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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Wexford County Council**

**Planning Register Reference Number: 20231164**

**Appeal** by Naomi Kloss of Fairlight, Coolballow, Wexford against the decision made on the 12<sup>th</sup> day of January, 2024 by Wexford County Council to grant subject to conditions a permission to the European Refreshments Unlimited Company care of Enerpower of Confederation House, Block C and D Waterford Business Park, Cork Road, Waterford in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Erection of 44,172.66 square metres of photovoltaic panels on a ground mounted system and carport system. The development will comprise of a 5.48 MWp Solar PV farm on site with all associated works. These solar arrays include; 38,638.82 square metres solar array on a ground mounted system, located to the west of the company buildings; 4,291.36 square metres solar array on a ground mounted system, situated to the south-east of the company buildings; and 1,242.48 square metres solar array on a carport mounted system, positioned to the south of the company buildings. The development will comprise of photovoltaic panels with ground mounted frames and carport structures together with all ancillary cabling and electrical infrastructure; one number transformer cabin; one number spare parts cabin; using all temporary ways, temporary construction

compound/set-down area, all at IDA Business and Technology Park, Rosslare Road, Wexford.

## **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:

- (i) the National Planning Framework – Ireland 2040,
- (ii) the Eastern and Midland Regional Spatial and Economic Strategy 2019-2031,
- (iii) the Government of Ireland Climate Action Plan, 2024,
- (iv) the policies of the planning authority as set out in the Wexford County Development Plan, 2022-2028,
- (v) the distance to dwellings or other sensitive receptors,
- (vi) the submissions made in connection with the application and appeal,
- (vii) 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 likely significant effects of the proposed development on European Sites, and

(viii) the report and recommendation of the Planning Inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity or give rise to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment - Stage 1**

The Board considered the Screening Report for Appropriate Assessment and carried out an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites. The Board noted that the proposed development is not directly connected with, or necessary for, the management of a European Site and considered the nature, scale, and location of the proposed development, as well as the report of the Inspector. The Board considered that, having regard to the qualifying interests for which the sites were designated and in the absence of viable connections to, and distance between, the application site and the European Sites, the Raven Point Nature Reserve Special Area of Consideration (Site Code 000170) and the Raven Special Protection Area (Site Code 004019) could be screened out from further consideration and that the proposed development, individually or in combination with other plans and projects would not be likely to have significant effects on these European Sites.

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Slaney River Valley Special Area of Consideration (Site Code 000781) and Wexford Harbour and Slobbs Special Protection Area (Site Code 004076) are the only European sites for which there is potential for significant effects in view of the Conservation

Objectives for the sites and that Stage 2 Appropriate Assessment is, therefore, required.

## **Appropriate Assessment – Stage 2**

The Board considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions on file, and the Inspector's assessment. The Board completed an Appropriate Assessment of the implications of the proposed development for the Slaney River Valley Special Area of Conservation (Site Code 000781) and Wexford Harbour and Slobbs Special Protection Area (Site Code 004076) in view of the sites' 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 Sites.

In completing the Appropriate Assessment, 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 Sites, having regard to the sites' 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 Sites, in view of the sites' Conservation Objectives.

## 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 information received by the planning authority on the 13<sup>th</sup> day of December 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 mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

**Reason:** To protect the integrity of European Sites.

3. The mitigation measures identified in the Construction and Environmental Management Plan, Ecological Impact Assessment Report, Biodiversity Management Plan, and other plans and particulars, including submitted with the planning application, shall be implemented in full by the developer, except as may otherwise be required in order to comply with the conditions of this permission.

**Reason:** In the interest of clarity and protection of the environment during the construction and operational phases of the proposed 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. The developer shall comply with the following additional nature conservation requirements:
- (a) No felling or vegetation removal shall take place during the period 1<sup>st</sup> day of March to 31<sup>st</sup> day of August.
  - (b) The area of riparian habitat located along watercourses shall be marked and fenced off, and kept free from machinery and equipment, for the duration of the construction works.
  - (c) Works close to streams shall be carried out in accordance with the requirements of Inland Fisheries Ireland.
  - (d) A pre-construction mammal survey shall be carried out by a suitably qualified ecologist to check for the presence of any protected species (including otter and badger).
  - (e) In the event of badger setts being identified proximate to the proposed development, a 30 metres buffer zone shall be installed around the outermost entrances to the sett during the breeding season.
  - (f) Derogation licences shall be obtained as required.

