

An  
Bord  
Pleanála

**Board Order**  
**ABP-318475-23**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Carlow County Council**

**Planning Register Reference Number: 23/92**

**Appeal** by Fergal McGrath of Killerig, Carlow against the decision made on the 25<sup>th</sup> day of October, 2023 by Carlow County Council to grant subject to conditions a permission to Neoen Renewables Ireland Limited care of Galetch Energy Services, Clondargan, Stradone, County Cavan in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** A ten-year planning permission for a solar energy development with a total site area of 77 hectares comprising (i) photovoltaic solar panels on steel mounting frames; (ii) electrical inverters; (iii) electrical power stations; (iv) underground electrical and communications cabling; (v) containerised battery energy storage facility; (vi) the upgrade of two number disused site entrances, decommissioning of two number existing site entrances and development of one number new site entrance; (vii) on-site access tracks; (viii) a temporary construction compound; (ix) security fencing and security gates; (x) pole-mounted security cameras and (xi) all associated site and ancillary site development, landscaping and reinstatement works, all on lands at Baungephlure and Friarstown, Killerig, County Carlow. The operational lifetime of the proposed development is 35-years.

## **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 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) the Climate Action Plan 2023 and 2024,
  - (ii) the Climate Action and Low Carbon Development (Amendment) Act 2021,
  - (iii) the Project Ireland 2040 National Planning Framework (2018),
  - (iv) the National Development Plan 2021-2030,
  - (v) the National Energy Security Framework (April 2022),
  - (vi) the National Energy and Climate Plan 2021-2030,
  - (vii) the Regional Spatial & Economic Strategy for the Southern Region, and
  - (viii) the Carlow County Development Plan 2022-2028,
- (d) measures proposed for the construction, operation and decommissioning of the development,
- (e) the submissions on the file, and

(f) the documentation submitted with the application and the appeal, 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 the River Barrow and River Nore Special Area of Conservation (site code 002162) or any other European site, and an Appropriate Assessment and submission of a Natura Impact Statement is not, therefore, required.

## Environmental Impact Assessment

The Board noted that the proposed solar farm development is not of a class of development which requires an Environmental Impact Assessment or screening for Environmental Impact Assessment, the grid connection proposed as part of the overall scheme and which does not form part of the current application is not of a class of development under Parts 1 or 2 of Schedule 5, the development does not constitute rural restructuring under Class 1 Agriculture, Silviculture and Aquaculture (a) of Part 2 of Schedule 5, and the requirement for an Environmental Impact Assessment can therefore be excluded.

### 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 on the 29<sup>th</sup> 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. 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 Planning and Environmental Report and its associated appendices, the Biodiversity Enhancement Action/ Management Plan submitted to the planning authority on the 29<sup>th</sup> day of September, 2023 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 interest 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 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 to be submitted for the written agreement of the planning authority, prior to commencement of development.
- (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 interest 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 power stations, transformers/ inverters and Battery Energy Storage Systems containers shall be dark green in colour.

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

7. 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.

- 8. The site shall be landscaped in accordance with the details submitted with the application, as amended by further information submitted on the 29<sup>th</sup> day of September, 2023.

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.



9. 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 Planning and Environmental Report. 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 mitigate any potential post-construction impacts on adjacent lands, property and public road network.

10. 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) 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, and
- (j) site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will 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 interests of amenities, public health, and safety.

11. 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).

Prior to commencement of development, the developer shall agree in writing with Inland Fisheries Ireland and the planning authority, details of measures to be carried out at the Aghalona River as part of the Biodiversity Enhancement Action/ Management Plan.

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.

12. Prior to the commencement of any other development works on site, sightlines at the upgraded and proposed new entrances on the L6113 and L6022 shall be provided in accordance with TII Geometric Design of Junctions DN-GEO-03060 Standards June 2017.

**Reason:** In the interest of traffic safety.

13. 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.

14. 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 public health.

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 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.

16. 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.

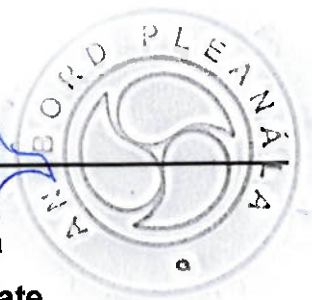
17. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory reinstatement of public roads that may be damaged by construction transport, coupled with an agreement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

18. 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.

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



Dated this 4<sup>th</sup> day of June, 2024.