



An
Bord
Pleanála

Inspector's Report

PL.10.246875

Development

10-year permission for the construction of a solar PV Energy development within a total site area of up to 21.9ha, to include one single storey electrical substation building, electrical transformer/inverter station modules, solar PV panels ground mounted on steel support structures, access roads, fencing and associated electrical cabling, ducting and ancillary infrastructure at Gorteens, Belview, Co. Kilkenny

Planning Authority

Kilkenny County Council

Planning Authority Reg. Ref.

16/228

Applicant(s)

Highfield Solar Ltd.

Type of Application

First Party v Refusal

Planning Authority Decision

Refuse permission

Appellant(s)

Highfield Solar Ltd.

Observer(s)

1. Christopher and Claire Ogilvie
2. John and Monica Roche

Date of Site Inspection

28th September 2016

Inspector

Joanna Kelly

1.0 Site Location and Description

- 1.1. The appeal site has a stated site area of 21.9ha and is located in the townland of Gorteens, in County Kilkenny, close to the Waterford County border. The site itself is an irregular 'L' shape consisting of field plots stretching from the N29 to the north to Belview Port along the River Suir to the south.
- 1.2. The proposed access to the site is from the N29 adjacent to existing industrial warehousing units, traversing the field at this location and then via a right of way which abuts an existing residence via another field to the location where the panels are proposed. There is a prominent Insurance Brokers structure located on the northern side of the N29 at this location. It was noted that this stretch of road, a cul-de-sac, carries mainly port-related traffic, serves Belview Port which has a barrier system providing restricted access only to the port lands.
- 1.3. The immediate area of the appeal site is rural in character with a notable presence of ESB lines traversing the fields where the panels are to be located. The site itself comprises of individual fields that are generally well-screened with mature hedgerows to the field boundaries. The fields would appear to have been used for arable farming. The topography of the overall site is undulating and generally falls from north to south (with a difference of 20m across the landholding indicated on the contours submitted). The existing local road network consists mainly of narrow cul-de-sacs with dispersed one off housing and agricultural structures. There is one existing large two storey dwelling with a long drive-way that would bound the solar farm along the north, south and western boundaries of the property.
- 1.4. There is an IDA Park located to the west of the appeal site which is accessed via a junction approx. 200m north of the proposed access from the N29. The road would appear to have been re-aligned/upgraded to facilitate access to the IDA Park. There is a recently constructed Glanbia plant within this Park. The internal IDA access road runs parallel to the western boundary of the appeal site. There are mature trees/landscaping at this location that screens the appeal site from the IDA Park. Anglian Water, waste water treatments works is located to the south-west of the IDA Park.

- 1.5. There is a freight rail line that runs along the southern boundary of Anglian Water and the appeal site serving the Port.

2.0 **Proposed Development**

The proposed development is a 10-year permission for a solar farm. Permission is also being sought for

- Single storey electrical substation building
- Electrical transformer/inverter station modules
- Solar PV panels ground mounted on steel supports
- Access roads
- Fencing, cabling and all other site works.

- 2.1.1. The Board should note that the size (acreage) of the solar farm has been reduced, with revised plans submitted with the grounds of appeal. Three distinct locations for the solar panels were proposed as part of the original application. This has been reduced to one distinct area which is largest area to the south-west of the landholding, straddling the IDA park to the west. A sub-station is now proposed to the northern most part of where the panels are proposed. CCTV cameras will be located on poles of up to 5m in height and will be angled to overlook the solar site without encroaching on residential properties. Motion activated artificial/security lighting will be in place at the substation location.

Of note the energy output of the project has not been provided. It is unclear what the consequential impact on energy production is on foot of the reduction in the size of the solar farm.

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused permission as follows:

1. The proposed development is ***considered at variance with the land use zoning*** PFI – Development of Port Facilities and Industry in the Ferrybank/Belview Local Area Plan 2009. The purpose of this zoning is to allow for the further development and expansion of port facilities and associated industries. It is considered the ***type of development proposed is not considered a specialised port related industry*** use appropriate for the area and would, if permitted, ***sterilize for an extensive period of time a strategic area*** zoned for future port expansion. The proposed development is therefore contrary to the proper planning and sustainable development of the area.
2. The N29 national route was developed to service the Belview Port Area. ***The development proposes an access from the N29 where a speed limit of 100km/h*** applies to this route and is at variance with current official policy in relation to control of development on affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) and would adversely affect the operation and safety of the National Road Network. Furthermore, ***this type of development is not considered of national and regional strategic importance for consideration as an exceptional circumstance*** under section 11.7.3.1 N29 Belview Port of the current Kilkenny County Development Plan. The local road network which provides an alternative access to the lands is not considered suitable to carry large vehicles associated with a development of this scale. The proposed development would, as a result ***endanger public safety*** and give rise to a traffic hazard and be contrary to proper planning and development of the area.
3. It is a policy of the Planning Authority as set out in the Kilkenny County Development Plan 2014-2020 and the Ferrybank Local Area Plan 2009 ***to protect existing woodlands, trees and hedgerows which are of amenity***

