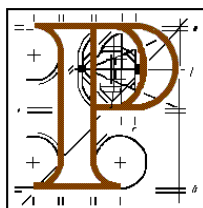


An Bord Pleanála



Inspector's Report

Appeal Reference No: 06D.246966

Development: Permission sought for a solar PV farm with an export capacity of 5MW comprising approximately 24,200 photovoltaic panels on ground mounted frames within a site area of 10.28 hectares, 5 No. single storey inverter/transformer stations, 1 No. single storey substation compound, security fencing, CCTV, associated electrical cabling and ducting, alteration to existing entrance to include access gates, access road and all ancillary development works on land at Davidstown (The Leap), Enniscorthy, Co. Wexford.

Planning Application

Planning Authority: Wexford Co. Co.
Planning Authority Reg. Ref.: 20160487
Applicant: Davidstown Renewables Ltd.
Planning Authority Decision: Grant Permission

Planning Appeal

Appellant(s): Stephen Crean and others
Type of Appeal: Third Party
Observers: None
Date of Site Inspection: 5th October 2016

Inspector: Emer Doyle

1.0 SITE LOCATION AND DESCRIPTION

The appeal site is located on the eastern site of a private road approximately 630m south east of Davidstown village, Co. Wexford. The town of Enniscorthy is located approximately 4.5km to the north east.

The site consists of five fields of agricultural land with a stated area of 10.28 hectares. The site lies on relatively flat ground which gently slopes to the south. It is bounded by mature trees and hedgerow. The closest dwellings are located approximately 85m to the west of the site and 55m from the south western corner of the site. A small steel fabrication business is located in commercial buildings to the north west of the site. The site is located approximately 3.45km from an ESB substation at Monfin. The location of the substation in relation to the application site is shown on the site location map 1 attached to the application. The applicant has applied to ESB Networks for a formal grid connection offer.

2.0 PROPOSED DEVELOPMENT

The development comprises of the following:

- Solar farm with a generation capacity of 5 MW. This is enough to power approximately 1280 typical homes.
- PV panels, mounting frames, substation compound, 5 No. inverter/ transformer stations, CCTV cameras and ancillary construction works including perimeter fencing and internal gravel access tracks.
- Panels will measure 1.650m x 0.992m x 0.05m.
- Panels will be 0.8m above ground level.
- Temporary construction compound during construction period.

Application is accompanied by the following:

- Planning Statement
- Design and Access Statement
- Environmental Statement including EIA Screening
- Screening for Appropriate Assessment
- Construction and Traffic Management Assessment
- Decommissioning Statement

3.0 PLANNING HISTORY

None.

4.0 PLANNING AUTHORITY DECISION

4.1 TECHNICAL REPORTS

Planning Report

The planner's report noted that 2 letters of objection had been received by Edward Denton and others, and Stephen Crean and others. It was considered that the proposed development is broadly supported by national, regional, and local policy and that the visual impact of the proposed development would be acceptable.

Habitats Directive Screening Determination

No potential for significant effects on Natura 2000 sites.

Biodiversity Report

Further Information recommended in relation to fencing, lighting and grass management.

4.2 Planning Authority Decision

Wexford Co. Co. granted permission subject to 14 No. conditions.

Condition No. 2 requires that all structures associated with the proposed development shall be for 25 years from the date of commencement of development.

Condition No. 5 requires that each fencing panel shall be erected such that for a minimum of 300mm of its length, its bottom edge is no less than 150mm from ground level. The stated reason is to allow wildlife badgers to continue to have access to and through the site.

Condition No. 6 requires cables to be located underground.

Condition No. 7 relates to the preservation of archaeology.

Conditions Nos. 8 and 9 required development contributions.

Condition No. 13 requires details in relation to the structure of the security fence showing provision for the movement of badgers and other wildlife.

Condition No. 14 requires that after the installation of the solar array, the grasslands shall be supplemented with native wild grass and flower seeds.

All other conditions are of a standard nature.

5.0 GROUNDS OF APPEAL

A third party appeal against the Council's decision was submitted on behalf of Mr. Stephen Crean. The grounds of appeal and main points raised in the submission can be summarised as follows:

- The laneway serving the site is in private ownership.
- Concerns regarding impact on traffic safety.
- Concerns regarding noise during construction and on completion.
- Impact on property valuation.
- Concerns regarding glint and glare.
- No formal consultation with neighbouring houses.
- Absence of balanced Health and Safety Information in relation to radiation and electromagnetic radiation.
- No bond in place to restore site to its current use.
- Absence of National Guidelines in relation to Solar Farms.

