



An
Coimisiún
Pleanála

Commission Order
ABP-322270-25

Planning and Development Act 2000, as amended

Planning Authority: Tipperary County Council

Planning Register Reference Number: 24/60156

Appeal by Dualla Village Preschool care of Sarah Lawlor of Dualla Community Field, Newpark, Dualla, Cashel, County Tipperary and by others against the decision made on the 19th day of March, 2025 by Tipperary County Council to grant subject to conditions a permission to Power Capital Renewable Energy Limited care of Peter Thompson Planning Solutions of 4 Priory Grove, Kells, County Kilkenny in accordance with plans and particulars lodged with the said Council.

Proposed Development: A 10-year planning permission for development consisting of the construction of a solar PV development on a circa 129-hectare site consisting of the erection of solar panels on ground-mounted galvanised steel frames, string inverters attached to selected ground-mounted galvanised steel frames, 16 number transformer units, underground cabling, security fencing, CCTV system with pole-mounted cameras and landscaping, six number site entrances with access gates utilizing existing farm field entrances which will be upgraded and internal accesses, the installation of underground cables, including cables under public roads, two number temporary construction compounds, and all associated ancillary development works, all at Boscabell, Garranmore, Newark, Fussough, and Dually, County

Tipperary. The operational lifespan of the solar PV development will be 40 years, as revised by the further public notices received by the planning authority on the 24th day of January, 2025.

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

In coming to its decision, the Commission performed its functions in relation to the making of its decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Development (Amendment) Act 2021, in accordance with the provisions of the Climate Action Plan 2024 and Climate Action Plan 2025, and also had regard to the following:

European Policy/Legislation including:

- Directive 2014/52/EU amending Directive 2011/92/EU (Environmental Impact Assessment Directive),
- Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directive), and
- Directive 2000/60/EC (Water Framework Directive).

National Policy and Guidance including:

- Project Ireland 2040: National Planning Framework ("NPF"), First Revision of the NPF,
- the National Development Plan 2021-2030,

- the objectives and targets of the National Biodiversity Action Plan 2023-2030,
- the Policy Statement on Security of Electricity Supply (November 2021),
- the National Energy Security Framework (April 2022), and
- the National Energy and Climate Action Plan (2021-2030).

Regional and Local Planning Policy, including in particular:

- the Regional Spatial and Economic Strategy for the Southern Region 2020-2034, and
- the Tipperary County Development Plan 2022-2028.

and also had regard to:

- (a) the nature, scale and extent of the proposed development,
- (b) the pattern of development in the area and the context of the receiving environment,
- (c) the measures proposed for the construction, operation and decommissioning of the proposed development,
- (d) the range of mitigation measures set out in the Environmental Report and the Preliminary Construction Environmental Management Plan,
- (e) the range of mitigation measures set out in the Natura Impact Statement,
- (f) the measures set out in the Biodiversity Management Plan,
- (g) the submissions received in relation to the planning application and the appeal,
- (h) the documentation submitted with the planning application and the appeal, and
- (i) the Inspector's report and recommendation.

The Commission 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 Tipperary County Development Plan 2022-2028, would not seriously injure the visual or residential amenities of the area or otherwise of property in the vicinity, or have an unacceptable impact on the character of the landscape or cultural or archaeological heritage, would not have a significant adverse impact on ecology, would not have a significant adverse impact on water quality, 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.

In deciding to omit condition number 17 of the Inspector's conditions, the Commission were generally satisfied that the sightlines at the proposed access point to Parcel number 2, as proposed in the additional information submission, were satisfactory and the revised access arrangements to Parcel number 2 would not give rise to a traffic hazard.

Appropriate Assessment: Stage 1:

The Commission agreed with 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 in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the site and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Commission 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 Lower River Suir Special Area of Conservation (Site Code: 002137) in view of the site's conservation objectives. The Commission considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's conservation objectives using the best scientific knowledge in the field. In completing the assessment, the Commission considered, in particular, the following:

- (i) the site-specific conservation objectives for the European Site,
- (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 Commission 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.

In overall conclusion, the Commission was satisfied that the proposed development would not adversely affect the integrity of the European Site in view of the site's 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 16th day of January 2025, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Parcel 3 as indicated on the drawings and documentation submitted with the application to the planning authority on the 4th day of March, 2024 shall be omitted in its entirety from the development.

Reason: in the interest of clarity.

3. 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 Commission considers it appropriate to specify a period of validity of this permission in excess of five years.