or biodiversity conservation value and for the protection of existing residential amenity in the Belview area. ***The location for proposed development is on lands zoned POS Passive Open Space/Green Links/ Biodiversity Conservation and BRA – Belview Residential Amenity in the Ferrybank/ Belview Local Area Plan.*** The development by reason of proposed access arrangements and location within and adjoining a woodland/hedgerow site, ***would result in loss of habitat, would injure the visual/residential amenities and environmental amenity value of the area.*** The proposal would therefore be contrary to the policies and objectives as set out in the Kilkenny County Development Plan 2014-2020 and the Ferrybank-Belview Local Area Plan 2009.

3.2 Planning Authority Reports

The report of the area planner can be summarised as follows:

- Five third party submissions raising issues such as devaluation of properties, traffic and access, conflict with LAP and would compromise development on Port Lands.
- Development does not require EIA.
- FI required in respect of glint and glare arising from proposed development
- Proposed development would endanger public safety, impact negatively on the environmental amenities of the area.
- Proposal is not considered a specialised port related industry
- It was recommended that permission be refused for three reasons.

3.3 Other Technical Reports

Environment Section

Detailed drawing and longitudinal section of each construction stage site access required.

Senior Executive Engineer

Local road network is not appropriate to carry large vehicles given the narrow cross-section of the road and that a temporary access off the N29 is the only realistic option for a development of this nature. The Council is currently preparing a strategy for the future access of zoned lands in the Belview Port Area from the N29. This application is premature until such a time as the TII has had time to consider and respond to the strategy. FI is outlined should a grant be considered in this case.

Irish Aviation Authority

Proposed development should be assessed for any potential glare and glint issues in relation to aviation. For a proposed facility within 30km of an airport contact should be made in the first instance with the relevant airport for their input in order to carry out this analysis as flight paths into and out of the airport may pass over the area in which the facility is to be located. A specialised consultant should be used if the facility is to be located within 10km of the airport.

Department of Arts, Heritage and the Gaeltacht

The proposal lies adjacent to the Lower River Suir SAC and close to the River Barrow and River Nore SAC. Possible impacts on polarotactic aquatic insects have not been assessed. The impacts of tarring and chipping of the access road to the site has not been assessed. The proposed UGC extending for 0.6km east of the site to Belview will result in the loss of 500 sq.m. of mixed broadleaved woodland and the proposed access track will result in the loss of 25 metres of hedgerow. Bat and bird surveys are required before clearance. Compensatory habitat creation is required. Mitigation in relation to artificial lighting required to minimise the use of the area by bat species must be clearly outlined. Details regarding fencing and specifically barbed wire is outlined.

Development Applications Unit

The proposed development is large in scale and is located south-south-west of recorded monument NO. KK047-001 Castle unclassified Gorteens Castle. An archaeological test excavation should be carried out as further information.

4.0 Planning History

There is no recent planning history associated with the appeal site.

5.0 Policy Context

There are no national guidelines regarding solar farms. In the absence of such, I refer to UK planning guidance in the interests of providing a more robust assessment to the application before the Board.

5.1. Renewable Energy Planning Guidelines Note 2 – The Development of large scale (>50kW solar PV arrays) – Cornwall (UK)2012.

The Guidelines outline planning application considerations, including *inter alia*,

- Site levelling works
- Development in relation to current use
- Ground maintenance
- Soil stripping
- Access
- Security fencing/lighting
- Ground anchors
- Grid connection

5.2. Planning Guidance for the development of large scale ground mounted solar PV systems – Building Research Establishment (BRE) – 2013

This guidance document also outlines considerations with regard to solar developments similar to the Cornwall Guidelines such as:

- Environmental impact assessment

- Site levelling works
- Ground maintenance
- Construction compound
- Soil stripping, storage and replacement
- Ecology
- Drainage, surface water run-off and flooding
- Glint and glare
- Community involvement and gain.

5.3. South-East Regional Planning Guidelines 2004-2020

The strategic policies and objectives set out in the South-East Regional Planning Guidelines (RPGs) form the backdrop for socio-economic planning by national and regional agencies. Some of the policies relating to the area include:

- Securing the future balanced development of Waterford City through enhanced connectivity via the Waterford City Bypass Bridge and the development of a downstream river crossing.
- Establishing a spatial framework through which development of the ports in the region can be coordinated to deliver a critical mass of services and facilities boosting the national and international competitiveness of the region.

