



An
Bord
Pleanála

Board Order
ABP-316163-23

Planning and Development Acts 2000 to 2022

Planning Authority: Wexford County Council

Planning Register Reference Number: 20230009

Appeal by WXD Energy Limited care of Neo Environmental Limited of 83-85 Bridge Street, Ballynmena, County Antrim against the decision made on the 3rd day of March, 2023 by Wexford County Council to refuse permission for the proposed development.

Proposed Development: Permission for a period of 10 years to construct and complete a solar PV development with a total site area of circa 38.6 hectares, to include PV panels mounted on metal frames, new access tracks, underground cabling, perimeter fencing with CCTV cameras, four number transformer stations, two number weather stations, access gates and all associated works. Access will be gained from the existing farmyard entrance and a temporary access track which were consented as part of the original Tomsallagh Solar Farm application (Planning Authority Reference: 20180055, An Bord Pleanála Reference ABP-301329-18) off the Clone Road to the east of the site. The solar farm would be operational for 40 years, all within the townland of Tomsallagh, Enniscorthy, County Wexford. Further newspaper notice was received by An Bord Pleanála on the 30th day of June, 2023.

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) the national and regional policy objectives in relation to renewable energy,
- (b) the provisions of the Wexford County Development Plan 2022-2028,
- (c) the nature, scale, extent and layout of the proposed development,
- (d) the documentation submitted with the application and appeal, including the Natura Impact Statement, Planning Statement, Ecological Impact Assessment, Construction Traffic Management Plan, Outline Construction Environmental Management Plan, Glint and Glare Assessment, Landscape and Visual Appraisal, Flood Risk and Drainage Impact Assessment, Noise Impact Assessment, and Archaeological and Architectural Heritage Impact Assessment,
- (e) the mitigation measures proposed for the construction and operation of the proposed development,
- (f) the topography of the area,

(g) the existing hedging and screening on the site, and

(h) the pattern of development in the area,

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 conflict with the provisions of the operative Wexford County Development Plan 2022-2028, would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity, would not be likely to have significant effects on the environment or the ecology of the area, 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.

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 30th day of March, 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 the 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 proposed development, the Board considers it reasonable and appropriate to specify a period of the permission in excess of five years.

3. (a) The permission shall be for a period of 40 years from the date of the commissioning to final decommissioning 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, substation, 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 the circumstances then prevailing, and in the interest of orderly development.

4. 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.

5. All of the environmental, construction and ecological mitigation measures, as set out in the Planning Statement, Natura Impact Statement, Ecological Impact Assessment, Construction Traffic Management Plan, Outline Construction Environmental Management Plan, Flood Risk and Drainage Impact Assessment, Noise Impact Assessment, Glint and Glare Assessment, Landscape and Visual Impact Appraisal, and other plans and particulars submitted with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 30th day of March 2023, 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 interest of clarity and of the protection of the environment during the construction and operational phases of the development.

6. (a) Existing field boundaries shall be retained (other than those specified for removal in the application documentation), notwithstanding any exemptions available and new planting shall be undertaken in accordance with the Landscape and Ecology Management Plan (drawing numbers NEO01121_Figure 1.12a, Figure 1.12b and Figure 1.12c) submitted with the application.
- (b) Details for the provision of additional screen planting in the locations identified in 'Technical Appendix 7: Glint and Glare Assessment' shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) All landscaping shall be completed in accordance with the details received to the written satisfaction of the planning authority. Any trees or hedgerow that are removed, die or become seriously 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.
- (d) The Biodiversity Management Plan shall be implemented in accordance with the details received to the written satisfaction of the planning authority.

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

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.

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

8. Prior to the commencement of construction on site, details of the structures of the security fence showing provision for the movement of mammals at regular intervals along the perimeter of the site shall be submitted for prior approval to the planning authority.

Reason: To allow wildlife to continue to have access across the site, 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) 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, and

- (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 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, 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 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 construction of the development shall be managed in accordance with a Construction 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, hours of working, 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.

11. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services and shall otherwise comply with Technical Appendix 4: Flood Risk and Drainage Impact Assessment submitted to the planning authority on the 9th day of January, 2023.

Reason: In the interests of environmental protection and flood prevention.

12. 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.

13. 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 the 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.

Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *16th* day of *April*, 2024.