

An
Bord
Pleanála

Board Order
ABP-314320-22

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 22/111

Appeal by Catriona de Robeck of Gowran Grange, Swordlestown North, Naas, County Kildare, and by Others, against the decision made on the 19th day of July, 2022 by Kildare County Council to grant subject to conditions a permission to Strategic Power Projects Limited care of Peter Thompson Planning Solutions of 4 Priory Grove, Kells, County Kilkenny in accordance with plans and particulars lodged with the said Council.

Proposed Development: A 10 year planning permission for development at Swordlestown North and Swordlestown South, Naas, County Kildare. The development will consist of the construction of solar PV development on a circa 129 hectare site consisting of: 1. The installation of solar panels on ground-mounted frames, 51 number single storey electrical inverter/transformer units, security fencing, a CCTV system with pole mounted cameras and landscaping; 2. The upgrading of an existing farm entrance off the L2023 and the creation of a second, new entrance, directly opposite to the north of the existing; 3. The provision of a new internal access road of a distance of circa 170 metres to provide access to a temporary construction compound; and 4. All associated ancillary development works. The

operational lifespan of the solar PV development will be 35 years at Swordlestown North and Swordlestown South, Naas, County Kildare.

The proposed development was revised by new public notices submitted on the 23rd day of June 2022, which included: 1. A revised application site boundary due to omission of gliding club lands from application site with reduction in site area from 129ha to 112ha ; 2. The omission of originally proposed 110kV substation and replacement with additional solar panels and two x switchgear rooms on site; and 3. A revised Glint and Glare Assessment to assess impact of revised proposal on the retained gliding club and surrounding lands and the additional panels on the original proposed 110k V substation site.

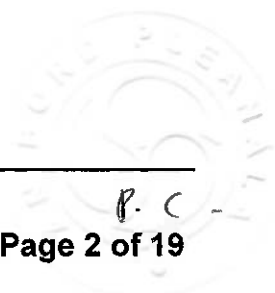
Decision

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 condition(s) set out below.

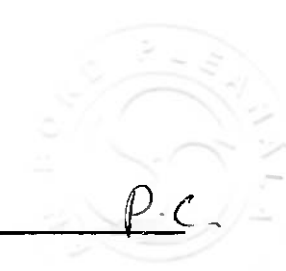
Reasons and Considerations

Having regard to;

- (a) the nature, scale and extent of the proposed development;
- (b) the national targets for renewable energy contribution to the overall national grid;
- (c) the national, regional and local policy support for developing renewable energy, in particular:
 - (i) Climate Action Plan 2023,



- (ii) Climate Action and Low Carbon Development (Amendment) Act 2021,
 - (iii) Project Ireland 2040 National Planning Framework (2018),
 - (iv) National Development Plan 2021-2030,
 - (v) National Energy Security Framework (April 2022),
 - (vi) National Energy and Climate Action Plan 2021-2030,
 - (vii) Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, and the
 - (viii) Kildare County Development Plan 2023 – 2029.
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- (d) the relationship with surrounding development and with the setting of Gowran Grange House,
 - (e) measures proposed for the construction, operation and decommissioning of the development,
 - (f) the submissions on the file including associated consultant reports prepared by appellants and observers,
 - (g) the documentation submitted with the application and appeal including the further information submitted to the Board on 20th February 2023; and
 - (h) the report of the Planning Inspector,



it is considered that, subject to compliance with the conditions set out below, the proposed development would not have an unacceptable impact on the character of the landscape or on 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 undue impacts on surrounding land uses, would not have an unacceptable impact on ecology or on any European Site, would not lead to an increased risk of flooding within the site or adjoining lands, and would make a positive contribution to Ireland's requirements for renewable energy in accordance with national regional and local policy. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of potential significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives.

The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on Poulaphouca Reservoir Special Protection Area or any other European site, and an Appropriate Assessment and submission of a Natura Impact Statement is not therefore required.