5.4. Waterford Planning, Land Use and Transportation Study 2004-2020

The Waterford Planning, Land Use and Transportation Study (herein referred to as the PLUTS) sets out a strategy for the balanced and sustainable growth of Waterford, while providing a high quality of life for its inhabitants over the next twenty years. The PLUTS proposes to bring the North Quays and the Northern Suburbs fully into the social and economic domain of the City. In doing so, the study

advocates that growth in Waterford City and Environs be distributed between the north and south sides of the River Suir in the ratio of approximately 2:3 respectively over the next twenty years. It is anticipated that a 50:50 balance will be achieved over a thirty-year period.

It is envisaged that a compact city will be formed within a new orbital road network comprising of the N25 Waterford Bypass and the Outer Ring Road and facilitated by two additional river crossings. These infrastructural works should result in the development of major employment at Belview and the North Quays. In the process, lands at Rockshire, Ferrybank, Abbeylands and Christendom should be developed for residential use to accommodate the employment base in Belview and the North Quays. It is proposed to link these residential areas to the City Centre by means of a new Green Route, while the City Centre area would expand northwards across the River into the North Quays and be linked by means of a new bridge.

5.5. Kilkenny County Development Plan 2014-2020

Section 4.2 deals with the green economy and section 4.6.2 deals with Belview Port which is located in the River Suir estuary. Reference is made to the local area plan prepared for the Ferrybank/Belview area.

Chapter 10 deals with Renewable Energy Strategy. Section 10.8 deals with solar energy.

5.6. Ferrybank- Belview Local Area Plan 2009-2020

The purpose of this LAP is to provide guidance on the future development of the plan area and to ensure that such development occurs in a planned and orderly manner.

It will seek to address:

- The need to accommodate the future growth of Waterford which is designated as a Gateway City in the National Spatial Strategy.
- The need to protect the heritage and distinct environmental quality of the study area.

This LAP recognises that the performance of Belview Port is of central importance to the economic development of the plan area. The continued growth of port activities will enable the development of employment opportunities in the wider Belview area.

Belview Port occupies a strategic position, nationally, regionally and locally. It has good road and rail links. The principal access to the port area is via the N29, which offers quick access to the N25. The Port will benefit significantly from the upgrading of the transport infrastructure in the area, particularly from the provision of the N25 Bypass. This will result in the port becoming more accessible in the future and allow for faster transportation of goods. Belview is the only port in the country served by a rail line – the Limerick to Rosslare Europort line. Although there is no freight currently transported by rail through the port, the opportunity exists to develop such a facility in the future.

Belview Residential Amenity

A zoning of Belview Residential Amenity (BRA) has been proposed to protect existing residences in proximity to Belview Port. This zoning incorporates lands surrounding and adjoining the existing residences as open space and landscape buffers. Although existing residential amenity will be protected, it is important that there is no net increase in residential development in this area over the lifetime of this LAP, (Note: Dwelling Houses for immediate family members of landowners (sons and daughters) will be permitted in principle). (See Section 2.10.7 Future of Belview Port – Appropriate Zonings and Zoning Map).

The Port of Waterford at Belview is seen as a critical piece of infrastructure nationally, regionally and locally. The important role of the Port is reflected in a number of national and regional policy documents. The NSS believes there is substantial potential for the enhancement of critical mass through the further expansion of the designated gateway of Waterford including the Port at Belview. The South East Regional Planning Guidelines 2004 state that Belview may offer the best location for investment due to its proximity to the Gateway City of Waterford, WIT, and Belview Port, with direct access to a railway line.

It is envisaged that there will be significant levels of growth in the Ro-Ro (Roll on-Roll off) and Lo-Lo (Load on-Load off) sectors in the future. It is considered that the growth of logistics, and areas such as commercial vehicle parking, will play a key role in the growth of the Port. In recent years, a number of permissions have been secured by the Port of Waterford for wharf expansion and associated port services. However, the expansion of port activities such as logistics, distribution centres, commercial vehicle parking and storage areas for containers has been somewhat limited due to the shortage of suitable zoned land in the area. Inadequate parking facilities, weighting facilities and a lack of capacity at the port have been highlighted as problematic issues, which appear to affect cost efficiencies at the port.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- It is acknowledged that the land is zoned, however the development can be of strategic benefit to the Port.
- Solar sites by their nature are required to be located close to existing grid infrastructure to be economically viable. The proposed site is only 800m from the Belview Port substation. This location has one of the highest solar yields in the country.
- The proposed development can be considered an associated industry as it would provide green renewable power for the Belview Port area. The Port of Waterford in their submission to Kilkenny County Council stated *“they are actively working towards a green port designation which will identify new measures by which environmental impacts can be minimised and issues around climate change and sustainability changed”*. The proposal is consistent with this strategy.
- The proposal offers a suitable development to contribute to the renewable energy targets.

