



An
Bord
Pleanála

Inspector's Report PL10.247616.

Development	Solar photovoltaic installation comprising up to 26,100 m ² of solar panels and all associated site works.
Location	Ballyhale and Kiltorcan, County Kilkenny.
Planning Authority	Kilkenny County Council.
Planning Authority Reg. Ref.	16/592.
Applicant	Solar Sense SPV 3 Limited.
Type of Application	Permission
Planning Authority Decision	Refusal.
Type of Appeal	First Party
Appellant	Solar Sense SPV3 Limited
Date of Site Inspection	18 th May 2017
Inspector	Philip Davis.

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1.0 Introduction

This appeal is by the applicant against the decision of the planning authority to refuse permission for a solar farm in a rural area for reasons relating to visual impact. The proposed solar farm is between the villages of Knocktopher and Ballyhale south of Thomastown in County Kilkenny. An NIS was submitted with the application.

There are two other current appeals for solar farms in the vicinity with the Board at the time of writing this report - **PL10.247979** and **PL10.247941**.

2.0 Site Location and Description

The townlands Ballyhale and Kiltoran are located in the gently rolling countryside of south Kilkenny, just west of an elongated upland ridge which extends south into Waterford. The area is drained by the Little Arrigle River, which flows north to the Nore. The land is mostly fertile tillage and pasture in large fields bounded by ditches and hedges. The area is generally rural and served by the two villages of Knocktopher (to the north) and Ballyhale, both of which have early medieval remains at their cores. The nearest large town is Thomastown, some 6-km to the north-east. The R173 (the former N10) runs north to south through both villages, while the modern M9 runs south to Waterford on low ground about 2.5-km to the west of Ballyhale. The R448 runs north-east to Thomastown from just north of Ballyhale. The Kilkenny to Waterford rail line runs along this corridor, hugging the base of the ridge to the east of both villages. Otherwise the area is served by a network of minor third class roads. An elongated upland ridge runs parallel to the railway line about 1-km east of Ballyhale.

The appeal site is an irregularly shaped area of land with a site area give as 13.9 hectares just north of Ballyhale village. The site is largely tillage land along a ridge running parallel to the Little Arrigle River, roughly north to south. The site also includes a laneway running across the R173 and extending towards the railway line. The site is largely tilled and bounded by hedges, low stone walls and ditches, with some remnants of ploughed in ditches within the site.

North and **west** of the site is the steep narrow valley of the Little Arrigle, with both valley sides overgrown with secondary woodland and dense scrub. Beyond to the

west is open farmland – to the **north** is a bridge over the Little Arrigle, with a small cluster of houses and commercial/industrial buildings on the opposite bank. This is the start of an irregular ribbon of development leading to Knocktopher. Most of the **eastern** side of the site is bounded by the R173, which at this point is a single lane each way road with an intermittent footpath. There is one large field and a dwelling with a long rear garden encompassed by the site on the western side of the road. Opposite this are tilled fields, with another regional road, the R448 extending to the north and north-east from a junction. This road leads to Thomastown. **South** of the site is one large field, with beyond this the northern extent of the village of Ballyhale – this village extends for approximately 1-km of road, with its medieval core about 800 metres south of the site.

3.0 Proposed Development

The proposed development is described on the site notice as follows:

Solar photovoltaic installation comprising up to 26,100 m² of solar panels on ground mounted frames, 4 no. inverters housed in 2 units, 1 no. 20kV substation, security fencing, new entrance onto public road, access tracks, CCTV, underground cable and ducts including underground cable and ducts along the public road to the entrance of an existing Ballyhale substation... and all associated ancillary development works and services.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to refuse permission for reasons I would summarise as follows:

- It would be visually intrusive in a designated 'Upland Area' due to its location on an exposed and elevated site without natural screening adjacent to a regional road.
- It would militate against the preservation of the setting of the village of Ballyhale due to its location and visual dominance.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- Notes a significant number of submissions, mostly in support.
- It is considered Class 14 for a S.14 Development Contribution.
- The NIS is considered satisfactory and it is concluded that there would be no significant adverse effects on the River Barrow and River Nore SAC.
- It is considered sub-threshold for EIS.
- Notes Section 10.8 of the CDP relates to solar energy.
- Concerns are expressed about the exposed nature of the site and its visibility from the road.
- A refusal is recommended.