**Reason:** In the interest of biodiversity and nature conservation.

6. The developer shall comply with the following landscaping requirements:

All landscaping, including augmentation of existing boundary trees and hedgerows, shall be planted to the written satisfaction of the planning authority prior to commencement of development. Any trees or hedgerow that are removed, die or become seriously damaged or diseased within five years from planting 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.

**Reason:** In the interest of biodiversity, the visual amenities of the area, and the amenities of dwellings in the vicinity.

7. The developer shall comply with the transportation requirements of the planning authority.

**Reason:** In the interest of traffic safety and the proper planning and sustainable development of the area.

8. The developer shall comply with the following noise requirements: -

- (a) Noise from the construction stages of the development shall not give rise to sound pressure levels ( $L_{eq}$  15 minutes) measured at noise sensitive locations which exceed 70dB(A) ( $LA_{eq}$  1 hour) between the hours of 0800 and 1800 Monday to Friday inclusive (excluding bank holidays) and 0800 and 1300 hours on Saturdays when measured at any noise sensitive location in the vicinity of the site. Sound levels from the site development works shall not exceed 45dB(A) ( $LA_{eq}$  1 hour) at any other time.

(b) Noise from the operational stages of the development shall not give rise to sound pressure levels ( $L_{eq}$  15 minutes) measured at noise sensitive locations which exceed the following limits:

- (i) 55dB(A) between the hours of 0800 and 1800 Monday to Friday inclusive (excluding bank holidays) and 45dB(A) at any other time.
- (ii) There shall be no clearly audible tonal component or impulsive component in the noise emissions from the development any noise sensitive location.

**Reason:** In the interest of public health, to avoid noise pollution and to ensure a proper standard of development.

9. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.

**Reason:** In the interest of public health and to ensure a proper standard of development.

10. The developer shall comply with the following technical requirements: -

- (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) Each fencing panel shall be erected such that for a minimum of 300 millimetres of its length, its bottom edge is not less than 150 millimetres from ground level.
- (d) The solar panels shall have driven or screw pile foundations only, unless otherwise agreed in writing with the planning authority.
- (e) Cables within the site shall be located underground.
- (f) The transformer/inverter station shall be dark green in colour.

**Reason:** In the interest of clarity, of visual and residential amenity, traffic safety, and to allow wildlife to continue to have access to and through the site.

11. The developer shall comply with the following archaeological requirements:

- (a) Pre-development archaeological testing shall be undertaken by a suitably qualified archaeologist, licensed under the National Monuments Acts 1930-2004. No sub-surface work shall be undertaken in the absence of the archaeologist without his/her written consent.
- (b) 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. A copy of the report shall be submitted to the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs.

- (c) The planning authority and the Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs shall be notified in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development.

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.

12. The construction of the development shall be managed in accordance with a final Construction and Environmental 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 a construction traffic management plan, a surface water management plan, intended construction practice for the development, including noise management measures, off-site disposal of waste, and an invasive species management plan.

**Reason:** In the interests of public safety and residential amenity.

13. The site development and construction works shall be carried out such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

**Reason:** To protect the residential amenities of property in the vicinity.

14. Site development and building works shall be carried out only between the hours of 0800 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.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

15. The developer shall comply with the following restoration requirements:
- (a) Prior to commencement of development, a detailed restoration plan, including a timescale for its implementation, shall be submitted to and agreed in writing with the planning authority.
  - (b) On full or partial decommissioning of the solar array, or if the solar array ceases operation for a period of more than one year, the site shall be restored and structures removed in accordance with the said plan within three months of decommissioning/cessation, to the written satisfaction of the planning authority.

**Reason:** To ensure the satisfactory reinstatement of the site on full or partial cessation of the proposed development.

16. 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.

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, 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 the satisfactory restoration of the site in the interest of visual and residential amenity.

  
Tom Rabbette

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

Dated this 2<sup>nd</sup> day of Sept. 2024.