



An
Bord
Pleanála

Board Order
ABP-318001-23

Planning and Development Acts 2000 to 2022

Planning Authority: Offaly County Council

Planning Register Reference Number: 22/387

Appeal by Elgin Energy Services Limited care of RPS Group Limited of Inishmore, Ballincollig, County Cork against the decision made on the 16th day of August, 2023 by Offaly County Council to refuse permission for the proposed development.

Proposed Development: A 10-year permission (to construct development) for a solar farm comprising the installation of photovoltaic panels on ground mounted frames in rows on an area of circa 83.55 hectares. The development will also comprise a single storey on site 38 kV substation within a compound, two number single storage containers, 45 number battery storage containers within a compound, 40 number inverter stations, ducting and underground cabling, perimeter fencing, mounted CCTV cameras, provision of internal access tracks and all associated site development and landscaping works. The application seeks permission for the solar farm to remain for 40 years and for permanent permission for the substation, in the townlands of Gormagh and Culleen, Tullamore, County Offaly. The proposed development was revised by further public notices received by the planning authority on the 20th day of July, 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 provisions of international, national and regional policy objectives in relation to renewable energy,
- (b) the provisions of the Offaly County Development Plan, 2021-2027,
- (c) the nature, scale, extent and layout of the proposed development,
- (d) the nature of the landscape and its capacity to visually accommodate the proposed development without significant adverse effects,
- (e) the location of the proposed development within an ecologically robust landscape,
- (f) the ongoing design and selection assessment process for the N52 Tullamore to Kilbeggan Link Road,
- (g) the current status of the Western Bypass,

- (h) the separation distances between the proposed development and dwellings or other sensitive receptors,
- (i) 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
- (j) the documentation on file and report of the planning inspector.

it is considered that, subject to compliance with the conditions set out below, the proposed development would not materially contravene the current development plan for the area, would be acceptable in terms of transportation, cultural heritage, landscape and ecological impacts and would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector dated 30th April 2023 and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites and that Appropriate Assessment is not, therefore, required.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by particulars received by the planning authority on the 21st day of June, 2023, and the further plans and particulars submitted to An Bord Pleanála on the 8th day of September 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. No development shall occur within the Emerging Preferred Route Corridor for the N52 Tullamore to Kilbeggan Link Road (including the proposed bridge and junction location area). In addition, the proposed secondary access point to the N52 shall be omitted from the proposed development.

Reason: To ensure the proposed development does not prejudice the future delivery of the proposed N52 Tullamore to Kilbeggan Link Road.

3. 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.

4. (a) This permission shall be for a period of 40 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.
- (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.

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 interest of clarity.

6. (a) All of the environmental, construction, operation and decommissioning phase mitigation measures set out in the Ecological Appraisal Report, the Flood Risk Assessment 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.
- (b) Prior to commencement of development, badger and otter surveys shall be undertaken, and in the event of badger sett(s) or otter holt(s)/den(s) being identified, appropriate mitigation and avoidance measures shall 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).

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

7. 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.

8. Prior to commencement of development on site, details of the structure 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 written agreement with 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 (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 carried out by John Cronin and Associates submitted with the application documentation and technical note included as part of the RFI Response (dated 12th June 2023) by the same author 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 trench testing (consent/licensed as required under the National Monuments Acts).

- (c) 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 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.
- (d) 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 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 insitu or by record of sites, features or other objects of archaeological interest.

10. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. The developer shall agree such details in writing with the planning authority prior to commencement of development.

Reason: In the interest of environmental protection.

11. (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) 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.

12. (a) Landscaping shall be carried out in accordance with the Landscape Mitigation Plan submitted to the planning authority on the 3rd day of August 2022.
- (b) The developer shall plant screening vegetation as indicated in the drawings and documentation submitted not later than the planting season following commencement of construction.
- (c) Planting shall be protected from construction works using protected fencing in accordance with the requirements of the planning authority.
- (d) All existing hedgerows and field boundaries shall be retained, except where altered or amended by the conditions set out in this permission.

Reason: In the interest of visual amenity and to ensure the proper screening of the development from residential and other receptors.

13. Cables from the solar arrays within the site shall be located underground.

Reason: In the interests of health and safety and visual amenity.

14. 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.

15. 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) Details of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Details of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;

- (e) 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) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (i) 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) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and
- (k) 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

16. (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 R 1996 "Assessment of Noise with respect of Community Response" as amended by ISO Recommendations R 1996 1 and 2 "Description and Measurement of Environmental Noise" as applicable.

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

17. 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.

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 reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. 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: In the interest of traffic safety and the proper planning and sustainable development of the area.

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.



Stephen Bohan

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this 08 day of November 2024.