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

Reason: To protect the integrity of European Sites.

5. All of the environmental, construction and ecological mitigation measures, as set out in the Environmental Report (Noise Impact Assessment Report, Archaeology Assessment Report, Glint and Glare Assessment), Biodiversity Management Plan, preliminary Construction Environmental Management Plan and other particulars submitted with the application, and by way of further information, 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. In addition, the developer shall install silt fences on either side of the two number EPA mapped watercourses on the site for the duration of the construction period. Details of the proposed silt fences shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

6. 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.

7. The electricity control unit, inverters, and fencing shall be dark green in colour or other dark colour, details of which shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of the visual amenity of the area.

8. (a) This 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 maintenance regime for the solar farm and a separate 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.

- 9. Prior to commencement of development, the developer shall submit a revised Biodiversity Management Plan which has regard to the revisions of the layout of the development, as amended by the further plans and particulars received by the planning authority on the 16th day of January, 2025.

Reason: In the interest of environmental protection.

10. All mitigation measures in relation to archaeology and cultural heritage shall be implemented, except as may otherwise be required in order to comply with the following requirements:
- (a) The developer shall retain the services of a suitably qualified archaeologist to advise on and establish exclusion buffer zones around the external-most elements of the archaeological sites as listed in Table 1 of the submitted report. In this regard:
 - (i) No groundworks of any kind (including but not limited to advance geotechnical site investigations) shall be permitted in the exclusion buffer zones.
 - (ii) The exclusion buffer zones shall be fenced off for the duration of construction works in the vicinity of the monuments. No machinery, storage of materials or any other activity related to construction shall be permitted within the exclusion buffer zones.
 - (b) The developer shall engage a suitably qualified, archaeologist to monitor all ground disturbance required for the proposed development. No groundworks of any type (including any preparatory/enabling works or advance site investigations) shall take place in the absence of the archaeologist without his/her express consent. In this regard:
 - (i) The archaeological monitoring programme shall be carried out under licence from the National Monuments Service and in accordance with an agreed method statement.
 - (ii) The method statement shall include methodology for the preservation by record of the three areas of brick kilns waste identified in Trenches 7, 15 and 41 during archaeological testing under Licence 24E0854.

- (iii) Should archaeological material be found during the course of the archaeological monitoring, the archaeologist shall suspend work in the area of archaeological interest pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the planning authority, in consultation with the Department of Housing, Local Government and Heritage with regard to any necessary mitigation action e.g. preservation in situ, and/or excavation. The developer shall facilitate the archaeologist in recording any material found.
 - (iv) The Department and the planning authority shall be furnished with a report describing the results of the monitoring. All resulting and associated archaeological costs shall be borne by the developer.
- (c) The developer shall retain the services of a suitably qualified archaeologist to advise on an archaeological mitigation plan for decommissioning of the development, to include mitigation measures for the removal of the solar panels and the protection of the archaeological sites and monuments that are in situ at the site. The Decommissioning Statement for the Proposed Solar PV Array shall be updated to include the location of any archaeological or cultural heritage constraints. It shall clearly describe all identified likely impacts from decommissioning, both direct and indirect, and all mitigation measures to be employed to protect the archaeological or cultural heritage environment during decommissioning works.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

11. Prior to commencement of development, the developer shall submit details to the planning authority confirming the anticipated megawatt capacity and annual electricity generation of the solar farm.

Reason: In the interest of clarity.

12. (a) Existing field boundaries, including trees and hedgerow, shall be maintained and supplemented in accordance with the details submitted, except where removal is proposed to facilitate access to roadways and sight lines.
- (b) All proposed landscaping and planting shall take place in the first planting season following commencement of development and in accordance with the details proposed. The landscaping and screening shall be maintained at regular intervals. 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.
- (c) Additional screening and/or planting shall be provided so as to ensure that there is no glint impact on adjoining dwellings as a result of the development. 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 confirm that no such glint impact has taken place, and shall provide such further mitigation measures, as the planning authority may specify in writing, to ensure that this is achieved.

Reason: In the interest of the visual amenities of the area.