4.2.2. Other Technical Reports

Chief Fire Officer – the proposed development will require a Fire Safety Certificate before works commence on site.

Environment Section – no objection subject to 5 no. recommended conditions.

4.3. Prescribed Bodies

Iarnod Eireann. The glint and glare study has been reviewed and it is stated that no significant impact on the signals and train driver are expected (note, this letter was submitted to the applicants, not to the planning authority).

4.4. Third Party Observations

Signiatec – Design company in Ballyhale – expressed concerns over glare and visual impacts and views from their first floor office space.

Patrick Darcy of Knocktopher – Supports the proposal.

Martin Holden on behalf of neighbouring residential property – no objection.

Madge Kiely of Knocktopher – supports solar energy.

Carmel Darcy of Knocktopher – supports solar energy.

Rotospiral (Larry Doyle) of Knocktopher – supports local solar businesses.

Mark Campden of Burnchurch – supports the application.

Ger O’Neill of Kells – supports the application.

Mary O’Neill of Kells – supports the application.

Caroline Doyle of Hugginstown – supports the application.

Robert O’Phelan of Kilmaganny – supports the application.

Paddy Prendergast of Ballyhale – supports the application.

Joe O’Connell of Thomastown – supports the application.

John Holden of Dunnamaggin – supports the application.

Peter Moore of Knocktopher – supports the application.

5.0 Planning History

None on file, but the planning report notes two applications in the vicinity of Ballyhale and Knocktopher for solar farms – 16/310 and 16/445. Both these have been appealed to the Board and decisions are pending - **PL10.247979** and **PL10.247941**.

6.0 Policy Context

6.1. Development Plan

The site is in an area outside the development boundary of both villages. It is open countryside. Chapter 10 of the 2014 Kilkenny County Development Plan relates to renewable energy. The area is defined as an ‘upland area’ in the Landscape Character Assessment as defined in the CDP.

6.2. Natural Heritage Designations

The wooded valley immediately west and north of the site is part of a designated SAC, the River Barrow and River Nore SAC site code 002137.

7.0 The Appeal

7.1. Grounds of Appeal

- It is noted that the County Council has permitted a solar farm in proximity to Ballyhale, which is also within the defined 'upland area' – P16/310.
- It is acknowledged that the proposed access is at a speed limit sign – although this issue was not raised in the decision, revised drawings to alter the site entrance are included in the appeal.
- With regard to reason no. 1 it is denied that the context can reasonably be considered 'upland. A detailed separate report on landscape issues is attached with the appeal which argues that the planning authority has mischaracterised the landscape as upland and exposed – it is argued that it is of lowland nature and sufficiently robust to take solar developments. The visibility of the site from the main road is acknowledged but it is argued that the mitigation measures submitted would adequately address this impact.
- With specific regard to reason no. 2 it is submitted that the 20 metre setback, which includes additional planning would ensure no serious impact – it is noted that much of the context is urban in nature, with palisade fencing fronting the public road opposite.

7.2. Planning Authority Response

No submission on the grounds of appeal received within the statutory timeframe.

7.3. Observations

None

7.4. Further Responses

None

8.0 Assessment

8.1. Principle of development

The site is in open countryside just outside the development boundaries of the adjoining villages.

National policy within the EU context on renewable energy is set out in the **National Renewable Energy Action Plan (NREAP)** submitted under Article 4 of Directive 2009/28/EC, which sets out targets for increasing the proportion of renewable energy in the national energy mix. This sets out (Section 3.1) a target of 16% of all energy from renewable sources of 16% by 2020 (up from 3.1% in 2005). It does not provide specific target figures for solar PV. In addition, the 2015 White Paper '**Irelands Transition to a low carbon energy future 2015-2030**' sets out targets for the further development of the renewable energy sector. This White Paper notes the potential importance of PV technology (paragraph 137), but does not provide specific targets. There are no specific national or regional planning guidelines relating to the locational aspects of solar PV farms. The Sustainable Energy Authority of Ireland have a best practice guide for solar electricity and the grid, but it does not address locational or planning aspects in detail.

