



An
Bord
Pleanála

Board Order
ABP-317209-23

Planning and Development Acts 2000 to 2022

Planning Authority: Meath County Council

Planning Register Reference Number: 22972

Appeal by Bernard Cullen of Downtown House, Duleek, County Meath against the decision made on the 2nd day of May, 2023 by Meath County Council to grant, subject to conditions, a permission to Highfield Solar Limited care of Design Studio 7 of Old Castle View, Kilgobbin Road, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: 10 year permission for the construction of a solar PV energy development within a total site area of approximately 18.92 hectares, include solar PV panels ground mounted on steel support structures, IPP electrical control building and associated compound, electrical transformer/inverter station modules, battery storage modules, storage containers, CCTV cameras, access tracks, fencing and associated electrical cabling, ducting and ancillary infrastructure, at Downtown, Duleek, County Meath. The proposed development was revised by further public notices received by the planning authority on the 6th day of April 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) European, national, regional, and county level support for renewable energy development, including in particular:
 - (i) the national policy in support of renewable energy (including solar) set out in the relevant policy including in particular Project Ireland 2040 – the National Planning Framework and the Climate Action Plan 2023 and 2024,
 - (ii) the Regional Spatial and Economic Strategy for the Eastern and Midlands Region (2019-2031), and
 - (iii) the provisions of the Meath County Development Plan 2021-2027,
- (b) the nature, scale and location of the proposed development,
- (c) the documentation submitted with the planning application and appeal, including the Planning and Environmental Report,
- (d) the nature of the receiving landscape,
- (e) the submissions on file, and

(f) the report of the Planning Inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development is supported by planning policy at a national and regional level and by the relevant provisions of the Meath County Development Plan 2021-2027, including in particular policy support for solar energy set out in Section 6.15.3.1 of the development plan and for the protection of the landscape set out in Section 8.17 of the development plan. It is also considered that the proposed development 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 would not give rise to increased risk of flooding of the site or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board did not agree with the inspector that the proposed solar farm development would form a prominent and obtrusive feature in the landscape, and would adversely impact the rural character of the area, seriously injure the visual amenities of the area, and conflict with objective HER OBJ 56 (to preserve the views and prospects listed in Appendix 10, in Volume 2 and on Map 8.6 and to protect these views from inappropriate development which would interfere unduly with the character and visual amenity of the landscape) of the Meath County Development Plan, 2021-2027.

The Board noted the changed planning context from a previous refusal (ABP PL17.248146) which was decided in the context of a previous development plan (Meath County Development Plan 2013-2019), and, as set out in the planners report, the former development plan boundary for Duleek has been modified such that the lands to the immediate south of the subject site are no longer within the current development plan boundary for the settlement and

additional development has occurred in the vicinity. The Board also noted that the solar farm site is located within the Central Lowlands Character Area (CLCA), which is of High Landscape Character value, moderate landscape sensitivity and of regional landscape importance. The Board reviewed the Landscape and Visual Impact Assessment submitted as part of the application and shared the applicant's findings that any potential landscape and visual effects would be localised, and that the development is in a location that already has a strong industrial presence. The Board was satisfied with the findings that the proposed development would have a moderate to moderate/minor adverse effect on the characteristics of the CLCA and will not have any notable effects on any neighbouring LCAs and that there would be no direct effects upon the landscape setting of the six Historic and Designed Landscapes as any potential views towards the sections of the site would be screened from view from their grounds/curtilage. The Board took into account the applicant's proposal to infill existing boundary hedgerows and provide additional trees and dense woodland buffer planting which would reduce visual effects from 'Moderate/Minor' adverse to 'No Change' by Operational Year 5-10. The Board noted that due to the elevated profile of the proposed site, some views of the solar arrays will remain unaffected and visible, however, given the nature, scale, form and height of the development, considered that the solar arrays would not be reasonably considered as a form of development that would unduly detract from the character and visual amenity of the landscape or interfere with any views and prospects set out in Map 8.6 (and 8.6.1) of the development plan and overall would not be contrary to Objective HER OBJ 56.

Appropriate Assessment Screening

The Board noted that the proposed development is not directly connected with, or necessary to, the management of any 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 the River Nanny Estuary Special Protection Area (Site Code 004158), or any other European site, in view of the site's Conservation Objectives and that Stage 2 Appropriate Assessment is, therefore, not required.

The Board noted that the grid connection did not form part of the planning application and/or appeal before it by reference to the public notice and the documentation furnished with the application and appeal. In the interest of clarity, the Board considered the indicative grid connection route provided by the applicant to the planning authority in response to the planning authority's request for further information on this matter, as presented on drawing number Figure 2.7 dated 9th day of March 2023. Given the extent of approximately one kilometre of public roadway located between the proposed development site and the existing solar farm site within which Gillistown 110kV Substation is located, and along which the route would traverse, and noting the findings of the Ecological Impact Assessment contained in the Planning and Environmental report received with the application, describing the habitats and species in the area and further noting the proximity of European sites as set out in the Planning Inspectors report, the Board was satisfied that the proposed development, including the indicative grid connection, would not be likely to have a significant effect on any European site, in view of the sites' conservation objectives, alone or in combination with other projects.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as revised by further plans and particulars received by the planning authority, as revised by further information furnished on 13th 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 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 considered 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 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 is applied for and 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,

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. All of the environmental, construction, operation and decommissioning phase mitigation measures set out in the Planning and Environmental Report, 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. Where such measures 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.

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

- 5. Prior to commencement of development, 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. This shall be facilitated through the provision of mammal access gates designed generally in accordance with standard guidelines for provision of mammal access (National Roads Authority, 2008).

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

6. (a) Landscaping shall be carried out as detailed on the site plans submitted on the 20th day of July 2022, as amended by the further information details submitted to the planning authority on the 13th day of March 2023, unless otherwise agreed in writing with the planning authority. Existing hedgerows, trees and shrubs on site shall be preserved, except where required to be removed to accommodate the entrance. New site boundaries shall consist of timber fencing back planted with hedgerow of species native to the area.
- (b) Planting shall commence no later than the first planting season following commencement of development on the site. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the commencement of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed with the planning authority.

Reason: To protect the visual amenity and natural heritage of the area.

7. (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) Cables within the site shall be located underground.
- (d) The inverter stations shall be dark green in colour. The external walls of the storage containers shall be finished in a neutral colour such as light grey or off-white.

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

8. 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.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, to include a Construction Traffic 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) the details of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) the details of areas for construction site offices and staff facilities;

- (c) the details of site security fencing and hoardings;
- (d) the details of on-site car parking facilities for site workers during the course of construction;
- (e) the details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) measures to obviate queuing of construction traffic on the adjoining road network;
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) the details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (i) the 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;
- (j) the off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and
- (k) the means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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.

10. 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. Prior to commencement of development, a road condition survey shall be taken 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.

11. This permission shall not be construed as any form of consent or agreement to a connection to the national grid.

Reason: In the interest of clarity.

12. The developer shall engage a suitably qualified archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record and/or monitoring may be required. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to

proceed is agreed in writing with the planning authority. 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.

Reason: To ensure the continued preservation of places, caves, sites, features or other objects of archaeological interest.

13. (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.

- (b) 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.

14. Prior to commencement of the 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.

Patricia Calleary

Patricia Calleary

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this 16 day of August 2024.