6.0 RESPONSES/OBSERVATIONS TO GROUNDS OF APPEAL

6.1 First Party Response

The response submitted on behalf on the First Party can be summarised as follows:

- Appendix C shows the laneway and adjoining lands. The final 300m access to the lands is in private ownership and the applicant is entitled to right of way by long use and has contributed monies towards its upgrade both c. 1980 and in 2014.
- The Construction and Traffic Management Assessment submitted in support of the application demonstrates that the

proposed access route is of a sufficient standard and a full construction and management plan will be submitted to and approved in writing by the Council prior to any construction works taking place.

- The site notice was deemed by the Council to be erected in accordance with the Planning and Development Regulations.
- The only components of a wind farm that generate noise are the inverters and transformers which have a very low hum.
- Noise levels during construction will be carefully monitored.
- No evidence of devaluation of properties.
- It is considered that additional planting will act as mitigation towards any impacts of glint and glare.
- The land will continue to be used for agricultural purposes.
- The proposed development will not lead to any increase in radiation of electromagnetic radiation.
- Wexford County Council have not specified a bond for decommissioning, however usually the cost of decommissioning is largely offset by the scrap values of panels and metal frames when taken apart.
- The absence of national guidelines does not rest with the applicant.

6.2 Planning Authority Response

The Planning Authority Response can be summarised as follows:

- Applicant has stated that they have full legal access to the laneway.
- Construction and Traffic Assessment submitted with the application indicates 80-90 HGV movements per week during construction phase and 10-20 light goods vehicles per annum during the operational phase.
- Separation distance to the nearest properties is sufficient to protect the privacy and amenity of adjoining properties.
- A glint and glare study was requested as part of the Further Information Request which was comprehensive and it is unlikely that there will be possible glint and glare impacts from the proposed development.
- Devaluation of properties is largely speculative.
- The proposed development is unlikely to lead to significant long term loss of agricultural land.
- Biodiversity on the site is already severely reduced and conditions are included to aid biodiversity.

6.2 Observations on grounds of appeal

None.

7.0 POLICY CONTEXT

DEVELOPMENT PLAN

The Wexford County Development Plan 2013 - 2019 is the operative County Development Plan for the area.

Map No. 13 Landscape Character Assessment – site is located within a lowlands area. These areas have a high capacity to absorb development.

Objective EN07 states that it is policy to encourage and favourably consider proposals for renewable energy developments... subject to compliance with development management standards in Chapter 18 and compliance with Article 6 of the Habitats Directive.

Section 5.2 Climate Change.

Section 11.2 Energy.

Section 11.3 Renewable Energy.

NATIONAL GUIDELINES

The Government White Paper entitled 'Ireland's Transition to a Low Carbon Energy Future 2015 – 2030', published in December 2015.

The White Paper is a complete energy policy update, which sets out a framework to guide policy between now and 2030. The vision of the White Paper is to achieve a low carbon energy system that targets greenhouse gas (GHG) emissions from the energy sector that will be reduced by between 80% and 95%, compared to 1990 levels, by 2050, and will fall to zero or below by 2100.

Paragraph 137 of the White Paper states 'solar photovoltaic (PV) technology is rapidly becoming cost competitive for electricity generation, not only compared with other renewables but also compared with conventional forms of generation. The deployment of solar in Ireland has the potential to increase energy security, contribute to our renewable energy targets, and support economic growth and jobs. Solar also brings a number of benefits like relatively quick construction and a range of deployment options, including solar thermal for heat and solar PV for electricity. It can be

deployed in roof-mounted or ground-mounted installations. In this way, it can empower Irish citizens and communities to take control of the production and consumption of energy. Solar technology is one of the technologies being considered in the context of the new support scheme for renewable electricity generation which will be available in 2016’.

The National Spatial Strategy 2002 - 2020

This document states, “in economic development the environment provides a resource base that supports a wide range of activities that include agriculture, forestry, fishing, aqua-culture, mineral use, energy use, industry, services and tourism. For these activities, the aim should be to ensure that the resources are used in sustainable ways that put as much emphasis as possible on their renewability” (page 114).

