



An  
Bord  
Pleanála

## Inspector's Report PL27.248424

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<b>Development</b>	10 year permission for solar pv panels mounted on metal frames, electrical substation building, underground cabling, fencing, access tracks.
<b>Location</b>	Ballinacloy, Rathnew, Co. Wicklow
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	16/1380
<b>Applicant(s)</b>	Gaelectric Renewable Developments Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Anne Morrissey
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	3 <sup>rd</sup> August 2017
<b>Inspector</b>	Rónán O'Connor

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## 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 23.07 hectares, is situated on agricultural lands in the townland of Ballinacloy, located approximately 3.9km south-west of Rathnew and 2.5km east of Glenealy, and approximately 250m west of the upgraded M11 motorway. The appeal site generally slopes from west to east from approximately +82.0m to approx. +66.0m. It is surrounded by vegetation which includes mature hedgerow and mature tree lines. The boundaries of the field parcels are also defined by mature trees.
- 1.2. The application site is accessed is off a private road via a local access road which runs parallel to the M11 Motorway.
- 1.3. The Ballynagran Landfill site is located to the south-west of the appeal site. The surrounding area is predominantly agricultural with a number of commercial operations and one-off houses in the surrounding area.

## 2.0 Proposed Development

- 2.1. 10 year permission for solar pv panels mounted on metal frames, electrical substation building, underground cabling, fencing, access tracks. The PV panels will be orientated towards the south on galvanised metal mounting frames. The panels are fixed in place with no moving parts. They will have a maximum height of between 1.7m and 2.8m. They will be raised at between approximately 0.7m and 0.9m above ground level at their lowest point.
- 2.2. A maximum of 5 inverter and transformer stations will be installed. Fencing is proposed to secure the application site and with CCTV cameras interspersed along the fencing perimeter directed onto the solar farm. A weather station may be installed with a maximum tower height of 5m and a spare parts container retained on site. Additional and upgraded access tracks will be constructed to allow access to the solar panels, substation and inverter/transformer structures.
- 2.3. A temporary construction compound is also proposed, with an area of approximately 50m x 35m.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Grant Permission. Conditions of note are as follows:

- Condition No. 7 – Design details of the inverter/transformer room and substations.

### 3.2. Planning Authority Reports

#### Planning Reports

3.2.1. The report of the planning officer reflects the decision of the planning authority.

Points of note are as follows:

- Development acceptable in principle
- Visual impact acceptable
- Traffic impacts acceptable
- Grid connection will be the subject of a further planning application
- No impact on residential amenities or house prices
- Further information sought in relation to the following - (i) impact of glint and glare on M11/N11 and R772 (ii) Gaps in fencing required to allow movement of wildlife (iii) impact on operations of the existing farm.

3.2.2. Following receipt of Further Information, the planning officer recommended a grant of permission.

#### Other Technical Reports

#### Municipal District Engineer

- WC shown on drawings – no wastewater management proposed
- Traffic Impacts should include personnel for movement of large machinery at roundabouts
- Should glare studies be inaccurate will contractor be liable to remediate works

## Roads

- Further mitigation measures required to eliminate any risk to traffic from glint and glare
- No commencement of development could occur prior to grid connection being granted planning permission
- Landscaping should be carried out prior to installation of panels
- All construction and other traffic must use Exit 17 off M11

### **3.3. Prescribed Bodies**

#### Irish Fisheries Ireland

- No objections to the proposal subject to river protection, a construction management plan and mitigation measures detailed in Section 10 of the EIS being applied.

#### An Taisce

- A National and Regional strategy is required for solar array development. Council should ensure optimum site suitability, protecting biodiversity, landscape sensitive areas, archaeological heritage and good tillage land.

#### Department of Arts, Heritage, Regional, Rural and Gaelteacht Affairs

- Recommends that compliance ecological mitigation measures in the report are added as planning conditions. In addition, mammal passes should be incorporated into the perimeter fencing at intervals of 50m as NPWS are aware that badgers forage in the fields affected by the development

### **3.4. Third Party Observations**

3.4.1. 3 submissions were received in relation to the planning application. The issues raised, that are not already covered in the grounds of appeal, and in the observations on the appeal, are set out below:

- Objector's house is too close to the underground wires
- Impact on house value

- Impact on health
- Location of site notice

## 4.0 Planning History

- 4.1.1. There is no planning history in relation to the site itself. However, recent solar farm applications in Wicklow determined by the Board, or currently being considered, are noted below:
- 4.1.2. 246527 (16/176) Grant - Ballycooleen, Avoca, County Wicklow - 10 year permission for a Solar PV Energy Development on 13.76Ha, electrical substation, access roads, fencing and ancillary infrastructure.
- 4.1.3. 249025 (17/601) Current appeal - Milltown North and Cronroe, Rathnew, Co. Wicklow - Permission for solar farm consisting of solar photovoltaic panels on ground mounted steel frames, 1 substation, 6 inverter/ transformer stations, underground cables.
- 4.1.4. 247942 (16/1099) Current appeal - Garrymore Upper, Rathdrum, Co. Wicklow - Development of a solar PV energy development, construction of a single storey electrical substation, inverter and transformer stations, solar panel on metal frame and all associated site works.
- 4.1.5. 248258 (16/307) Current appeal - Kiltimon, Newtownmountkennedy, Co. Wicklow 3041 sq.m of solar panels on ground mounted steel frames, electricity control room, underground cable ducts, CCTV cameras, fence and associated site works.
- 4.1.6. 247714 (16/1060) – Refuse - Threecastles, Talbotstown Lower, Blessington, Co. Wicklow - Solar PV panel array with capacity of 19MWP comprising 73,000 photovoltage panels on ground mounted frames, DSO substation, spares building, communication pole. The reason for refusal related to the potential impact on the Poulaphuca Reservoir Special Protection Area (Site Code 004063).

