

An
Bord
Pleanála

Board Order
ABP-318436-23

Planning and Development Acts 2000 to 2022

Planning Authority: Offaly County Council

Planning Register Reference Number: 22390

Appeal by the Concerned Residents of Treascon and Clondoolusk care of Ruairi Whelan of Treascon, Portarlinton, County Offaly, against the decision made on the 18th day of October, 2023 by Offaly County Council to grant, subject to conditions, a permission to Elgin Energy Services Limited care of TOBIN Consulting Engineers of Block 10-4, Blanchardstown Corporate Park, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Development of a solar farm consisting of solar PV panels mounted on steel supported structures with associated cabling and ducting; the laying of an underground cable in the public roadway for the purpose of grid connection via an off-site substation; 18 number single storey inverter stations; two number steel storage containers; palisade perimeter fencing 2.45 metres in height; double palisade security gates; permeable gravel access track; 20 number on-site pole mounted CCTV cameras circa three metres in height; one number temporary construction compound/material storage area and one number temporary construction stage moby dick type wheel wash system (with overground settlement tank) and all associated ancillary development services and works, all to be provided within a total overall application boundary of 39.23 hectares.

Permission is sought for the proposed solar farm for a period of 10 years with an operational period of 40 years, all on the townlands of Treascan and Clondoolusk, Portarlinton, County Offaly. The proposed development was revised by further public notices received by the planning authority on the 3rd day of August 2023. An application to obtain permission for the development of associated transmission infrastructure which consists of a 110 kilovolt (kv) substation and grid connection to facilitate the export of power from the solar farm will be submitted to An Bord Pleanála.

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 the following:

- (a) the nature and scale of the proposed development;
- (b) the potential effects on the environment arising from the proposed development as set out in Section 8.2 of the Planning Inspector's report;
- (c) the likely significant effects on European sites arising from the proposed development as set out in Section 8.3 of the Planning Inspector's report, including
 - (i) the location of the proposed development and the separation distance from the Natura 2000 sites; and
 - (ii) the hydrological connection between the site and the European site via an adjacent watercourse;

- (d) the likely consequences for the proper planning and sustainable development in the area arising from the proposed development including the alignment with the relevant provisions of the Offaly County Development Plan 2021-2027 and objectives and the results of the Strategic Environmental Assessment and Appropriate Assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC);
- (e) the planning application particulars submitted by the applicant including the response to submissions on the appeal;
- (f) the grounds of appeal;
- (g) the submissions made by prescribed bodies and reports of the local authority in respect of the proposed development,
- (h) the report and recommendation of the Planning Inspector including the consideration of all submissions on file as part of the application and appeal,

it is considered that, subject to compliance with the conditions set out below, 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 and is strongly supported by planning policy outlined in the Offaly County Development Plan 2021-2027. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board considered the Natura Impact Statement and all the other relevant submissions and carried out an Appropriate Assessment Screening exercise

in relation to the potential effects of the proposed development on designated European Sites. The Board agreed with and adopted the screening assessment carried out and conclusions reached in the Inspector's Report that the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) is the only European site in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the site and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment

The Board considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an Appropriate Assessment of the implications of the proposed development for the aforementioned European site in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the Appropriate Assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for the European Site.

The Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely

affect the integrity of the European Site, in view of the site's Conservation Objectives.

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 on the 6th day of July 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 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.

- 4. 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.

- 5. All of the environmental, construction, operation and decommissioning phase mitigation measures set out in the Planning and Environmental Considerations 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.

6. 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.

7. The mitigation measures contained in the Natura Impact Statement which was submitted with the application shall be implemented in full.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European sites.

8. Prior to the commencement of development pre-commencement surveys for protected plant, animal species and invasive species shall be undertaken at the site and where required the appropriate licence to disturb or interfere with same shall be obtained from the National Parks and Wildlife Service.

Reason: In the interest of wildlife protection.

9. 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.

10. The Landscape Mitigation Plan and Biodiversity Management Plan for the proposed development, in accordance with that submitted, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. It shall comply with the requirements of the written submission of the Department of Housing, Local Government and Heritage (Development Application Units). The site shall be managed in accordance with the agreed plans. These plans shall cover a period of at least five years and shall include details of the arrangements for its implementation.

Reason: To ensure the preservation and protection of flora and fauna within the site. and provide for the satisfactory future maintenance of this development in the interest of visual amenity.

11. (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 interests of clarity, and of visual and residential amenity.

12. 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.

13. 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.

14. No construction phase traffic shall be permitted to use the L7064 save for the purposes of crossing it perpendicular at the identified crossing point.

Reason: In the interest of public safety and to avoid traffic hazard.

15. 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.

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 measurements shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics – Description and Measure of Environmental Noise.

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

17. 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.

18. Prior to commencement of the development, the developer shall lodge with Offaly County Council 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.

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.

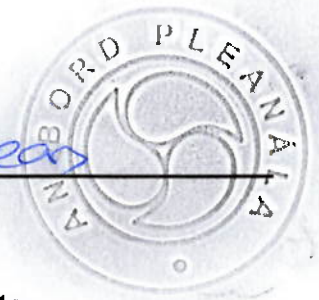
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Patricia Calleary

Member of An Bord Pleanála

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



Dated this 15 day of July 2024.