- Notwithstanding that solar developments are modular developments, whereby ground mounted panels can be relocated onto rooftops of any new port facility buildings as they are developed, revised proposals are submitted as part of this appeal. There is a reduction in the overall footprint of the proposed development infrastructure from an area of 21.9ha to an area of approx. 12.3ha.
- Regarding access to the N29 it is set out that it is not the intention to restrict access for Port development. By reducing the development, it is considered that there will be no obstruction to accessing the N29 for Port development as a result of the development.
- With regard to roads and access to serve the proposed development, the original submission proposed a temporary construction entrance from the N29 to access the development. Should a temporary construction access point from the N29 not be deemed appropriate it is contended that the local road may be used for construction traffic. As there is now a smaller area there will be less materials for delivery during construction. There will be no articulated lorries as rigid trucks can be used to transport equipment. A detailed construction traffic management plan will be developed in consultation with the local area engineer.
- It is also proposed that the local road width could be temporarily widened or permanently widened to the updated proposed permanent access point. The proposed access gates along the local road have been relocated further north-west.
- It is submitted that a temporary construction access of this nature qualifies as a permissible entrance as the development is relevant and appropriate in supporting the aims and objectives of national and regional planning guidelines. The DoECLG Spatial Planning and National Road Guidelines also includes flexibility for access from National Roads due to the nature of development and the volume of traffic to be generated by it. The proposed access will be temporary in nature, with overall construction time now 12 weeks.

- The proposed development did not include solar panels or transformer/inverter stations within the Belview Residential Amenity (BRA) area. These lands have remained absent of development infrastructure other than a temporary road which will be re-instated post construction. The revised layout and drawings show that any proposed boundary fencing that was previously located in the BRA has been removed. It is submitted that with the reduction in the size of the development that the visual impact is significantly minimised. Further planting along existing field boundaries of the development will further improve the screening of the site.
- It is submitted that the environmental amenity value will be enhanced as opposed to injured. The site will no longer be subject to intensive agricultural practices and will be reseeded with native grass following the completion of the construction phase of the proposed project. Such proposals will help contribute to the implementation of the All-Ireland Pollinator Plan 2015-2020.

6.2. Planning Authority Response

The response is summarised as follows:

- There are other lands which would be more suitable for the proposal which are located close to existing grid infrastructure.
- The strategic importance of Belview as a port is emphasised. The Ferrybank Belview LAP has zoned lands so as to address the issues which has hindered the expansion of the Port to date.
- The proposal would negate the investment and militate against the efficient use of land and provision of public services and infrastructure for port expansion.
- The location of the access to serve the revised development is from the N29 Belview port road on lands zoned POS Passive Open Space in the LAP. This area is a sensitive environmental feature that should remain protected.
- The proposal notwithstanding the revisions will endanger public safety and give rise to a traffic hazard.

6.3. Section 131 Notices

The application was referred to An Taisce, The Heritage Council for comment. No responses were received.

7.0 **Observations**

7.1. Christopher and Claire Ogilvie

The response is summarised as follows:

- The observers' lands would be practically enclosed by the development.
- Application is invalid due to the absence of an EIS. The subject solar farm consists of an area of 21.9 hectares which is above the EIS threshold for an urban development project. The application does not indicate the output of the facility.
- The development significantly impinges on the quality of the Belview Residential Amenity Areas and intrudes on areas which have been zoned as buffer zones. The intention of the BRA zoning is to protect existing dwellings from overpowering and intrusive development like that proposed.
- The proposal will completely destroy the visual and residential amenity of the observer and nearby residential properties in the general Bellevue area.
- The proposal has no regard to the mix of activities provided for in the development plan and LAP and proposes to develop right up to the boundary of the existing residential dwellings and designated buffer zones.
- The proposal would devalue the observers' lands.
- The proposed development does not directly relate to the designated land use zoning in the area. There are a number of less sensitive sites in the area that do not impinge on the residential amenity of existing properties and can better cater for a large scale and visually intrusive development. An EIS would have considered alternatives.

- There is limited information on the visual impact of the solar farm. The visual impact will be quite severe due to the elevated nature of the lands.
- The submitted site layout drawings are not to scale and are pixelated. They fail to provide essential information on the overall site layout, design and detail.
- There does not seem to be any input from consulting engineers or solar panel specialists on the operation and logistics of the solar farm.
- The energy output should be provided in the public notices.
- Roads are unsuitable for the proposed development. Increase in heavy vehicles will seriously impact on ecological quality of the area.
Notwithstanding the proposed reduction in area, there will be no reduction in the level of pollution as the quantity of vehicles entering the site and impact of the increased activity will remain.
- It is requested that permission is refused.

7.2. John and Monica Roche

- There will be excess traffic on road
- Object to any development in any field at rear of their property.

