



An
Bord
Pleanála

Inspector's Report PL11.248238.

Development	Solar pv energy development installation of photovoltaic panels on ground mounted frames support structures, underground cabling, 2 substations, access road and fencing.
Location	Rathleague, Portlaoise, County Laois.
Planning Authority	Laois County Council.
Planning Authority Reg. Ref.	16/500.
Applicant(s)	JBM Solar Developments Ltd.
Type of Application	Permission.
Planning Authority Decision	Permission with conditions.
Type of Appeal	First Party
Appellant	JBM Solar Developments Ltd.
Observer(s)	None.
Inspector	Derek Daly.

1.0 Site Location and Description

1.1. The site is located immediately to the south of the town of Portlaoise and immediately to the M7 Motorway in County Laois.

2.0 Proposed Development

2.1. The development which is subject of this appeal as submitted on the 10th of October 2016 was for a solar photovoltaic (PV) development on an overall site of 10.65 hectares with the development contained within an area of 7.43 hectares. It is indicated that the development will have a maximum export capacity of 4MW which will have an installed capacity of 5-6MW. The fundamentals of the PV technology are outlined in section 3.1.2 of the planning and environmental report accompanying the application.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to grant planning permission subject to 20 conditions. The following condition is relevant to this appeal;

- Condition no.6 requires the payment of a contribution of €60,000 in accordance with the council's development contribution scheme 2013-2017.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planning report dated 29th November 2016 requested further information.

The planning report dated the 23rd of February 2017 refers to;

- The further information submitted.
- An assessment of issues.
- The provisions of the county development plan

- Permission was recommended.

4.0 Policy Context

4.1. Laois County Council Development Contribution Scheme 2013 – 2017. Adopted effective from 1st November 2013.

Section 6.0 refers to payment of contributions and in paragraph 6.2 it is indicated that “the rates of contribution set out in Table 1 and 2 below will be adjusted on the 1st January each year based on changes to the Wholesale Price Index for Building and Construction published by the Central Statistics Office”

In Table 2 category F of the Laois County Council Development Scheme 2013-2017 the following is specified;

Wind Turbines and other renewable energy installations generating >0.5MW
€1,000 per 0.1MW

5.0 The Appeal

5.1. Grounds of Appeal

The appeal relates to condition no.6 of the planning authority’s decision to grant permission.

- Condition no.6 requires the payment of a contribution of €60,000 in accordance with the Council’s Development Contribution Scheme (DCS).
- It is considered at the condition has not been properly applied in accordance with the scheme or Section 48 of the Planning and Development Acts 2000-2017.
- The level of the contribution should be applied to the Maximum Export Capacity (MEC).
- The DCS in section 6 Class of Infrastructure F levies renewable energy installations on the basis of €1,000 per 0.1MW on developments over 0.5 MW.

- In relation to the proposed development it can export 4 MW of energy to the grid but the levy is applied on the installed capacity required to achieve that level of electricity generation rather than the MEC as per JBM Solar Development's grid connection application.
- It is contended that the MEC rather than the installed capacity of 5-6MW is the relevant figure for energy generation and is the figure which should be applied.
- The applicant is requesting that the basis of calculation be changed from 6 MW installed capacity to 4MW (MEC).
- Planning applications are submitted in line with a related grid connection application that contains or specifies a maximum MW MEC.
- In order to meet the target MEC it is standard practice for the installed capacity which produce power in DC to be higher than the MEC export connection which is AC. There is system loss in the conversion from DC to AC with typical loss and energy differential of between 25% and 30%.
- Reference is made in the report accompanying the application to the project having a maximum MEC of 4MW which will result in an installed capacity of 5-6MW.
- On this basis the MEC maximum of 4MW is the figure on which the contributions should be based.
- Reference is made to precedence where Laois County Council permitted developments stating export capacity in their applications.
- The Board is requested to apply a contribution of €40,000.

5.2. Planning Authority Response

No response.

6.0 Assessment

This is third party appeal against condition no.6 of the planning authority's decision to grant planning permission and which requires payment of €60,000 in accordance

with the terms of the Laois County Council Development Contribution Scheme 2013 – 2017.

- 6.1. The issue in this appeal relates to whether the terms of the current Laois County Council Development Contribution Scheme 2013 – 2017. Adopted effective from 1st November 2013 have been properly applied.
- 6.2. I have outlined in section 4.1 the relevant section of the DCS. Table 2 category F of the Laois County Council Development Scheme 2013-2017 specifies in relation to wind Turbines and other renewable energy installations generating >0.5MW €1,000 per 0.1MW.
- 6.3. The basis of the appeal is set out in section 5.1 of this report and it is considered at the condition has not been properly applied in accordance with the scheme or Section 48 of the Planning and Development Acts 2000-2017; that the level of the contribution should be applied to the Maximum Export Capacity (MEC); the proposed development can export 4MW of energy to the grid but the levy is applied on the installed capacity required to achieve that level of electricity generation rather than the MEC as per the appellant's JBM Solar Development's grid connection application.

It is, therefore, contended that the MEC rather than the installed capacity of 5-6MW is the relevant figure for energy generation and is the figure which should be applied. The appellant is requesting that the basis of calculation be changed from 6MW installed capacity to 4MW (MEC). Planning applications are submitted in line with a related grid connection application that contains or specifies a maximum MW MEC and in order to meet the target MEC it is standard practice for the installed capacity which produce power in DC to be higher than the MEC export connection which is AC. There is system loss in the conversion from DC to AC with typical loss and energy differential of between 25% and 30%.

In this regard reference is made in the planning and environment report accompanying the application to the project having a EMC of 4MW which will result in an installed capacity of 5-6MW.

On this basis the MEC maximum of 4MW is the figure on which the contributions should be based and the Board is requested to apply a contribution of €40,000.

- 6.4. Specific to the current appeal, I would initially note that the public notices do not specify any specific figure of power generation arising from the development specifying only the works on the site.
- 6.5. I would note that that documentation relating to the application in particular the planning and environment report do 4MW MEC is clearly referred to and the need for installed capacity of between 5 and 6MW to convert DC to AC to enable export of power from the site to the grid.
- 6.6. In relation to the Development Contribution Scheme the relevant provision is Table 2 category F where in relation the following is specified;
- Wind Turbines and other renewable energy installations generating >0.5MW €1,000 per 0.1MW.
- 6.7. The DCS does not distinguish between installed capacity and exported energy to the grid.
- 6.8. In assessing the proposal, the planning authority considered for the purposes of assessing the contribution the maximum installed capacity of 6MW although a potential range of installed capacity of 5 to 6MW is outlined.
- 6.9. Having considered the matter, I consider that a contribution based on the MEC of 4MW would be reasonable as it is the definitive maximum capacity of generated power to be transported to the national grid.
- 6.10. In this context condition no. 6 should be amended to a figure of €40,000.

7.0 Recommendation

- 7.1. Having regard to the nature of the condition the subject of the appeal and based on the reasons and considerations set out below, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to AMEND condition number 6 to figure of €40,000.

8.0 Reasons and Considerations

Having considered the provisions of the Laois County Council Development Contribution Scheme 2013 – 2017, the Board concluded that the terms of the scheme had not been properly applied by the planning authority in respect of condition number 6 as attached to the planning authority notification of decision to grant planning permission. In these circumstances, the Board consider that the appropriate contribution is €40,000 and that condition no.6 of the planning authority's decision be amended to €40,000.

Derek Daly
Planning Inspector

14th June 2017