INTERNATIONAL GUIDELINES

‘Planning Guidance for the development of large scale mounted solar PV systems’ prepared by BRE National Solar Centre (UK).

- This guidance document provides advisory information on planning application considerations including construction and operational works, landscape / visual impact, ecology, historic environment, glint and glare and duration of the planning permission.
- The document also provides guidance on the information which should be provided within a Landscape and Visual Impact Assessment.
- The document also provides guidance on EIA Screening procedures.

ASSESSMENT

Having examined the file and having visited the site I consider that the main issues in this case relate to:

1. Principle of Development
2. Impact on Traffic Safety
3. Impact on Residential Amenity
4. Landscape and Visual Impact
5. Other Matters

Principle of Development

The subject site is located on unzoned lands in rural Co. Wexford which is identified as 'lowlands' in the Landscape Character Assessment. The Council recognises in Section 14.4 of the Plan that landscapes are living and will continue to change over time. The landscape in lowland areas have characteristics which have a higher capacity to absorb development.

The proposed development is supported by national, regional and local policies in terms of renewable energy. In particular, I note that Objective EN07 of the County Development Plan states that it is policy to encourage and favourably consider proposals for renewable energy developments... subject to compliance with development management standards in Chapter 18 and compliance with Article 6 of the Habitats Directive.

There is currently no national guidance specifically in relation to solar panel developments in Ireland, however this matter is outside of the applicant's control. I do not accept the view put forward by the appellant that the proposal is premature pending the preparation of national guidance on solar farms. I note that it is an objective of the Development Plan (EN10) to prepare a Renewable Energy Strategy for County Wexford during the lifetime of the plan but no such strategy is currently in place.

I consider that the proposal is acceptable in principle and would contribute to the diversity of sources of energy supply and hence the security of supply. I would note that the acceptability of the proposal is contingent on issues including impacts on traffic safety, impacts on residential amenity and visual impact.

Impact on Traffic Safety

The main concerns raised in relation to traffic safety relate to the junction of the proposed access laneway and the condition of the laneway. A legal issue has also been raised in relation to the private laneway serving the site and I will deal with this matter separately under the heading 'other matters'.

There are a number of dwellings located on the laneway, together with a small steel fabrication business.

Details submitted with the application indicate that the construction delivery route from Rosslare Port is 49.4km in total with 45.1km on national roads. The existing access to the site will be widened to provide for 10m wide access gates and sightlines of 130m in both directions will be available. The construction time for the proposed development will be 3 months with vehicle movements concentrated in the first 2.5 months. Standard delivery trucks will be used to deliver the solar panels. The construction programme is illustrated on page 9 of the Construction and Management Assessment and the busiest period is weeks 4-12 which will involve the delivery of 24,200 solar panels. This will result in approximately 36 No. deliveries over the 8 week period. The total number of HGV movements during the construction period is estimated at 45-50. The temporary site infrastructure will include parking spaces for both light and heavy vehicles, turning and manoeuvring space for all vehicles. The operational phase of the solar farm is anticipated to have negligible trip generation potential with approximately 10-20 Light Goods Vehicles expected every year.

The construction period is very short and having regard to the use of standard size HGV vehicles, the condition of the existing lane, the existing use of the laneway by a steel fabrication business, the low levels of traffic expected during the operational phase and the improvements to the site access and the sightlines at the access, I am of the view that the existing junction to the laneway and condition of the laneway are satisfactory to deal with traffic movements both during the construction and operational phases.

Impact on Residential Amenity

The main concerns raised regarding impact on residential amenity relate to the impact on property valuations, impacts of noise, and glint and glare.

Property Valuations

The appellant has expressed concern regarding impact on property values in the area. Solar farms have been operating around the world for many years and there is no credible evidence to support the appellant's assertion that the proposal will have a negative impact on property values in the local area.

Noise Impact

Solar panels in themselves do not create any noise. The noise impacts from the proposed development are both in the construction and operational phases. During the construction phase any audible noise is likely from earth removal, vegetation removal, construction activity and movement of HGV's. During the operational phase any audible noise is generally from inverter cabinets which are fitted with cooling fans. In this case the nearest house is considerably in excess of 100m from the closest inverter cabinet. The maximum noise level at the site boundary will not exceed 35 dBA. The appeal response compares this to a dishwasher which normally emits between 38 and 48 dBA. Solar farms only operate during daylight hours so no noise is generated evening, night or early morning.