8.0 **Assessment**

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Revisions to proposal on foot of appeal
- Compliance with Local Area Plan
- Visual Amenities
- Traffic and Access
- EIA
- Appropriate Assessment
- Other Issues

8.1. **Revisions to proposal on foot of appeal**

8.1.1. The First Party has revised the site layout plan on foot of the refusal from the local authority. Whilst the site boundaries remain unchanged, the location of the solar farm is restricted to the southern end of the site in close proximity to the River Suir. No supporting written documents have been submitted with the revised layout. For the purposes of clarity, the assessment contained hereunder is restricted to the consideration of the new revised layout as proposed by the applicant. The applicant indicates that the site area has been reduced from 21.9ha to 12.3ha. There are no details as to the output of the solar farm. The original documentation and public notices also do not indicate what the maximum output from the farm would be.

8.1.2. It is set out that the solar farm will be situated on shallow sloping agricultural land currently used for arable farming at an approximate level of 5-30m AOD. The photovoltaic modules will be mounted onto galvanised metal racks. These racks will

form rows running east to west and will be south-facing. The panels will be fixed at an angle of between 22°-30°. The lower edge of the array will be approx. 0.7m in height whilst the highest edge will be approx. 3.2m. Each array will be mounted onto a simple galvanised metal framework allowing vegetation to grow below the panels. The metal framework will be direct-driven into the soil, removing the need for deep foundations. The piles are also easily extracted during decommissioning. A small gap surrounding all sides of each module will allow water to drain between the modules. It is not clear from the application whether there is site levelling proposed. It is also unclear how the land is to be maintained under the arrays.

- 8.1.3. It is set out that up to 10 inverter and transformer stations will be located on the site to facilitate the correct voltage for the connection of the solar farm to the local grid network. This would appear to have been revised to 5 on foot of the revisions.
- 8.1.4. Concerns have been raised by third parties as to the clarity of plans submitted. I tend to agree that the level of detail on the plans is unclear due to the pixilation.

8.2. Compliance with Local Area Plan

- 8.2.1. The statutory plan for the subject lands is the Ferrybank – Belview Local Area Plan 2009-2020. This plan is currently subject to a review. It is evident that the Port is an important contributor to the economy at national, regional and local level. The policies and objectives of both the regional planning guidelines and local authorities' development plans/local area plans are clear in the need for reserving lands at this location for future port uses such as logistics, distribution centres, storage, weighing and parking areas. Therefore, any development on these lands which are not for port related uses need to be carefully considered. In this instance, the applicant is seeking to construct a solar farm, an unrelated use on lands which form an integral part of the port lands. The southern boundary of the site extends to the existing rail-

line, the only port in the country to be served by such. Whilst no freight is currently transported by rail through the port, the opportunity to do so should be exploited.

- 8.2.2. The applicant has advanced an argument in the grounds of appeal that the proposal should be considered 'strategic' in nature mainly due to its contribution to the green renewable power for the Belview Port area. The proposal would indeed contribute to green energy, a national objective. However, this needs to be balanced against the need to protect the port lands for such uses that explicitly complement and harness the full potential of Belview port. In this regard, the proposed siting of a solar farm on the port lands is unjustified and would seriously prejudice the future expansion of port related facilities at this location. It is set out that the site is located 800m from the Belview Port substation and whilst this is the case, this in itself does not justify siting an unrelated use on strategic port lands. It is also considered that no justification for the selection of the subject lands for solar energy has been given.
- 8.2.3. Whilst the solar farm is not a port related industry, I don't necessarily consider such a use is prohibited on these lands. Solar panels could be accommodated on these lands, however, the over-riding imperative is that any such development does not compromise the planned and orderly expansion of the lands. I note the reference by the applicant that solar farms are modular developments and can be mounted or relocated on rooftops of any new port facility. However, the proposal in this application is for the panels to be located on the ground and not on any building. No details have been submitted setting out how the panels could be re-located if so required. Given that the lands are in private ownership (as opposed to port lands) it is also considered that the presence of a solar farm would restrict the ability to encourage the provision of the lands in the short to medium term for related port industry/uses. Such a development would therefore compromise the viability of delivering other required port facilities or infrastructure on these lands. In conclusion, I consider that the proposed siting of a solar farm on these lands is inappropriate,

unjustified and would seriously prejudice the expansion of Belview Port in an orderly and planned manner.

8.3. Visual Amenities

With regard to visual amenities there are two primary issues to consider with regard to the proposed development. The first pertains to glint and glare that may arise from the proposal and the other is the visual impact on the landscape.

- 8.3.1. **Glint and Glare:** An assessment of the potential for glint and glare arising from the proposed solar farm was submitted with the application. It is set out that the panels would be fixed south facing photovoltaic panels which would be tilted at an angle between 22-30 degrees from the horizontal giving rise to the maximum height to the top of the panel of no more than 3.2m from ground level. The assessment concludes that due to the location of the site and the presence of existing vegetative it can be concluded that the proposed solar farm is unlikely to result in any significant glint effects on potentially sensitive receptors. It is recommended that the hedgerows surrounding the site are maintained at a height of 3.5m throughout the operational lifetime of the site. It is also concluded that glint effects between the proposed site and the airfield are unlikely.