Local policy on renewable energy is set out in Chapter 10 of the Kilkenny County Council County Development Plan 2014. Subsection 10.8 refers specifically to solar energy. The overall policy is set out within the context set by national and regional policy, which sets out targets by sector. It is implied that policy is to support the achievement of targets, but there are no other specific policies. The only policies relating to solar apply to small scale roof-top schemes. There are no policies directly relevant to large scale schemes such as that proposed.

I note a variety of UK and other guidance documents relating to solar power has been referred to by the planning authority and various parties in other appeals. These provide valuable background and technical advice, but I note that none have statutory relevance in the Irish planning system.

8.2. Other Board decisions

There are a number of relevant recent appeals relating to similar scaled solar farms, including:

PL93.248483, for 26,000 sq. m². at Keilogue, Co. Waterford (no decision yet);

PL27.248424, near Rathnew, Co. Wicklow (no decision yet)

PL04.248400, near Castlelyons, Co. Cork (no decision yet);

PL26.248364, near Gorey, Co. Wexford (28 hectares) (no decision yet);

PL.04.248278, near Fermoy, Cork (8.7 hectares), no decision yet);

PL11.248244, near Mountmellick, Co. Laois (no decision yet);

PL22.248238, near Portlaoise, Co. Laois (no decision yet);

PL17.248146, Gillinst, Co. Meath (no decision yet);

PL92.248089, near Carrick-on-Suir, Co. Tipperary (no decision yet).

PL91.248066, Lisnagry, Co. Limerick (no decision yet);

PL17.248028, Ninch, County Meath (no decision yet);

PL10.247979, Knocktopher, Co. Kilkenny (no decision yet).

PL27.247942, near Rathdrum, Co. Wicklow (no decision yet);

PL10.247941, Knocktopher, Co. Kilkenny (no decision yet).

PL26.247886, Ballyhoge, Co. Wexford for 268,000 sq. m² (no decision yet);

PL15.247808, near Dundalk, Co. Louth (no decision yet);

PL26.247801, near Murntown, Co. Wexford (no decision yet);

PL08.247778, near Killarney, Kerry for 20,000 sq. m² (granted);

PL93.247677, near Lismore, Co. Waterford (no decision yet).

PL91.247653, near Listowel, Kerry, for 30,000 sq. metres (granted);

PL03.247632, Ballymorris, Co. Clare (granted)

PL93.247558, Kilmeaden, Waterford (withdrawn);

PL92.247443 near Caher, Tipperary for 32,00 sq. m². (amended condition on financial contribution);

PL26.247366 for 88,000 sq. m² of panels near Baldwinstown, Wexford (split decision, partial grant);

PL93.247310 near Tramore, County Waterford (granted);

PL26.247217 for nearly 99 hectares in Tomhaggard, Wexford (refused for reasons relating to visual and residential amenities and loss of agricultural land);

PL26.247179 in Clonroche, Wexford for nearly 20 hectares (granted);

PL26.247176, Enniscorthy, Co. Wexford, 12 hectares of solar (granted);

PL93.246902, in Cappoquin County Waterford (granted);

PL10.246875, near Belview, Kilkenny for solar farm (refused, by reason of its impact on the orderly expansion of Belview Port);

PL04.245862 for 33,000 sq. m. near Coachford, Cork (granted);

PL27.246527 for 13 hectares of solar panels near Avoca in county Wicklow, (granted);

PL04.244539, for 5,400 sq. m. near Lissarda, Co. Cork (granted);

PL26.244351 near Tintern, Wexford for a 5MW solar farm (granted with revised conditions); and,

PL04.233539 near Lissarda, Cork (granted with revised conditions);

I note from the above that the majority have been granted permission – those refused have been mostly refused for reasons relating to visual and residential amenity, loss of agricultural land, and impact on other developments. The Board has generally permitted extended dates for development having regard to uncertainty about the extension of grants for such proposed developments (almost all applications are for 10 years).