Environmental Impact Screening

The Board noted and agreed with the Inspector's assessment and conclusions that solar energy development is not listed as a class of development for the purposes of Environmental Impact Assessment under Part 2 of Schedule 5, within the Planning and Development Regulations, 2001 (as amended) and accordingly a requirement for preliminary examination or Environmental Impact Assessment does not arise. The Board also noted and agreed with the Inspector's assessment and conclusion that the removal of a limited extent of hedgerow (less than 200 metres) is significantly below the threshold of four kilometres for Environmental Impact Assessment reinserted by the Planning and Development (Amendment) (number 2) Regulations 2023 and is also considerably below the screening threshold set out in the Environmental Impact Assessment (Agriculture) Regulations, 2011. The Board was also satisfied, as concluded by the Inspector, that the development does not constitute rural restructuring and, therefore, does not comprise sub-threshold development requiring preliminary screening or Environmental Impact Assessment.



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 10th day of June 2022 and the further plans and particulars submitted to An Bord Pleanála on 20th day of February 2023, 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 Environmental Report and its associated appendices, Biodiversity Management Plan and the Construction and Environmental Management Plan, and other particulars submitted with the application, shall be implemented in full by the developer, 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) 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, 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) The development shall be decommissioned in accordance with the Decommissioning Plan submitted to Kildare County Council on the 4th day of February 2022.
- (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 having regard to the circumstances then prevailing, and in the interest of orderly development.

5. 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 interests of clarity.

6. (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 switch gear rooms shall be dark green in colour.

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

7. No development shall take place within 60 metres of the external perimeters of Recorded Monuments KD024-006 and KD024-008 (two ring barrow monuments).

Reason: To mitigate potential impacts on recorded monuments.

8. No solar panels shall be installed within the visual corridor to the south of Gowran Grange House. Such visual corridor shall be defined generally by Tree reference number 131 to the east and by the gravel ridge (height 139 metres) to the west. The final definition of this corridor and revised layout of development, shall be submitted to and agreed in writing with the planning authority prior to the commencement of development on the site.

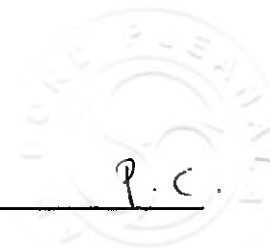
Reason: To integrate the development with the character and setting of Gowran Grange House.

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:
- (a) the developer shall employ a suitably-qualified archaeologist prior to the commencement of development, to assess and monitor all excavations carried out on site which shall be subject to licence from Department of Housing, Local Government and Heritage.
 - (b) The developer shall notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development.
 - (c) The archaeologist shall monitor the removal of all damaged piles or large rocks to facilitate piling.
 - (d) Should archaeological material be found, the archaeologist may have the work stopped, pending a decision on how to proceed. The developer should be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigation actions and should facilitate the archaeologist in recording any material found.
 - (e) The developer shall submit a report to the planning authority and the Department of Housing, Local Government and Heritage, containing the results of the archaeological monitoring.

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 site shall be landscaped in accordance with the details submitted with the application on 4th February 2022, as revised by further information submitted 10th June 2022.
 - (a) Hedgerow planting to the west of Watch House Cross, along the boundary with the R441 and L2023, shall incorporate semi-mature planting. Temporary screening mitigation shall be provided to screen potential glint and glare effects on the surrounding road network until proposed planting has matured sufficiently, in accordance with section 10.6 of the Environmental Report submitted with the planning application. Details in this regard shall be agreed in writing with the planning authority prior to the commencement of development.
 - (b) 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 and to allow the early establishment of screen planting.

11. Within 12 months of the commencement of operations at the development, an operational glint and glare assessment shall be carried out and submitted for the written agreement of the planning authority to confirm compliance with the conclusions of the assessment contained in the Environmental Report and further plans and particulars submitted to the planning authority on the 10th day of June 2022. Where necessary, additional mitigation measures shall be undertaken to achieve compliance in this regard, to be agreed in writing with the planning authority.

Reason: To mitigation any potential post-construction impacts on adjacent lands, property and public road network.

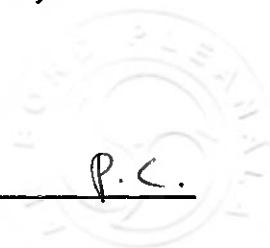
12. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) location of areas for construction site offices and staff facilities;
- (b) details of site security fencing and hoardings;
- (c) details of on-site car parking facilities for site workers during the course of construction;
- (d) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

- (e) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (f) 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;
- (g) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (h) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;
- (i) measures for the short-term storage and removal / disposal of excavated material to minimise potential pollution including drainage from topsoil areas to be directed to a settlement area where necessary;
- (j) Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays, inclusive, between 0900 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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.