I would tend to concur with the assessment conclusions, that having regard to the location of the proposal, the intervening topography and presence of mature landscaping/hedgerows that the potential for glint is negligible. I also consider that the issue of glare is not of concern. I would draw the Board's attention to the Irish Aviation Authority's submission which sets out that contact should be made regarding any development that occurs within 30km of an airport. The proposal in this incidence is approx. 7km from Waterford Airport.

- 8.3.2. **Visual Impact:** The applicant submitted a visual impact assessment which concentrates on a 5.0km radius study area having regard to landscape character, landscape designation and visual amenity. It is set out that there will be approx. 150

(originally proposed) rows of panels; the face of each approx. 4.9m deep with the highest part of the panel 3.2m. The proposed fencing to the perimeter of the site is deer fencing up to a height of 2.2m.

The site is located within the South Eastern Hills Landscape Character Assessment. The assessment notes that the eastern edges of the study area fall within County Wexford and the southern parts of the study area are located within County Waterford and are identified as Landscape sensitivities rather than landscape character assessments. The assessment report indicates that the Zone of Theoretical Visibility (ZTV) extends out to a radius of 7.5km from the proposed development. It is set out that the proposed development would potentially be visible mainly across the central and southwestern parts of the study area but would be predominantly screened by intervening topography.

Pursuant to inspection of the lands and immediate environs I would be satisfied that the proposal would not have a significant visual impact on the receiving environment. The appeal site which comprises of a number of fields, is well screened by existing trees and field hedgerows. There is an existing woodland area located along the western boundary which restricts visibility to and from the site in the short to medium range. The nearest dwelling, a large two-storey (Cuan-na-Mara) would be bounded to the west and south and partially to the north by the development. However there is extensive landscaping to the perimeter of this property and field boundaries of the solar farm that would ensure that the visual impact is negligible.

The lands where the solar farm is now proposed (on foot of the appeal) are generally located at a lower level than the existing public roads serving the lands. With regard to the longer range there will be views from the opposite side of the River Suir towards Belview Port from which the site may be visible. The assessment submitted by the applicant identifies the Faithlegg Recreation Area and the local road near Faithlegg Forest recreation area as potential areas where the development will be visible. It is considered that the visual impact arising from the proposal would be negligible on the landscape. Further, these lands are zoned for port related uses with existing port/industrial structures appearing prominent on the landscape. The solar

farm would be located beyond these structures from Faithlegg, thereby reducing the visual impact at this location.

8.4. Traffic and Access

- 8.4.1. One of the reasons for refusal cited access from the N29 as being inappropriate and contrary to national policy. The Spatial Planning and National Roads, Guidelines for Planning Authorities, 2012 provides that the strategic traffic function of national roads should be maintained by limiting the extent of development that would give rise to the generation of short trip traffic on national roads. Section 2.6 of the Guidelines provide for exceptional circumstances. The proposal in this instance is for a temporary access from the N29 for the duration of the construction period: details on file indicate a period of 16 weeks. The use of an access from the national road serving the site would, in my opinion, not compromise the safety of the N29 given the temporary nature of its use and availability of site-lines and relatively modest speeds observed.
- 8.4.2. Notwithstanding the aforementioned, pursuant to site inspection, it is difficult to justify the extent of works the applicant is proposing in order to accommodate access to the site from the N29. It is unclear why the applicant is proposing a circuitous route when it would appear that there are other viable options for more direct access to the site.
- 8.4.3. There is an existing IDA park located to the west of the appeal site. Whilst there is mature landscaping/woodland along the western boundary of the site, there is a location (west of Cuan-na-Mara dwelling) where the woodland narrows and there is potential for a direct access into the site, minimising the unnecessary use of agricultural lands as a haul route. The applicant has failed to present any information as to why or even if this route was considered. This potential route also represents the least disruption to existing residential properties.

8.4.4. Another viable option is to utilise the existing road network to the north i.e. link road serving the N29 to the IDA Park. There is a local road that serves the current landholding and the distance from the IDA link road along this local road to the right of way as indicated on the plans submitted is approx. 800m. This is less than the distance of the proposed temporary haul road through agricultural lands bounding the N29. Whilst there would be disruption by way of increased movements along this local road it is considered that with appropriate traffic management this route maybe suitable as a temporary access route during construction. A special contribution could be sought in this instance so as to upgrade the existing local road along the 800m stretch.