8.3. Visual impacts

The site is indicated as ‘upland’ in the County Development Plan – Figure 8.2 of the Landscape character assessment map. This is one of four landscape character types identified (the others being ‘lowland’, ‘transition zone’, and ‘river valleys’). I note that this is an identification of ‘type’ and is not a form of statutory protection. They are described as follows in the CDP:

Landscape Character Areas are units of the landscape that are geographically specific and have their own character and sense of place. Each has its own distinctive character, based upon patterns of geology, landform, landuse, cultural, historical and ecological features.

The site is just east of an area identified as a ‘principle ridgeline’ in Figure 8.3 ‘Landscape sensitivities’. It is not identified in the relevant sections of the CDP as being of particular scenic value, or within sight of a protected view or prospect. The applicants have submitted a number of photomontages with the application. I consider these along with the chosen viewpoints to be a generally reasonable

representation of the landscape and the probable impacts of the proposed development.

The site is on either side of a distinct ridge running roughly north to south, declining somewhat to the south. Approximately 50% of the proposed panels will be on either side of the ridge. The western side of the ridge faces towards open countryside with few, if any views, from public areas likely to have any impact. However, the eastern side, will be clearly visible from the two regional roads between Knocktopher and Ballyhale. The panels on this side will also be visible intermittently from the minor road close to the ridgeline on high ground to the east, and from some of the handful of dwellings along this road.

The applicants have proposed a wide set back of 50-100 metres in depth along the roadside for hedging, shrubs trees and meadow. At present, there is a low wall along this boundary with some remnant hedging and so the ridge is highly visible. Until such time as the proposed landscape planting establishes the panels higher up the slope will be very visible from the adjoining road (which appears to be rarely used by pedestrians as it is narrow and the footpath is not continuous), and from the R448. I would note that at present the view is of intensively farmed arable fields, which changes according to the season. There is a background of vegetation from remaining hedgerows along the boundaries that softens the ridgeline. On leaving Ballyhale, there is a line of trees at either side of the bridge over the Arrigle which softens the landscape and provides a visual barrier between the village and Knocktopher. I would note that the edge of Ballyhale is marked by mostly commercial buildings and palisade fencing of variable quality.

The most obvious visual impact would be to largely eliminate one of the larger 'green' stretches between the two villages. I would note however that it is at present hardly the most attractive stretch of land, and if carried out adequately, the landscaping bund would have the potential to very significantly improve views from closer to the site and improve its ecological value. Much depends on the particular perspective of the viewer and the height of the planting, which will obviously take several years to fully establish. On balance, and having regard to the temporary nature of the proposed development and the existing use of the land, I would consider that the impact from the perspective of vehicles and occasional other users

of the main roads to be slightly negative in the short term, and broadly neutral to positive in the longer term. I would not consider this impact alone to justify a refusal. The site is close to Ballyhale village, which has an historic core further to the south. I am satisfied that the solar panels would not be visible from anything but very occasional views from public areas within the village, due to the general orientation of the buildings within the village relative to the lands and the local topography. The lands are not visible from Knocktopher. It may be visible from upper floors in some dwellings on the north side of Ballyhale, but in general there are far more commercial buildings on the north side of the village. I note the observation to the planning authority on file from a design company based across the road from the site, and I would concur that from some of the office users in the business area across the road there would be moderately severe impacts on some views. These would most likely be the most directly impacted upon receptors. However, I note (see more detail below), that reflective glare towards this area is only likely to occur in the later evenings, after office hours.

The general topography and large number of hedgerows and trees in the area would mean that there are few long distance views that would be directly impacted upon. The main exception I could identify is from the minor road which runs along the ridge to the east. For most of the length of this road there are no clear views of the site due to vegetation and topography, but from some points it would be clearly visible from about 2-km away. In the right lighting conditions it would be a very visible feature on the landscape. I would consider this to be the most significant overall landscape impact. Notwithstanding this, as such views are very intermittent and this road is not identified as a view or prospect for protection, and it is not within a core tourism or recreational area, I would not consider it to justify a refusal.

While such visual impacts are to some extent subjective, on balance I do not agree with the conclusion of the planning authority that they individually or cumulatively would seriously impact upon the local landscape, which I would consider a generally robust landscape capable of taking such developments. I do note the other two appeals close by, and the Board may wish to have regard to the cumulative impacts of all these developments if it is minded to grant all of them. But on the available evidence, I consider that the proposed mitigation planting would be sufficient to

protect local visual amenities and the landscape and as such I do not consider that a refusal is justified for the reasons given by the planning authority.

