

Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: 23172

Appeal by Alice Slattery of Woodrooffe, Clonmel, County Tipperary against the decision made on the 12th day of April, 2024 by Tipperary County Council to grant subject to conditions a permission to Springmount Solar Farm Limited care of MKO of Tuam Road, Galway in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development will consist of construction and operation of a circa 60MW solar PV farm consisting of solar arrays on ground mounted steel frames, with a maximum overall height of 2.6 metres, internal underground electrical cabling and ducting, up to 20 number transformers, two number temporary construction compounds, security fencing and cameras, two number new gated site entrances from the R687 local road, new internal access tracks, site drainage, landscaping and all ancillary works. Planning permission is sought for a period of 10 years with an operational life of 40 years from the date of commissioning, all on lands to the north of the N24 National Road in the townlands of Jamestown, Kilmolash Upper and Rathkeevin, County Tipperary.

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) Climate Action Plan 2024,
 - (ii) Climate Action and Low Carbon Development (Amendment) Act 2021,
 - (iii) Project Ireland 2040 National Planning Framework (2018),
 - (iv) National Development Plan 2021-2030,
 - (v) National Energy Security Framework (April 2022),
 - (vi) National Energy and Climate Action Plan 2021-2030,
 - (vii) Southern Regional Spatial and Economic Strategy, and
 - (viii) Tipperary 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 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 - 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 concluded that, having regard to the qualifying interests for which the site was designated and in the absence of viable connections to, and distance between from the application site, the Nier Valley Woodlands Special Area of Conservation (site code 000668) could be screened out from further consideration.

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's Report that the Lower River Suir Special Area of Conservation (site code 002137) is the only European site for which there is potential for significant effects and for which a 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 Lower River Suir Special Area of Conservation (Site Code 002137) 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.

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 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 amended by the further plans and particulars submitted on the 23rd day of October, 2023 and 22nd day of February 2024, 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 and ecological mitigation measures, as set out in the Planning and Environmental Report, the Natura Impact Statement, the Ecological Impact Assessment, the Landscape Mitigation Plan, the Construction and Environmental Management Plan, the Cultural Heritage and Archaeological 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.

Reason: In the interest of clarity and of the protection of the environment during the construction and operational phases of the 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. (a) The 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, inverter/transformer stations, control building, 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.

6. (a) Prior to commencement of development, the proposed native hedgerow and tree planting shall be placed along those site boundaries indicated in the submitted Landscape Mitigation Plan. This new planting shall be semi-mature in nature with an initial planting height of two metres.
- (b) Landscaping and planting shall be carried out in accordance with details contained in the Landscape Mitigation Plan and the Ecological Impact Assessment.
- (c) Upon commissioning of the development and for a period of two years following first operation, the developer/operator shall provide detailed glint surveys on an annual basis to the planning authority in order to assess if glint impact on adjoining dwellings as a result of the development has occurred, and shall provide such further mitigation measures, as the planning authority may specify in writing, to mitigate such impacts.
- (d) All existing hedgerows (except at access track openings, entrances or at locations that require thinning as indicated) shall be retained notwithstanding any exemptions available and new planting undertaken in accordance with the plans submitted to the planning authority with the application.
- (e) All landscaping shall be planted to the written satisfaction of the planning authority prior to commencement of development. 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 interests of residential and visual amenity.

7. The solar panels shall be fixed in place by way of driven pile or screw pile foundations only, unless otherwise authorised by a separate grant of planning permission.

Reason: In the interest of the long term viability of this agricultural land, and in order to minimise impacts on drainage patterns.

8. 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 piling of foundations 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.

9. Before construction commences on site, details of the structure of the security fence showing provision for the movement of mammals at regular intervals shall be submitted for prior approval to the planning authority.

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

10. 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, the developer shall:
- (a) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess and monitor all preparatory works and all site development works,
 - (b) investigate areas of archaeological potential by means of geophysical survey and, depending on the findings, carry out test excavations if deemed necessary following consultation with the National Monuments Services,
 - (c) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development, and
 - (d) submit a report to the planning authority, containing the results of the archaeological investigations and assessment. 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.

11. Prior to the commencement of any works on site, the applicant shall:
- (a) complete all works at the proposed access points to achieve the required sightlines, ensuring that the public road is maintained clean and free of any dirt or debris at all times, and
 - (b) submit a Construction Stage Traffic Management Plan to the planning authority for prior written agreement.

Reason: In the interest of traffic safety.

12. (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 transformers/inverters shall be dark green in colour.

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

13. The construction of the development shall be managed in accordance with a finalised 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 intended construction practice for the development, including:
 - (a) location of the site and materials compound(s),
 - (b) location 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,
- (k) details of on-site re-fuelling arrangements, including use of drip trays,
- (l) details of how it is proposed to manage excavated soil,
- (m) means to ensure that surface water run-off is controlled such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses, and
- (n) hours of construction.

The finalised Construction and Environmental Management Plan shall also take account of the mitigation measures outlined within the Natura Impact Statement.

A record of daily checks that the works are being undertaken in accordance with the Construction and Environmental Management Plan shall be kept for inspection by the planning authority.

Reason: In the interests of environmental protection, amenities, public health and safety.

14. (a) Construction activity shall be managed in accordance with a construction noise and vibration management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This plan should be subject to periodic review and shall specify the construction practice, including measures for the suppression and mitigation of on-site noise and vibration.
- (b) The plan shall be developed having regard to, and all construction activity shall be undertaken in accordance with, best practise guidelines, including BS 5228-1:2009 and A1:2014, parts 1 and 2.
- (c) The mitigation measures described in the Traffic and Transport Assessment and the Noise Assessment Report shall be implemented in full.

- (d) Prior to the commencement of development, a plan for the phased development of the site shall be submitted to, and agreed in writing with, the planning authority which shall seek to maximise separation from site boundaries at commencement of works and move progressively across the site.

Reason: In order to protect the amenities of the area.

15. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services and, shall otherwise comply with submitted Flood Risk and Drainage Assessment. A drainage management plan shall be developed for the construction and the operational phases of the development to include details of the proposed access routes and drains and is to be submitted to the planning authority for approval prior to commencement of development.

Reason: In the interests of environmental protection and flood prevention.

16. 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.

17. 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.

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 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. 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.

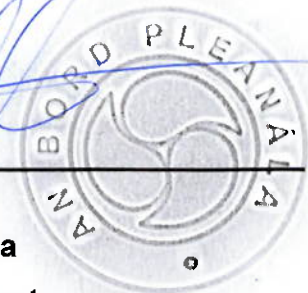
20. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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.



Tom Rabbette

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



Dated this 21st day of August 2024.