



An  
Bord  
Pleanála

## Board Order ABP-320609-24

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### Planning and Development Acts 2000 to 2022

**Planning Authority: Kilkenny County Council**

**Planning Register Reference Number: 23/60419**

**Appeal** by Stephen Keogh of Coolgrany, Castlewarren, County Kilkenny and by William Smyth of 114 Wesbury, Stillorgan, County Dublin against the decision made on the 2<sup>nd</sup> day of August, 2024 by Kilkenny County Council to grant subject to conditions a permission to Clara Energy Storage Limited care of Gaeltech Energy Developments Clogan Limited of Clondargon, Stradone, County Cavan in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Ten-year planning permission for an energy storage facility comprising energy storage modules installed on concrete plinth foundations, electrical inverters and transformers, underground electrical and communications cabling, the upgrade of an existing agricultural entrance from the R712, on-site access track, security fencing and security gates, pole-mounted security cameras, an electrical control building, a compensatory flood storage area and all associated and ancillary site development, drainage, landscaping and reinstatement works. The operational lifetime of the proposed development is 35-years, all at Scart, (Dunbell E.D.), County Kilkenny.

## **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 Kilkenny City and County Development Plan 2021-2027, the location of the site, and its proximity to the national grid, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with European, national, regional and local planning and related policy, would be consistent with the provisions of the Climate Action Plan 2024 and would make a positive contribution towards Ireland's renewable energy and security of energy supply requirements, would not have an unacceptable impact on the landscape, ecology or features of cultural heritage interest, would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and would be acceptable in terms of traffic and public safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment: Stage 1:**

The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) and the River Nore Special Protection Area (Site Code: 004233) are the only European Sites in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the sites and that a Stage 2 Appropriate Assessment is, therefore, required.

## **Appropriate Assessment: Stage 2:**

The Board considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an appropriate assessment of the implications of the proposed development on the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) and the River Nore Special Protection Area (Site Code: 004233) in view of the sites' Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following:

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

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.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the sites' Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

## Conditions

1. The proposed 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 9<sup>th</sup> day of July, 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 the commencement of development and the proposed 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 five years from the date of this order.

**Reason:** In the interest of clarity.

3. (a) The permission shall be for a period of thirty-five years from the date of the commissioning to decommissioning of the energy storage facility. The energy storage facility 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 decommissioning of the development, a detailed restoration plan, including a timescale for its implementation, providing for the removal of the energy storage facility and related ancillary structures and site access to a specific timescale, shall be submitted to, and agreed in writing with, the planning authority. 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. The mitigation measures contained in the submitted Natura Impact Statement shall be implemented in full.

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

5. Water supply and drainage arrangements, including the compensatory flood storage area, attenuation and disposal of surface water and implementation of Sustainable Urban Drainage measures, shall all comply with the requirements of the planning authority for such works and services in respect of both the construction and operational phases of the proposed development.

**Reason:** In the interest of environmental protection and public health.

6. Prior to commencement of development, the developer shall submit details outlining the proposed source of water, which may be a requirement for firefighting at the site of the proposed development, to the planning authority for written agreement.

**Reason:** In the interest of proper planning and to provide for the protection of the environment.

7. Prior to commencement of development, the developer shall submit proposals to the planning authority for written agreement detailing strategies to address a potential fire-event and the subsequent production of potential hazardous water produced as a result of addressing any such fire.

**Reason:** In the interest of public health and for the protection of the environment.

8. (a) The developer shall engage a suitably qualified archaeologist (licensed under the National Monuments Acts) to carry out pre-development Archaeological Geophysical Test Excavation at the development site and to submit an Archaeological Impact Assessment Report for the written agreement of the Planning Authority, following consultation with the Department/National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance and/or construction works.

- (b) 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 (archaeological excavation) and/or monitoring shall be required.
- (c) Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service of the Department, 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 of the Department 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 (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

9. During the operational phase of the proposed development, the noise level shall not exceed (a) 55 dB(A) rated sound level between the hours of 0700 to 2300, and (b) 45 dB(A) 15min and 60 dB LAfmax, 15min at all other times, (corrected for a tonal or impulsive component) as measured at the nearest noise sensitive location. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

10. Prior to commencement of development, the developer shall submit to the planning authority for written agreement proposals to permanently achieve sightlines from the entrance of the proposed development. The visibility splay shall be kept clear of all obstructions thereafter. The developer shall comply with all other transportation requirements of the planning authority and other relevant bodies for such works and services, as appropriate.

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

11. A Construction and Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The CEMP shall include, but not be limited to, construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

**Reason:** In the interest of environmental protection, residential amenities, public health and safety and to ensure the continued preservation of archaeological features or objects on the site.

12. 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 shall 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. Prior to commencement of development, the developer, or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), including a demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

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

14. (a) The Landscaping Scheme (drawing number LD.CLARA\_BEES\_RFI) and the Landscaping Management & Maintenance Schedule scheme, as submitted to the planning authority on the 9<sup>th</sup> day of July, 2024, shall be implemented and carried out within the first planting season following substantial completion of construction works.
- (b) 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 residential and visual amenity.

15. 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.

*Eamonn James Kelly*

**Eamonn James Kelly**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board**



Dated this *11<sup>th</sup>* day of *December* 2024.