I note that the Planning Authority report considered that the proposed development did not pose any significant risk to adjoining properties in terms of noise and that it did not include any conditions in relation to noise. I am satisfied that whilst there will be some additional noise during the construction period, the timescale involved will be short. During the operational period, I am of the view that noise levels will be minimal and I do not consider it necessary to include any conditions in relation to noise.

Glint and Glare

Concerns are expressed regarding the impact of glint and glare on the residential amenities of the area.

I note that solar panels are specifically designed to absorb daylight and therefore have a low level of reflectivity when compared to surfaces such as window glass, water or snow. The potential for glint and glare from a solar farm is much lower than from other man made structures such as poly tunnels and glass houses which form a normal part of the rural countryside as well as natural features such as water or snow.

Having regard to the enclosed visual nature of the site, the mature vegetation in the area, the maximum panel height proposed of 2.4m and the south facing orientation of the panels, I would consider that the proposed development would not have any significant impacts on the surrounding area.

Landscape and Visual Impact

The site is a very enclosed site consisting of five fields with mature landscaping on the site boundaries. It is located in a private cul de sac and is not visible from any main roads. The Landscape Character Assessment for County Wexford includes this site within an area described as 'lowlands' with a high capacity to absorb development.

I am of the view that whilst the proposed solar farm will read as a distinctive new industrial feature in the landscape, the potential views are greatly restricted by hedgerows and trees both on the site and within the surrounding landscape. I note that it is proposed to remove only a limited amount of hedgerow to allow access between the connecting five fields. New planting of trees and hedgerow will take place in accordance with the Landscape Masterplan submitted with the application. Other mitigation measures outlined in the Environmental Statement include the provision of standard deer fencing rather than industrial palisade fencing, fencing prior to any construction activity to keep movement of materials and machinery away from existing trees, finish of ancillary structures including the inverter/ transformer stations to be painted a subtle colour such as moss green to help blend with the surroundings.

In considering landscape alterations associated with the proposed development, I would acknowledge that there is no strategy for solar developments in the current Wexford County Council Development Plan, however, there is a Wind Energy Strategy contained in Volume 5. Map No. 4 shows the housing density by townland. The appeal site is located within an area that is designated as being acceptable in principle or open for consideration for wind farm development and as such some level of change can be expected to the local landscape.

Whilst there is no doubt that the proposed development would change the local landscape from a visual perspective, the established landscape is capable of absorbing change in my view. Having regard to the established landscape, the mitigation measures proposed and the absence of any landscape designations in the area, I am satisfied that the proposed development would not adversely impact on the landscape and visual amenities of the area.

Other Matters

Appropriate Assessment

A Stage 1 Screening Assessment was carried out in regard to the potential for the proposed development to impact upon the integrity of each of the designated Natura 2000 sites identified within 10km of the site. The screening report submitted with the application outlines a description of the site and proposal. The report indicates all designated Natura 2000 sites within 10km of the site. There are five Natura 2000 sites within a 10km radius - Slaney Valley SAC, Wexford Harbour and Slobbs SPA, Slaney River Valley pNHA, Killoughrum Forest pNHA and Ballynabarney Wood pNHA. Having regard to the nature, scale and location of the proposed development, the separation distance from the sites and the absence of linkages or pathways between the site and the Natura 2000 sites, it was determined by the screening process that these sites would not be impacted by the proposed development.

It is therefore concluded that there is no direct, indirect or cumulative impacts on the designated sites and that a Stage 2 Appropriate Assessment is not required.

I would also consider that the project would not have any likely effects in conjunction with other plans or projects on any designated Natura 2000 site. In this regard it is reasonable to conclude that on the basis of information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have effects on any designated Natura 2000 and that a Stage 2 Appropriate Assessment is not therefore required.

Land Use

The appellant has expressed concern that good agricultural land will be lost. The response submitted states that the applicant has been farming here for many years and does not agree with the appellant that this is 'rich and fertile land.'

I note that the panels are proposed to be erected at a height so that a dual use for the land such as sheep grazing or honey bee farming can be introduced below the panels. I am satisfied that this in tandem with the generation of renewable energy will ensure the most productive use of the site and enable the agricultural use to be continued.