8.4. Glint and Glare

The applicants submitted a glint and glare study as part of the application. There is no Irish guidance on the potential impact of glint and glare from solar panels. The UK guidance '*Renewable Energy Planning Guidance Note 2 – The Development of large scale (>50kW) solar PV arrays – Cornwall (UK) 2012*' states (page 26):

Glint may be produced as a direct reflection of the sun in the surface of the PV solar panel. It may be the source of the visual issues regarding viewer distraction. Glare is the continuous source of brightness, relative to diffused lighting. This is not a direct reflection of the sun, but rather a reflection of the bright sky around the sun. Glare is significantly less intense than glint.

Solar panels are designed to absorb, not reflect, irradiation. However the sensitivities associated with glint and glare, and the landscape/visual impact and the potential impact on aircraft safety, should not be underestimated. In some instances it may be necessary to seek a glint and glare assessment as part of a planning application. This may be particularly important if 'tracking' panels are proposed as these may cause differential diurnal and/or seasonal impacts. Discussions are ongoing with airport operators in Cornwall regarding the potential impact of large scale solar PV development.

The potential for PV panels, frames and supports to have a combined reflective quality should be assessed. This assessment needs to consider the likely reflective capacity of all the materials used in the construction of the solar farm.

The study submitted with the application sets out a number of figures which indicate the areas likely to be affected by potential reflection from the site. Due to the orientation of the panels, necessary angled towards the sun, it will be primarily to the east and west. It is not anticipated that Ballyhale village (apart from a very small part of the business area to the north) would be within the likely area of influence. Table 1-1 of the report outlines the potential impact on houses within the potential zone of influence. The study assumes no vegetative screening. The study indicates that a number of identified dwellings have the potential to suffer intermittently from glint and glare effects, all but one restricted to summer evenings. It concludes that

the nuisance effects will not be significant. I am satisfied that the study is broadly accurate and would consider that there would be no serious adverse impacts on local dwellings.

The glint and glare study also addressed the potential impacts on roads, the railway and aircraft. It concludes there would be a low level of effect on the two adjoining R roads, the R713 and R488. I note that there was no objection from the Council Roads engineers on this issue. I would consider it most likely that impacts on the immediate adjoining road would be most potentially serious, but due to its lower level relative to the site it should be rapidly screened by the proposed planting. The report identifies a number of minor roads which could potentially have an impact – but I would concur with the conclusion of the report that such an impact would be very intermittent and would not constitute a serious adverse impact. I note that Iarnrod Eireann had no objection – the railway line is lined with an embankment which is roughly vegetated so any impact is unlikely. The nearest airport is Waterford Airport and there were no objections or submissions with regard to aviation impacts. It is noted in the report that there is no evidence from worldwide studies that solar farms have caused problems in the vicinity of airports – indeed, I am aware of examples of solar farms constructed on or adjoining airport lands without apparent issues.

8.5. Residential amenity

I would consider that the main impact (apart from construction, which would likely be not that much different in overall intensity from crop harvesting, albeit over a longer period) on local dwellings would be from glint and glare and visual impacts. As outlined above, I consider that while the impacts may be somewhat adverse, they are not serious enough to justify a refusal and should be adequately mitigated by landscape planting. I note that in appeal PL19.246902 near Cappoquin in Waterford, the Board set a condition whereby a 100 metre planting barrier was required for a dwelling next to a proposed farm – this site was on a slightly higher level than the adjoining dwelling. There are a number of dwellings in the vicinity, but most notably a large dwelling on the field encompassed by the site. The house is more or less directly beside the field. I note from the planning file a letter seemingly from the owner of this house supporting the proposed development. The proposed landscaping barrier comes next to this dwelling, although the closest proposed

panels would be about 80 metres from this dwelling. The Board may, therefore, wish to consider a condition such that some of the panels be removed to ensure a full 100 metres protective barrier. On balance, however, I do not consider this to be necessary to protect the amenities of this dwelling.

