



An
Bord
Pleanála

Board Order
ABP-320298-24

Planning and Development Acts 2000 to 2022

Planning Authority: Cork County Council

Planning Register Reference Number: 236099

Appeal by Jess and Maurice Foley and others of Ballynoran, Charleville, County Cork against the decision made on the 1st day of July 2024 by Cork County Council to grant, subject to conditions, a permission to Soleire Renewables SPV Limited care of Entrust Planning and Environmental Services of Unit 3F Deerpark Business Centre, Oranmore, County Galway in accordance with plans and particulars lodged with the said Council:

Proposed Development: The development will consist of an application for a 10 year planning permission for the construction of, and 40-year operation and subsequent decommissioning of, a development consisting of a 92.75-hectare solar farm and underground grid connection route (red line boundary). The underground grid connection route will run underneath private lands and L5527, L5528 and L5529 public roads for one kilometre where it will connect the proposed development to the previously consented electricity grid interconnector (Cork County Council planning register reference 22/5933). The solar farm comprises of four separate land parcels divided by local roads. The proposed solar farm will consist of a series of ground mounted solar photovoltaic (PV) panels, mounted on steel support structures and in some

areas concrete shoes to protect possible underground archaeological features, together with electrical transformation enclosures, underground cabling, temporary construction compounds, the use of existing farm access tracks, existing site entrances, widening of one number existing site entrance, inverters, CCTV poles and cameras, deer type security/boundary fencing with some areas of boundary development on concrete shoes to further protect possible underground archaeological features, landscaping and biodiversity measures and all associated ancillary development works, for the purpose of generating renewable energy electricity and transmitting it, all on lands at Fiddane, Cooliney, Coolcaum, Ballynoran, Ballynadrideen, Ardnageehy, Charleville, County Cork.

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, scale and extent of the proposed development,
- (b) the pattern of development within the area and context of the receiving environment,
- (c) the national targets for renewable energy contribution to the overall national grid,
- (d) the national, regional and local policy support for developing renewable energy, in particular:
 - (i) the Board to perform its functions in a manner consistent with the Climate Action Plan 2024;

- (ii) the Board to perform its functions in a manner consistent with the Climate Action and Low Carbon Development (Amendment) Act 2021;
- (iii) Project Ireland 2040 National Planning Framework (2018);
- (iv) National Biodiversity Action Plan 2023-2030;
- (v) National Energy Security Framework (April 2022);
- (vi) National Energy and Climate Action Plan 2021-2030;
- (vii) the Regional Spatial and Economic Strategy for the Southern Region;
- (viii) Cork County Development Plan 2022-2028;
- (e) Measures proposed for the construction, operation and decommissioning of the development,
- (f) the report and recommendation of the Planning Inspector,
- (g) the submissions on the file, and
- (h) 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 be in accordance with European, national, and regional renewable energy policies and with the provisions of the Cork County Development Plan 2022-2028, would not seriously injure the visual or residential amenities of the area or of property in the vicinity or have an unacceptable impact on the character of the landscape or on cultural or archaeological heritage, would not have a significant adverse impact on ecology, would be acceptable in terms of traffic impacts and safety and would make a positive contribution to Ireland's renewable energy and security of energy supply requirements. 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 Appropriate Assessment Screening Report and relevant submissions and concluded that the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code 002170) and the Kilcolman Bog Special Protection Area (Site Code 004095) are the only European Sites in respect of which the proposed development has the potential to have a significant effect and must, therefore, be subject to Appropriate Assessment.

Appropriate Assessment Stage 2

The Board considered the submitted Natura Impact Statement and updates and all other relevant submissions and carried out an Appropriate Assessment in relation to the potential effects of the proposed development on the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code 002170) and the Kilcolman Bog Special Protection Area (Site Code 004095), in view of these sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In carrying out the Appropriate Assessment, the Board considered, in particular, the following:

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

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the report of the Inspector and concluded that the proposed development, by itself, or in combination with

other plans or projects in the vicinity, would not adversely affect the integrity of the European Sites, in view of the sites conservation objectives.

EIA Screening Determination

Solar energy development is not listed as a class of development for the purposes of EIA under Part 2 of Schedule 5, within the Planning and Development Regulations, 2001 (as amended). Nonetheless, the Board had regard to the Schedule 7A information submitted by the applicant and the inspector's assessment of same.