Health and Safety

Concern is expressed in the appeal that the proposal has a marked absence of balanced Health and Safety Information in relation to radiation and electromagnetic information. The appeal response states that the proposed development will not lead to any increase in radiation or electromagnetic radiation as solar panels are designed to absorb irradiation from the sun and the panels themselves are less reflective than most existing features found in the local landscape such as concrete roads, metal barn roofs and bodies of water for example. I would concur with this view.

Bond

The appeal expresses concern that Wexford Co. Co. has not specified a requirement for a bond to decommission the proposed development at the end of its lifespan. The appeal response states that it is their intention to continue farming the land both during the project and following decommission and that generally speaking the cost of decommissioning is largely offset by the scrap value of panels and metal frames when taken apart. This may well be the case at the current time, however the value of scrap materials of panels and metal frames is not known in the future and I note that the Board has conditioned a bond or cash deposit in other similar cases including PL27.246527, PL04.245862, and PL04.244539. As such, I consider that it would be appropriate to condition this matter to secure the satisfactory restoration of the site on cessation of the project.

Local Employment

It is stated in the appeal that the solar farm will give no employment to local people and will be of no particular benefit to local people.

I do not concur with this viewpoint as it is pointed out in the details submitted with the application and the appeal response that this application is unique in that the landowners are local to the area and the project would be designed and managed using their own locally based electrical engineering company based in Enniscorthy and the works would be carried out using locally based contractors. It is stated that the majority of solar farms are built by large scale renewable energy developers. The proposed development will therefore contribute to the local economy and will employ local people.

Access Laneway

The proposed access to the site is a laneway that is in private ownership. Appendix C attached to the appeal provides a map from the Property Registration Authority which confirms this. It is indicated that the final 300m of the route to the site is in private ownership and that the applicant owns lands on both sides of the laneway and is entitled to a right of way by long use. It is also indicated that he has contributed funds towards its upgrading in both the 1980's and in 2014.

Section 34(13) of Planning and Development Act 2000 states the following: 'A person shall not be entitled solely by reason of a permission under this section to carry out any development.' As such, this dispute relating to the private laneway at this location is not a matter for the Board to adjudicate on.

RECOMMENDATION

Based on the above assessment, I recommend that permission for retention be granted for development for the reasons and considerations set out below:

REASONS AND CONSIDERATIONS

Having regard to the nature and scale of the proposed development, the suitability of the aspect and topography of the site, the proximity of the grid connection, the pattern of development in the vicinity, the provisions of the Wexford County Development Plan 2013 – 2019, and of regional and national policy objectives in relation to renewable energy, it is considered that, subject to compliance with the conditions set out below, the proposed development would have acceptable impacts on visual amenity, would not seriously injure the residential amenities of property in the vicinity, and would be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to

comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) The permission shall be for a period of 25 years from the date of the commissioning of the solar array. The solar array and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

(b) Prior to commencement of development, a detailed restoration plan, providing for the removal of solar arrays, including all foundations, anchors, fencing and all lighting and CCTV poles, to a specific timescale, shall be submitted to, and agreed in writing with, the planning authority. On full or partial decommissioning of the solar array, or if the solar array ceases operation for a period of more than one year, the site, including access roads, shall be restored and structures removed in accordance with the said plan within three months of decommissioning/cessation, to the written satisfaction of the planning authority.

Reason: To 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.

3. 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.

4. The finish of ancillary structures including the inverter/transformer stations shall be painted a subtle colour such as moss green or other similar colour agreed in writing with the planning authority prior to commencement of development.

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

5. 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 permission.

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

6. CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the public road.

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

7. Each fencing panel 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: To allow wildlife to continue to have access to and through the site.

8. Cables within the site shall be located underground.

Reason: In the interest of visual amenity.

9. (a) Existing field boundaries, including trees and hedgerow, shall be maintained.

(b) All landscaping shall take place in the first planting season following commencement of development and in accordance with the scheme submitted to the planning authority by way of further information. 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.

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

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management

measures, the management of construction traffic and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

11. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

12. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

13. 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 upon cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure satisfactory reinstatement of the site.

14. The developer shall pay to the planning authority a financial contribution of €36,000 (thirty six thousand euro) 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. The application of any indexation required by this condition 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.

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.

Emer Doyle
Inspector
7th November 2016