8.6. Cultural heritage

The planning report submitted with the application gives a good overview of the local cultural heritage. There are no records on file indicating that there are any recorded ancient monuments or other structures of historic value on the site. The previous intensive cultivation of the lands would most likely have destroyed any archaeology on the site. There are a number of recorded ancient monuments and buildings on the NIAH, but I would consider that there is sufficient separation distance to be satisfied that there would be no impacts. The report recommends a geophysical survey prior to works to ascertain if further archaeological works are needed, I would recommend a condition to this end.

8.7. Traffic and construction impacts

The site adjoins the major road network and has existing agricultural entrances. The construction of a solar farm would result in a relatively short but intense period of traffic and general construction disturbance. Drawing no. P0185-0100-0012 indicates that sight lines are sufficient at the main proposed construction access – the applicant submitted revised access drawings to avoid interference with an existing road sign. Having regard to its location next to the regional road network and the intensive past use of the land I do not consider that this would create significant problems, subject to the normal conditions.

8.8. Drainage and flooding

The site adjoins the Little Arrigle River and there are a number of road drains on the eastern side which are probably culverted former watercourses that drain towards the river to the north-east of the site. Online flooding information indicates that there has been recorded floods along the road and within the valley, but none impacting on the land. The site itself is raised well above the surrounding landscape so would not be subject to flooding, and appears to be naturally well drained. The available information would indicate that additional run-off from the panels would be mitigated by the extent of land left untouched between the panels and the additional planting

bunds and proposed wildlife ponds, which are between the proposed panels and the road drain. I therefore could conclude that there is no evidence that the works would increase run-off and exacerbate any local flooding issue.

8.9. Agricultural land loss

I note that in a recent Board decision, **PL26.247217** for a 99 hectare solar farm in Tomhaggard, Wexford, the Board referred in its decision to the loss of good quality arable land. The appeal site lands appears to be of good quality, although there is no information on file as to how important it is locally, but I note that the farmland in this part of Kilkenny is of generally very good quality, well drained and fertile. The use of the land would not result in a permanent loss, as no significant quantities of soil will be removed and it will presumably vegetate naturally or be used for low grade grazing during the lifetime of the solar farm. I would note that while there are Dept. of Agriculture policies relating to protecting good quality arable land, the requirement to increase significantly Irelands production of renewable energy relates to both national policy, EU Directives, and international agreements on climate change. I have seen no evidence that developments of solar farms would have a significant impact on agricultural production, even at the most optimistic projections. I also note that the land use is temporary in nature and would not destroy the long term future agricultural use of the land. I therefore do not consider this to be a reason for refusal in this appeal.

8.10. Grid connection

It is proposed to connect to an existing substation at Ballyhale via underground medium voltage cable. As the design output of the site approximates to 4.2 MW (equivalent to about 2 mid-sized wind turbines), it would not require substantive infrastructure and the underground connection would not go through the designated EU habitat to the north and west (although existing 38Kv lines cross over the Little Arrigle valley). The NIS notes that the grid connection route (which follows a minor road east), would cross one tributary of the Arrigle, so could have potential impacts. I am satisfied that the proposed connection to the grid would not result in substantive cumulative or indirect impacts on the area.

8.11. NIS

The site immediately adjoins a designated SAC, and as such the screening concluded that adverse impacts could not be ruled out, so an NIS was required.

There are a number of SAC's and SPA's in the vicinity, but the screening identified two in hydraulic continuity with the site- the River Barrow and River Nore SAC (site code 002162), which directly adjoins it (the Arrigle is a tributary of the Nore), and the River Nore SPA (site code 004233). Of these, the former is the most relevant as it is closest and the conservation interests are most likely to be effected by run-off from the site during or after construction.

I consider that the NIS as submitted is in accordance with statutory requirements and guidelines and the information submitted is sufficient for an assessment and conclusion.