In respect of a minor element of the proposed development (circa nine metres length of hedgerow removal) which can be considered to fall within Class 1(a) of Part 2 to Schedule 5 of the Planning and Development Regulations 2001, as amended, the Board agreed with the Inspector's analysis and conclusion that following Environmental Impact Assessment screening and by reference to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, any restructuring of rural land holdings element of the proposed development arising out of a limited hedgerow removal of circa nine metres would not be likely to have significant direct, indirect or cumulative effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not, therefore, be required. The Board did not consider that levelling works in respect of transformers were required to be screened for Environmental Impact Assessment as the Board was satisfied that this element comprising local levelling works would not constitute 're-contouring' within the meaning of Class 1(a) and does not fall within any other class of development for the purpose of Environmental Impact Assessment. The application drawings and details, including the applicant's Environmental Impact Assessment Screening report, set out that there is no proposal to re-contouring the landform topography and that the existing and proposed site contours will remain the same.

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 received by the planning authority on the 17th day of November 2023 and the 08th day of May 2024, and the drawings and documents received by An Bord Pleanála on 3rd day of September 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 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. The permission shall be for a period of 40 years from the date of the commissioning for the decommissioning of the solar array. The solar array and related ancillary structures shall be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

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.

4. Prior to the commencement of the development, the developer and landowner or any person with an interest in the land shall enter into a legal agreement with the planning authority, pursuant to Section 47 of the Planning and Development Act 2000, as amended. The details of this agreement shall also be agreed with Limerick City and County Council who are the lead authority of N/M20 Project. This agreement shall specify that the proposed buffer zone between the proposed development and N/M20 study route (as per revised site layout drawings and Landscape Layout Plan (Drawing number 2316_LA003_rev. 04) submitted to the Planning Authority on 08/05/2024) and any other additional lands identified by the planning authority and Limerick City and County Council, shall be treated as agricultural lands for the purposes of valuation in respect of the N/M20 Cork to Limerick Project

Reason: In the interest of traffic safety and in the interest of orderly development.

5. All of the environmental, construction and ecological mitigation measures, as set out in the Planning Statement, Ecological Impact Assessment, Landscape Management Plan, Solar Photovoltaic Glint and Glare Study, Construction and Environmental Management Plan, Archaeological, Architectural and Cultural Heritage Report, Biodiversity Management Plan, Whooper Swan Co-ordinated Management Programme 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 of the protection of the environment during the construction and operational phases of the development.

6. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented in full.

Reason: To protect the integrity of European Sites.

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, and the planning authority. 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 the commencement of development, a continuous 10 metre wide woodland buffer of indigenous species shall be planted along the eastern site boundary with the N/M20 route corridor. Details to be submitted for the written agreement of the planning authority, which shall include details of the location, number and species to be planted, timescale for implementation and proposals for replacement planting during the operative period of the proposed solar farm.

Reason: To reduce the potential for glint and glare on road users and traffic safety.

9. The developer shall comply with the transportation requirements of the planning authority. Prior to commencement of development, a transport management plan for the construction stage shall be submitted to, and agreed in writing with, the planning authority. The traffic management plan shall incorporate details of the road network to be used by construction traffic, including over-sized loads, and detailed arrangements for the protection of roads, bridges, culverts or other structures to be traversed, as may be required.

Reason: In the interest of traffic safety.

10. A 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. 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.

Prior to the commencement of development, the developer shall revise their planting schedule for the site replacing Beech and Sycamore with native tree and/or shrub species of Irish provenance, reflecting those species found in the surrounding areas. Landscape planting shall utilise native species of local origin, reflecting those species naturally occurring in the locality.

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. Prior to the commencement of the development 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.

12. The developer shall engage a suitably qualified archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development. Prior to the commencement of such works the archaeologist shall consult with and forward to the Local Authority archaeologist or the National Monuments Service (NMS) as appropriate a method statement for written agreement. The use of appropriate tools and/or 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 NMS, regarding appropriate mitigation. 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 NMS, 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 NMS 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 of places, caves, sites, features or other objects of archaeological interest.

13. 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 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.

14. (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) The transformers/inverters shall be dark green in colour;
- (d) The solar panels shall have driven or screw pile foundations only, unless otherwise authorised by a separate grant of planning permission; and
- (e) Cables within the site shall be located underground.

Reason: In the interest of clarity, visual and residential amenity, to allow wildlife to continue to have access to and through the site, and to minimise impacts on drainage patterns and surface water quality.

15. The construction of the development shall be managed in accordance with a 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 an invasive species management plan and off-site disposal of construction and demolition waste.

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

16. Construction activity shall be managed in accordance with a construction noise and vibration management plan, which shall be 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. 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+A1:2014, parts 1 and 2.

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

17. 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 Site Specific Flood Risk 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 interest of environmental protection and flood prevention.

18. 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.

19. After commissioning of development site, the developer shall employ the services of an experienced Road Surfacing Contractor, approved by the planning authority, to strengthen the road surface in the vicinity of the entrance, for a distance of 40 metres to the east and west of the entrance.

Reason: In the interest of orderly development.

20. 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.

21. 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.

22. 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 22nd day of November 2024.