8.4.5. In the absence of any information that validates the extent of proposed works required to access the lands the proposal is considered to represent unnecessary intervention on the existing landscape. The local authority has also made reference to a strategy being prepared for the future access of zoned lands in the Belview Port area from the N29. It is considered that having regard to the circuitous route proposed to access the site that the proposal would be premature pending the preparation of this strategy. On balance, I consider that other potential viable and more direct routes to the site should have been explored so as to minimise the impact of the development on the receiving environment.

8.5. Environmental Impact Assessment

8.5.1. Section 172 (1) requires that an EIA must be carried out by the planning authority or the Board, as the case may be, in respect of an application for consent for:

- (a) Proposed development of a class specified in Schedule 5 of the Planning and Development Regulations, 2001 which exceeds a quantity, area or other limit specified in that schedule or
- (b) Proposed development of a class specified in Schedule 5 which does not exceed the specified quantity, area or limit but which the planning authority or Board determines is likely to have significant effects on the environment.

- 8.5.2. Therefore, it is required to establish if the development firstly is of a class that requires EIA, and then whether the development which does not exceed a quantity, area or other limit specified in Schedule 5 for that class of development, is likely to have significant effects on the environment.
- 8.5.3. Having regard to the provisions of Schedule 5, Part 1 the proposal does not constitute development described therein. Schedule 5, Part 2, section 3 refers to 'Energy Industry'. I do not consider that the proposal falls into any category of development provided under 'Energy Industry'. I note the reference to "*industrial installations for the production of electricity, steam and hot water not included in Part 1 of this Schedule with a heat output of 300 megawatts or more*" which does not apply to the type of development proposed. The proposal is for the production of electricity only not steam and/or hot water. Whilst there is no mention of the output from the development, it is reasonable to conclude that the proposal would be significantly lower than the 300 megawatts threshold.
- 8.5.4. I also note the reference under Infrastructure projects "urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere". Urban development is not defined in the Planning Act or Regulations. In any event, the proposal is for a solar farm on agricultural lands notwithstanding the zoning of the lands for port related uses. The solar farm is a temporary use whereby the lands would revert to agricultural use and indeed could still be grazed by animals and as such does not constitute "urban development".
- 8.5.5. I consider it prudent to also mention that Annex I of the European Directive also makes reference to re-structuring of landholdings which is not included as a class within Schedule 5 of the Planning and Development Regulations. This activity is provided for under the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011 whereby a person submits an application for consent

to the Minister for Agriculture, Fisheries and Food. The proposal in question pertains to a “development” as defined in the Planning and Development Act rather than an “activity”. I also consider that the solar farm could not reasonably be considered to fall within the activity of “re-structuring” of a landholding. In any event, the proposal having regard to the nature and extent of development is not such that would give rise to significant effects on the environment to warrant EIA.

8.6. Appropriate Assessment

8.6.1. A screening report prepared by Wetlands Surveys Ireland was submitted with the application to the planning authority. The screening report notes that the proposal will consist of panels mounted onto galvanised metal framework racks elevated above the ground surface thereby allowing vegetation to grow beneath the panels. The proposal will be mounted using driven piles. The report identifies that the Lower River Suir (Site Code 002137) is located immediately south of the proposed development site. The other SAC occurring within 5km is the River Barrow and River Nore cSAC (Site Code 002162). The report concludes that the proposal is not likely to have any significant effects on the Natura 2000 network of sites resulting from the proposed development and as such appropriate assessment is not required.

8.6.2. With regard to the provisions of Article 6 of the Habitats Directive it is first necessary to consider

“Is the project likely to have a significant effect, either individually or in combination with other plans and project, on the European site(s) in view of the site’s conservation objectives”

8.6.3. There are two European Sites located within a 15 kilometre range of the proposed project. Site synopsis and conservation objectives for each of these European Sites are available on the NPWS website and the most relevant one, Lower River Suir has been enclosed as an Appendix for the Board for ease of reference.

Natura 2000 Code	Site	Distance from site
002137	Lower Suir cSAC	25m south of site
002162	River Nore and River Barrow SAC	3.6km east of site

8.6.4. The likely significant effects both direct and indirect arising from the proposed development within the context of the site's conservation objectives is pollution of ground and surface waters and potential for impact on species for which the SAC has been selected. The risk of pollution may arise through the discharge of unclean/polluted water to nearby streams/ditches that feed into the River Suir which joins the River Barrow/Nore approx. 3.5km east of site.

8.6.5. Having regard to the source-pathway-receptor model it is considered that there is a hydrological link from the site to the Lower Suir SAC site via ground/surface water discharge. The primary likely significant effect within the context of the Lower River Suir SAC conservation objectives is the risk of pollution to local watercourses during construction and also the discharge of polluted water via ground/surface water post construction that may affect the maintenance of favourable conservation conditions of particular species. Having regard to the precautionary principle I am unconvinced that such impacts can be screened out mainly due to the lack of detail and information submitted with the application. There is a watercourse indicated on maps to the western boundary of the appeal site. There is potential for discharge of silt arising from ground disturbance to the Lower River Suir which needs to be considered. Salt meadows occur in proximity to the appeal site and as such warrant further consideration.