The features of interest for the Barrow and Nore SAC are set out as follows:

Estuaries [1130]

Mudflats and sandflats not covered by seawater at low tide [1140]

Reefs [1170]

Salicornia and other annuals colonising mud and sand [1310]

Atlantic salt meadows (*Glauco-Puccinellietalia maritima*) [1330]

Mediterranean salt meadows (*Juncetalia maritimi*) [1410]

Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260]

European dry heaths [4030]

Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]

Petrifying springs with tufa formation (*Cratoneurion*) [7220]

Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]

Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]

Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]

Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]

Austropotamobius pallipes (White-clawed Crayfish) [1092]

Petromyzon marinus (Sea Lamprey) [1095]
Lampetra planeri (Brook Lamprey) [1096]
Lampetra fluviatilis (River Lamprey) [1099]
Alosa fallax fallax (Twaite Shad) [1103]
Salmo salar (Salmon) [1106]
Lutra lutra (Otter) [1355]
Trichomanes speciosum (Killarney Fern) [1421]
Margaritifera durrovensis (Nore Pearl Mussel) [1990]

It is clear that the most significant potential impact of the proposed works would be on those vertebrates, invertebrates and flora associated with freshwater environments. None of the first 10 habitats listed above are close to the appeal site. The impact would therefore, as identified in the NIS, be most likely from contaminated run-off during the construction works.

An issue I would note is that there is little guidance when assessing impacts on Natura 2000 habitats on establishing a baseline – the focus in the Directive and associated legislation and guidance is on the conservation status of the designated species and habitats, not current or existing uses of the development lands in question. The baseline permitted use of the site is not generally considered – unlike under EIS legislation. Notwithstanding this, I consider it reasonable to note that the past use of the site for intensive arable cultivation would in itself have had the potential for impacts on the quality of water in the Arrigle. I noted during my site visit that the vegetation at the boundary between the fields and the wooded valley of the Arrigle was dominated by plants usually associated with very high levels of nitrogen and potassium, which is what you would expect from an area close to a regularly fertilised field – i.e. from fugitive or run-off of extra nutrients. This would indicate some possible agricultural run-off to the watercourse with potential impacts, although the woodland and scrub at the valley edges would mitigate this. The proposed use as a solar farm would significantly reduce existing impacts from intensive tillage use.

The NIS runs through the comprehensive mitigation measures required to ensure minimal run-off and disruption during construction, both on the site and for the

underground cable connection, which will run along the road and cross a culvert of the Arrigle. These mitigation measures are standard ones for such a development and I could conclude that no additional conditions beyond standard ones are required – the required construction works are relatively ‘light’ and do not require extensive excavations or removal of topsoil. I consider the proposals as set out in the NIS and associated documentation is comprehensive and in line with best practice. I am satisfied from the information provided such that I consider it reasonable to conclude on the basis of the information on the file and in the NIS, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site no. 0021462, or any other European site, in view of the site’s Conservation Objectives.’

9.0 Recommendation

I recommend that the Board grant permission for the proposed solar farm subject to the conditions in the schedule below, for the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to nature of the proposed development in open countryside on lands used for intensive tillage, and the provisions of the current development plan and regional and national policy, it is considered that, subject to compliance with the conditions set out below, the proposed construction of a solar farm would not seriously injure the visual amenities of the area, the residential amenities of the village of Ballyhale, or the ecology of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 22nd

November 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. The period during which the development hereby permitted may be carried out, shall be 10 years from the date of this Order.

Reason: In the interest of clarity.

3. 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.

Reason: To enable the planning authority to review the operation of the solar array having regard to the circumstances then prevailing and in the interest of orderly development.

4. Prior to commencement of development, a detailed restoration plan, providing for removal of all structures, foundations and access roads to a specific timescale shall be submitted to the planning authority for written agreement. 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, shall be dismantled and removed from the site. The site (including all access roads) shall be restored in accordance with the said plan and all decommissioned structures shall be removed within three months of decommissioning.

Reason: In the interest of orderly development.

5. No external artificial lighting shall be installed or operated on site, unless otherwise authorised by a prior grant of planning permission.

Reason: In the interest of visual amenity and residential amenity.

6. Cables from the solar arrays to the inverters and substation shall be located underground.
Reason: In the interest of visual amenity.
7. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

8. The developer shall facilitate an archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

9. 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 noise management measures and off-site disposal of construction/demolition waste.

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

10. 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.

11. 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 as well as any arrangements relating to the phasing or staging of payments 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.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the

Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Philip Davis
Planning Inspector

24th May 2017