13. 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. In addition:

- (a) The access points from the public road shall be provided with a drainage kerb/cattle grid or approved equivalent surface water cut-off drain which shall discharge to a stone filled sump located within the site, the details of which shall be submitted to the planning authority for written agreement prior to commencement of development. Surface water from the site shall not be allowed to discharge onto the public road or adjoining properties.
- (b) Prior to commencement of development, details of the proposed service roads/tracks and drains shall be agreed in writing with the planning authority. The new tracks shall be surfaced in gravel or hardcore and shall not be hard topped with tarmacadam or concrete.
- (c) The developer shall monitor the existing drainage network for blockages and other issues that could affect its functionality throughout the lifetime of the solar farm.

Reason: In the interest of environmental protection.

14. 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.

15. (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 perimeter fence shall be erected such that for a minimum of 300 millimetres of its length its bottom edge is no less than 150 millimetres from ground level.

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

16. The construction of the proposed 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. The finalised CEMP shall also include an updated Traffic Management Plan (TMP) which provides details for the management of construction traffic for the duration of the construction phase. The TMP shall follow the recommendations of the Traffic Signs Manual 2010 as published by the Department of Transport. The finalised CEMP shall provide details of intended construction practice for the proposed development, including:
- (a) The location of the site and materials compound(s).
- (b) The 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 the 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) The Plan (CEMP) shall incorporate all significant findings from the report submitted as part of the further information response, including (but not limited to) the location of any archaeological or cultural heritage constraints relevant to the proposed development. The final CEMP shall clearly describe all identified likely impacts, both direct and indirect, and all mitigation measures to be employed to protect the archaeological or cultural heritage environment during all phases of construction activity. The CEMP shall have particular regard to the requirements as set out above in relation to the establishment and characteristics of the protective buffer zones that shall be implemented to ensure preservation in situ of archaeological sites and monuments.
- (n) 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.
- (o) Hours of construction.

The finalised CEMP shall also take account of the mitigation measures outlined in the Natura Impact Statement. In addition, the finalised CEMP shall prescribe the species-specific mitigation (i.e. ceasing of construction activity and consultation with the ECoW) for Amphibians. 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.

17. The roadside boundary at the proposed access points shall be set back behind the required sight triangles at the proposed site entrances onto the public road. The sight triangles shall be achieved prior to further construction on site. The replacement roadside boundary hedgerow shall be cut back and maintained such that clear, unobstructed sight lines are provided at all times. In addition:
 - (a) During the first planting season following construction of the access points native hedgerows shall be planted behind the necessary sightlines at the entrance.
 - (b) The hedgerows shall be managed and maintained such that a minimum height above ground level of 2.5 metres is achieved. Where sections of hedgerow and or existing trees within the hedgerows become damaged or die, these shall be replaced with shrubs/trees of a similar species.
 - (c) ESB, telecom poles or services connections on the roadside shall be removed and setback to the new fence line in agreement with the service provider.
 - (d) The area between the new road fence and road carriageway shall be trimmed and rolled level with the carriageway, top soiled, seeded with grass and thereafter maintained without obstruction, trim and tidy.

Reason: In the interest of traffic safety and in the interest of visual amenity.

18. The developer shall submit details (plan and section diagram) to illustrate the relationship between the historic boundary wall dividing Parcel 4 and 5 and the proposed access tracks. Any intervention to this wall shall be limited to the requirement for the width of the access tracks only.

Reason: In the interest of built heritage.

19. The fencing, CCTV and proposed hedgerow planting along the eastern boundary of Parcel 4 shall be set back within the site where it abuts the boundary of the neighbouring residential property. Prior to commencement of development, the details of the realigned boundary treatment at this location shall be submitted to the planning authority for written agreement. The revisions to the boundary at this location shall ensure that the ongoing viability of mature tree in the south-eastern corner of Parcel 4 is maintained.

Reason: In the interest of residential amenity.

20. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:
- (i) An LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. The T value shall be one hour.
 - (ii) An LAeqT value of 45 dB(A) at any other time. The T value shall be 15 minutes. The noise at such time shall not contain a tonal component. At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with respect of Community Response" as amended by ISO Recommendations R 1996 1, 2 or 3 "Description and Measurement of Environmental Noise" as applicable.

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

21. 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 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 residential amenities of property in the vicinity.

22. 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.

23. Prior to commencement of development, the developer shall satisfy the requirements of Uisce Éireann in relation to their requirements for working in the vicinity of Uisce Éireann assets.

Reason: In the interest of protecting the public water infrastructure at this location.

24. 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 Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory restoration of the site in the interest of visual and residential amenity.

25. 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 Coimisiún 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.



Paul Caprani

**Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.**



Dated this *5th* day of *September* 2025.