



Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: 211014

Appeal by Margaret Kennedy of Ross, Golden, Cashel, County Tipperary and by Others against the decision made on the 31st day of March 2022 by Tipperary County Council to grant, subject to conditions, a permission to Renewable Energy Systems care of Neo Environmental of 83-85 Bridge Street, Ballymena, Northern Ireland in accordance with plans and particulars lodged with the said Council:

Proposed Development: Permission for a period of five years to construct and complete a Solar PV energy development with a total site area of 42.68 hectares, to include a single-storey electrical substation building, electrical transformer and inverter substation modules, solar PV panels ground mounted on support structures, internal access tracks, security fencing, electrical cabling and ducting, CCTV and other ancillary infrastructure, drainage, additional landscaping and habitat enhancement as required and associated site development works including works relating to the access to the site, at Rathduff, Thomastown Demesne South, Golden, County Tipperary. The proposed development was revised by further public notices received by the planning authority on the 9th day of March 2022 and by An

Bord Pleanála on the 4th day of July 2022 outlining the submission of a Natura Impact Statement, and was further revised by further public notices on the 19th day of March 2024 detailing the submission of a revised Natura Impact Statement.

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 including :
 - (i) Climate Action Plan 2024
 - (ii) Project Ireland 2040 National Planning Framework
 - (iii) Regional Spatial & Economic Strategy for the Southern Region
 - (iv) Tipperary County Development Plan 2022-2028,
- (b) the nature, scale, and extent of the proposed development,
- (c) the documentation submitted with the application,
- (d) the landscape character and absence of any specific conservation or amenity designation for the site,
- (e) the mitigation measures proposed for construction, operation, and decommissioning of the site,
- (f) the submissions on file including those from prescribed bodies, the planning authority, and other third parties, and

- (g) the three number reports and recommendations from the Planning Inspectors (dated 9th day of January 2022 (*sic*), 8th day of November 2023 and 29th day of August 2024)

the Board 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 the provisions of the Tipperary County Development Plan 2022-2028, would not seriously affect the existing agricultural and equestrian land uses, would not seriously injure the visual or residential amenities of the area, or otherwise, of property in the vicinity, would not detract from a protected view or prospect, 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 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.

Appropriate Assessment

The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act, 2000 (as amended). Having carried out screening for Appropriate Assessment of the project, the Board agreed with the Inspector's Report dated 09/01/2022 (*sic*) and concluded that based on the available information, the project individually (or in combination with other plans or projects) would not have a significant effect on European sites: Lower River Suir Special Area of Conservation (Site Code 002137), Galtee Mountains Special Area of Conservation (Site Code 000646), Moanour Mountain Special Area of Conservation (Site Code 002257), Philipston Marsh Special Area of Conservation (Site Code 001847) and Slievefelim to Silvermines Mountains Special Protection Area (Site Code 004165), or any other European site, in view of the sites' Conservation

Objectives, and Appropriate Assessment (and submission of a Natura Impact Statement) is not therefore required. The Board noted that a NIS was submitted (received by the Board on the 31st day of May 2022) but agreed with the Inspector that this was unnecessary as Appropriate Assessment is not required.

(The Board further noted that a Natura Impact Statement was submitted on the 31st day of January 2024 in response to the Board's notice under section 132 of the Planning and Development Act 2000, as amended, issued on the 29th day of November 2023. The Board agreed with the Inspector's Report dated 29th day of August 2024 that the grid connection is indicative only and does not form part of the application for permission.)

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 the planning authority on the 6th day of January 2022, and the 9th day of March 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 interest of clarity.

2. 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.

3. All of the environmental, construction, ecological and heritage-related mitigation measures, as set out in the technical reports submitted with the application including the Planning Statement, Ecological Impact Assessment, the Landscape and Visual Impact Assessment, Archaeological and Architectural Heritage Impact Assessment, Flood Risk Assessment, Construction Traffic Management Plan, Glint And Glare Assessment, Outline Construction and Environmental Management Plan, Noise Impact Assessment and Environmental Impact Assessment Screening, and other particulars submitted with the application, shall be implemented by the developer, except as may otherwise be required in order to comply with the conditions of this Order.

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

4. The 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.

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.

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 revised landscaping and environmental management plan shall be carried out within the first planting season following commencement of development and shall be subject to the following amendments:
 - (a) The security fence shall be set back 10 metres minimum from the western, southern and eastern site boundaries.
 - (b) The area between the security fence and the site boundary shall be heavily planted with a mix of semi-mature woodland mix / thicket species and hedgerows

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 visual amenity.

6. The following shall apply in relation to the detailed design of the proposed development:
- (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 and control building shall be dark green in colour.

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

7. The construction of the development shall be managed in accordance with a Construction Management Plan and Construction Traffic Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The Construction Management Plan shall contain details of the method of piling and associated mitigation which shall minimise construction noise effects. The improvement of the junction of the L3406 and L34061 and the provision of a layby at the L34061 shall be completed prior to the commencement of the substantive part of the development.

Reason: In the interest of amenities, public health, the protection of the environment and traffic safety.

8. Details of site drainage arrangements, including the attenuation and disposal of surface water, shall be agreed with the planning authority in writing prior to the commencement of development. The details to be submitted to the planning authority shall include a technical report which

shall address the potential for changes in rainfall patterns and, if necessary, incorporate this effect into the drainage calculations. The proposals shall otherwise comply with the requirements of the planning authority for such works and services.

Reason: In the interest of preventing surface water effects at adjacent lands.

9. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or 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.

10. The developer shall comply with the following nature conservation requirements:
- (a) No tree felling or vegetation removal shall take place during the period 1st day of March to 31st day of August.
 - (b) An updated pre-construction mammal survey shall be carried out by a suitably qualified ecologist to check for the presence of any protected species including badgers, bats, otter and birds.
 - (c) Any resulting amendments to mitigation shall be subject of prior discussion with the National Parks and Wildlife Service and compliance with any requirements, including for derogation licences.

Reason: In the interest of protecting breeding birds, biodiversity and nature conservation.

11. Prior to the commencement of development, the developer shall engage a suitably qualified and experienced ecologist to carry out a survey of the works area to update the ecological surveys with respect to the presence of badgers, bats and otter on site and if necessary to amend the mitigation previously presented. Details shall be maintained on the file as part of the public record.

Reason: In the interest of the proper planning and sustainable development of the area.

12. 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 the 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 Tourism, Culture, Arts, Gaeltacht, Sport and Media.
 - (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.

13. 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. This shall take into account the presence of and protection of watermains. 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.

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. 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.



Tom Rabbette

Member of An Bord Pleanála

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

Dated this 24th day of Sept 2024.