13. All works shall be carried out in accordance with “Guidelines On Protection of Fisheries During Construction Works In And Adjacent To Waters”, Inland Fisheries Ireland (2016). Any cable crossings of watercourses shall be subject to an agreed method statement with Inland Fisheries Ireland.

Reason: To protect the quality of surface waters.

14. Prior to the commencement of any other development works on site, sightlines at the upgraded and proposed new entrances on the L2023 shall be provided in accordance with TII Geometric Design of Junctions DN-GEO-03060 Standards June 2017, and the proposed passing bays on the L2023 shall be constructed in accordance with the detailed requirements of the planning authority.

Reason: In the interest of traffic safety.

15. Prior to the commencement of development, a finalised construction traffic management plan shall be submitted to and agreed in writing with the planning authority, which plan shall include:

- (a) Details of the timing and routing of construction traffic to and from the construction site and works areas, and associated directional signage, and in particular proposals to manage the delivery of abnormal loads including the routing and scheduling of such movements.
- (b) Measures to obviate queuing of construction traffic on the adjoining road network.

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- (c) Measures for the safe movement of construction traffic traversing the L-20231 between Areas 5, and areas 2 and 3, in accordance with the details set out in section 12.2.2 of the Environmental Report.

Reason: In the interests of traffic safety and convenience.

- 16. (a) Construction activity shall be managed in accordance with a construction noise and vibration management plan, which shall be developed after consultation with stakeholders and the local community and agreed in writing with the planning authority prior to the commencement of development. This plan shall be subject to periodic review and shall specify the construction practice, including measures for the suppression and mitigation of on-site noise and vibration.
- (b) The plan shall be developed having regard to, and all construction activity shall be undertaken in accordance with, best practise guidelines, including BS 5228-1:2009+A1:2014, parts 1 and 2.
- (c) The mitigation measures described in section 8.9 of the Environmental Report and in the further submission received by An Bord Pleanála on 20th February 2023 shall be implemented in full.
- (d) Prior to the commencement of development, a plan for the phased development of the site shall be submitted to and agreed in writing with the planning authority which shall seek to maximise separation from site boundaries at commencement of works and move progressively across the site.

Reason: In order to protect the amenities of the area.

17. (a) The construction noise and vibration management plan shall include a comprehensive monitoring programme with monthly reporting to the planning authority, or at other such intervals as may be required by the planning authority.
- (b) Noise monitoring locations shall be agreed in writing prior to commencement of development.
- (c) Monitoring of the construction phase shall be carried out by a suitably qualified competent person to ensure that all environmental noise and vibration mitigation measures are satisfactorily implemented.

Reason: In order to protect the amenities of the area.

18. (a) Operational noise monitoring shall be undertaken in accordance with a scheme to be submitted to and agreed in writing with the planning authority.
- (b) Within 12 months of the commissioning of the proposed development, the results of operational noise monitoring shall be submitted to the planning authority to confirm compliance with the conclusions of Chapter 8 of the Environmental Report in this regard. Where necessary to achieve compliance in this regard, additional mitigation measures shall be undertaken, to be agreed in writing with the planning authority.
- (c) 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.

- (d) 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.

19. During the construction phase, the developer shall adhere to the 'Guidelines for the Treatment of Badgers prior to the Construction of National Road Schemes', published by the National Roads Authority in 2006. In particular, there shall be no blasting or pile driving within 150 metres of an active badger sett during the breeding season (December to June) or construction works within 50 metres of such an active sett during the breeding season.

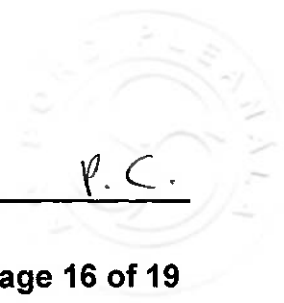
Reason: In the interest of wildlife protection.

20. Prior to commencement of development, the developer shall enter into a water and wastewater connection agreement with Uisce Éireann (formerly Irish Water).

Reason: In the interest of public health.

21. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Such arrangements shall include the use of swale features designed in accordance with the CIRIA SuDS Manual C753 (2015).

Reason: In the interest of public health.



22. 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.

23. 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.



24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory reinstatement of public roads that may be damaged by construction transport, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory reinstatement of public roads that may be damaged by construction traffic. 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 traffic.



25. 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 *2* day of *february* 2024.