8.6.6. The key issue is whether the proposed development either alone or in combination with permitted level of development is such that would be likely to adversely affect

the integrity of a Natura 2000 site in view of its conservation objectives. Having regard to the foregoing it is uncertain based on the information provided by the applicant as to whether the project would likely have a significant effect on the Natura 2000 site. It is considered that Appropriate Assessment is required to allow a determination beyond reasonable scientific doubt where such a likelihood does or does not exist.

8.7. Other Issues

- 8.7.1. Grid Connection: The inverters and transformers will step the voltage of the generated electricity up to the required voltage for grid connection. They will be connected to the substation building on the site via underground cables. The connection point to the ESB networks distribution system will be at the on-site substation building which has been re-located on foot of the revised plans submitted with the grounds of appeal. The connection is shown terminating at the existing ESBN Belview sub-station located approximately 0.6km to the east of the site.
- 8.7.2. Archaeology: An archaeological assessment has been submitted with the application. It is set out that there are no recorded archaeological sites within the lands comprising the proposed development area. There are two recorded archaeological monuments within 1km of the site: one is a castle located in Gorteens and the other, also a castle in Little Island. A description of the fields in which the proposed development is to be located was provided. The Board should note that the amendments on foot of the further information means that the development is now confined to field 3-6 inclusive.
- 8.7.3. Ecology: The applicant has submitted an ecological survey which consists of a desk top review of datasets and published reports and a walkover of the site in November 2015. The report sets out that there are no water courses on site although there are a few drainage ditches which the report indicates had an absence of surface water during time of survey. The report identifies that there is a woodland

dominated by ash, oak and beech with a canopy height of approximately 16m to the western boundary. The Gorteens stream runs through the woodland and drains into the River Suir to the south. The report indicates that no EU Habitats Directive Annex I habitats were recorded. Those recorded within the site range from being of low value to local importance, higher value. The site access track and installation of the underground cable will cause the loss of a small area (ca. 500sq.m.) mixed broadleaved woodland habitat at the northern part of the site. The location of this area has not been clearly identified on plans submitted. It is set out that given the nature of the project, the potential risk of sediment run-off or accidental spills of hydrocarbons is low during the construction and operation phase. I note that the report indicates that there is an absence of otter habitat within the proposed solar farm site.

Pursuant to site inspection, it was noted that there are agricultural structures in the immediate vicinity that would offer potential for bat roosts. Therefore, all hedges/woodlands would be of value as foraging and commuting corridors for bats. The Development Applications Unit indicated that bat and bird survey is required before site clearance.

The ecological report does not assess the potential impact on aquatic insects, a concern specifically raised by the Department of Arts, Heritage and the Gaeltacht. The submission indicates that insects lay eggs on water and may mistake solar panels for water bodies. The lack of assessment in this regard may have potential impacts for other species that rely on insects for food. It is set out that “there is evidence that this potential effect can be mitigated by non-polarizing, white grid partitioning on solar panels to reduce or eliminate their reflection of polarised light”. This issue should also be considered in the context of appropriate assessment.

- 8.7.4. Fencing: The Department of Arts, Heritage and the Gaeltacht has indicated that barbed wire proposed should not be located below 1.8metres so as to ensure that the back legs of deer species are not impeded. Attention must be paid to areas of

higher ground on the outside of the fence which would lessen the jump height required. It is considered that careful consideration of type and location of fencing should be considered in more detail with regard to potential impacts on species whilst also acknowledging the need to ensure an adequate degree of security around the site. No details of lighting have been submitted and should be carefully considered in the context of effects on species foraging, roosting and/or commuting patterns.

9.0 Recommendation

I recommend that planning permission should be refused for the reasons and considerations as set out below.

10.0 Reasons and Considerations/ Reasons

1. Having regard to the zoning of the appeal lands as 'PFI – Development of port facilities and industry' in the Ferrybank and Belview Local Area Plan 2009-2020 it is considered that the proposed development would compromise the orderly expansion of the port lands. The appeal lands form an integral part of the port lands identified for such development. The proposed development would represent inappropriate and piecemeal development, that would seriously compromise the delivery of port related and vital utilities in this area having regard to the expected life of the solar farm. The proposal would therefore be contrary to the proper planning and sustainable development of the area.
2. In the absence of information regarding all potential alternative access routes to the site, the Board considers that the proposed route is circuitous, giving rise to unnecessary and unjustifiable access roads on the receiving environment where other viable access options may exist. The proposal therefore represents an unsustainable form of development and as such would be contrary to the proper planning and sustainable development of the area.

3. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development, individually, or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 002137 Lower River Suir, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

Joanna Kelly
Planning Inspector
11 October 2016