Site Code: 000930), the Glenstal Wood Special Area of Conservation (Site Code: 001432) and the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) could be screened out from the further consideration and that the proposed development, individually or in combination with other plans or projects would not be likely to have significant effects on these European Sites in view of the sites' conservation objectives and that a Stage 2 appropriate assessment is therefore not required in relation to these European Sites. The only European site in respect of which the proposed development has the potential to have a significant effect is the Lower River Shannon Special Area of Conservation (Site Code: 002165) in view of the sites' conservation objectives which, therefore, requires Appropriate Assessment.

P.C.

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 Lower River Shannon Special Area of Conservation (Site Code: 002165) 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 as well as the report of the Inspector.

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 Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, 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 the Lower River Shannon Special Area of Conservation (Site Code: 002165) or any other European Site in view of the sites' conservation objectives.

P.C.

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 received by An Bord Pleanála on the 10th day of February, 2022, 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 interests of clarity and of the proper planning and sustainable development of the area.

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 for this permission in excess of five years.

3. (a) The permission shall be for a period of 35 years from the date of the first commissioning of the solar array. The solar panels and related ancillary structures shall then be removed, and the site reinstated 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 site restoration plan, providing for the removal of the solar arrays, including all foundations, anchors, inverter/transformer stations, CCTV cameras, fencing and a timescale for its implementation, 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, and all ancillary structures shall be removed permanently from the site. The site shall be restored in accordance with the agreed Site Restoration Plan and all decommissioned structures shall be removed from the site within the timeframe agreed with the planning authority.

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, in the interest of landscape restoration and orderly development.

4. This permission shall not be construed as a 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.

P.C -

5. Field number 7 within the southern parcel as identified in the submitted archaeological report shall be omitted from the proposed development. An updated Site Layout Plan showing the omission of all proposed development from this field shall be submitted for the written agreement of the planning authority prior to the commencement of development.

Reason: To facilitate orderly development, in the interests of clarity and the proper planning and sustainable development of the area.

6. (a) All of the environmental, construction, ecological and heritage-related mitigation measures, as set out in the Planning and Environmental Report, the Natura Impact Statement, the Ecological Impact Assessment, Aquatic Ecological Impact Assessment 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.
- (b) Prior to commencement of development, a badger survey shall be undertaken, and in the event of badger sett(s) being identified appropriate mitigation and avoidance will be agreed in writing with the planning authority.
- (c) There shall be no felling or scrub clearance within the bird nesting season (1st March to 31st August).
- (d) A finalised Invasive Species management plan detailing the methodology of control of Invasives and monitoring to be agreed with the planning authority prior to commencement of development.

- (e) Prior to commencement of development, confirmation of methodology of installation and maintenance of an appropriate number of rock, log and stone piles to provide suitable hibernation locations for reptiles/amphibians), log piles/bug/bee hotels for invertebrate habitats, Bat and bird boxes in appropriate numbers and suitable locations throughout the site as committed to in the application documentation shall be submitted for the written approval of the planning authority and works shall be carried out in accordance with same.

Reason: In the interests of clarity and of the protection of the environment during the construction and operational phases of the development.

7. (a) No artificial lighting shall be installed or operated on site unless authorised by a separate 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 unless otherwise agreed with the planning authority.
- (d) The inverter/transformer stations control units and all fencing shall be dark green in colour unless otherwise agreed with the planning authority prior to commencement of development.

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

8. Before any development takes place on the site, details of the structures of the perimeter fence showing provision for the movement of mammals at regular intervals along the perimeter of the site shall be for the prior written of the planning authority. This shall be facilitated through the provision of mammal access gates designed generally in accordance with standard guidelines for mammal access (NRA 2008).

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

9. (a) All mitigation measures in relation to archaeology as set out in the archaeological assessment submitted to the planning authority with the application documentation shall be implemented in full, except as may otherwise be required in order to comply with other conditions here specified.
- (b) The developer shall engage a suitably qualified archaeologist to carry out an Archaeological Impact Assessment (AIA) in advance of any site preparation works and groundworks, including site investigation works/topsoil stripping/site clearance, and/or construction works. The AIA shall involve an examination of all development layout/design drawings, completion of documentary/cartographic/ photographic research and fieldwork, the latter to include, geophysical survey and archaeological testing (consent/licensed as required under the National Monuments Acts), in particular in relation to field numbers 1, 2, 4, 5, 6, 8, 11, 13, 14, 15, 17, 20, 21, 22, 27, 28, 29, 31 and 42 (as referenced in the application archaeological assessment). The archaeologist shall prepare a comprehensive report, including an archaeological impact statement and mitigation strategy, to be submitted for the written agreement of the planning authority in advance of any site

P.C.

preparation works, groundworks and/or construction works. Where archaeological remains are shown to be present, preservation in-situ, establishment of 'buffer zones', preservation by record (archaeological excavation) or archaeological monitoring may be required and mitigatory measures to ensure the preservation and/or recording of archaeological remains shall be included in the AIA. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

- (c) The developer shall engage a suitably qualified archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, and/or the implementation of agreed preservation in-situ measures associated with the development. The use of appropriate machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation [preservation in-situ/excavation]. The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall

P.C.

be complied with by the developer. Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation either in-situ or by record of sites, features or other objects of archaeological interest.

10. (a) All existing hedgerows (except at access track openings and proposed watercourse crossings) shall be retained and allowed to grow out prior to construction notwithstanding any exemptions available and new planting undertaken in accordance with the plans submitted to the planning authority with the application.
- (b) All landscaping works shall be completed, within the first planting season following commencement of development in accordance with the details received to the written satisfaction of the planning authority as part of the first phase of development and prior to the installation of any solar panels. Any trees or hedgerow that are removed, die or become 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.

P.C.

- (c) The stand of woodland mix comprising advanced nursery stock and native whips which are shown to be provided along the northern and eastern boundary of the proposed substation location (as shown on drawing number LD.BLLYVLD 1.2) shall be provided and maintained for the duration of the operational period of the substation.
- (d) Landscaping and planting will not interfere with the sight line and stopping distances shown at vehicular entrances to the site on drawings received by An Bord Pleanála on the 10th day of February 2022.

Reason: In the interests of biodiversity, the visual amenities of the area, and the residential amenities of property in the vicinity.

- 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 but not limited to, noise and dust management measures, surface water management proposals, the management of construction traffic and off-site disposal of construction waste.

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

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 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.

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

13. No instream works shall be carried out from October 1st to June 30th, fish removal will take place within cofferdams prior to dewatering and Inland Fisheries Ireland to be notified in advance of any works. The Ecological Clerk of Works will ensure all mitigation detailed in the application documentation relative to watercourse crossings are employed and watercourse crossings shall not lose material to the rivers.

Reason: In the interests of environmental protection.

P.C.

14. 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 and to liaise with consultants, the site contractor, the National Parks and Wildlife Service and Inland Fisheries Ireland. 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.

15. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

16. 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.

17. 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.

18. 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.

19. 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.

Patricia Calleary

Patricia Calleary

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**



Dated this 06 day of July 2023.