## **5.0 Policy Context**

### **5.1. Development Plan**

5.1.1. The relevant Development Plan is the Wicklow County Development Plan 2016-2022. Relevant policies and objectives include:

- CCE9, CCE10, and CCE11 – supports solar energy schemes including PV solar farms
- NH49 – Development proposals to have regard to the Landscape Assessment
- NH51 – Resist development that would significantly or unnecessarily alter the natural landscape or topography unless it can be demonstrated that the development would enhance the landscape and/or not give rise to adverse impacts
- NH53 – Protect listed views and prospects
- Appendix 5 Landscape Assessment

### **5.2. Natural Heritage Designations**

5.2.1. None

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. The grounds of appeal, as submitted by the Third Party Appellant, are as follows:

- Local area has been decimated by developments including road improvements, Dump facility and additional industry
- Failure to inform local residents who are affected by the development
- ABP should consider previous and current development plans
- Suitable impact model and study was not carried out
- Issues of solar glare – more thorough analysis required

- A 57 acre farm will be visible
- Permission for a dwelling on this site would be refused as it is on an elevated site off the N11
- A more suitable, less visible site should be found
- Road access is 'Local Access Only'
- Traffic flow is already high on this road
- What is the proposed construction plan and safety plan to deal with all construction traffic?
- How is project to be connected to the national grid
- Road is not designed for such development
- Road safety issues
- Access should be gained from the Coolbeg side of the proposed development site
- Maintenance of the road during construction and during the 30 year period for servicing?
- Will road access be available to local residents without interruption?
- Impact on privacy
- No defined route to connect to the national grid
- Application is premature
- Are additional power lines required and where will they be routed/located

## 6.2. Applicant Response

6.2.1. The First Part Response to the Third Party Appeal is summarised below:

- Form and nature of the proposed development is fully appropriate for the application site.



- Application site selection was influenced by a range of factors including solar resource, grid infrastructure proximity, residential dwelling proximity, landscape, ecology, soils, hydrology and geology, archaeology and alternatives.
- Site is located within an area of 'Low Sensitivity'
- Principle of development is acceptable
- Located approx. 250m west of M11 and is enclosed behind established treelines and hedgerow
- An Ecological Landscape Management Plan (ELMP) has been proposed to provide for additional screening
- Proposed development is suitably sited and will not be visually obtrusive
- There are 6 no. small commercial businesses located in the immediate environs of the application site - it is not a 'free for all'
- In relation to landscape and visual impact, the impacts are likely to be no greater than Moderate-Slight in the immediate vicinity of the Application Site and generally lower elsewhere.
- At no point is it stated that the proposed development is 'not visible'.
- In relation to glint and glare, relevant studies generally agree that there is a potential for glint and glare from photovoltaic panels to cause a hazard or nuisance for surrounding receptors but that the intensity of such reflections is similar to that emanating from still water.
- It was concluded in the 'Solar Photovoltaic Glint and Glare Study' submitted with the original planning application and the updated study submitted as Further Information that it is not considered that there will be any significant nuisance or hazard effects generated from glint and glare and that the magnitude of effects will not be greater than 'Very Low'.
- Appellants have failed to highlight any deficiencies in the scope or methodology of the submitted reports nor do they offer any credible alternative appraisal
- Local access only roads tend to mean no through road but does not restrict it from being a public road open to all users

- Traffic and Transport Assessment noted that the volume of traffic on roads leading to the application site were very low.
- Impact of construction traffic will be low, short-term and temporary
- Construction period is to last 18 weeks
- There is a presence of machinery on this road due to existing commercial activity present
- Condition No. 5 requires submission of a Construction Management Plan which will include a Traffic Management Plan
- Section of road to the south of the site is a private road and therefore it cannot be legally used as access as part of the planning application for the development
- CMP will highlight maintenance and procedures during both the construction and operation periods
- Condition 3 requires payment of a development contribution in respect of public infrastructure and facilities
- Local residents will be given priority on the road
- Planning application does not include the grid connection but the likely impacts of proposed indicative connection routes have been assessed
- Applicant has submitted a grid connection application to ESB networks to connect the proposed development to the distribution grid.
- Board has previously made decisions in the absence of a grid connection
- The proposal does not trigger a mandatory Environmental Impact Assessment
- Consequently, it is not a compulsory requirement to carry out a full public consultation event
- However, a door to door visit was carried out informing residents of the nature of the development
- A meeting was held with the appellants while the application was being assessed by Wicklow County Council

- Development is consistent with the CDP and relevant national and regional policies and guidelines
- Would provide an appropriate scale and design
- Would increase the range of employment opportunities on offer during the construction phase
- Would not result in any injurious impact on the amenities/privacy of existing properties in the vicinity.

### 6.3. **Planning Authority Response**

6.3.1. None

### 6.4. **Observations**

6.5. One observation received from RPS Group Ltd, on behalf of Wm. Oliver Byrne, Coolbeg House, Coolbeg, Co. Wicklow. This is summarised below:

- Does not have an issue with the proposed development
- Wishes to clarify future access to the proposed development
- One site notice was erected at a location on the road which leads to Greenking off the L1113.
- Location of the site notice is outside of the development boundary/landownership boundary and is remote from the proposed development and the development's sites proposed access.
- The gates securing this access have not yet been erected by Wicklow County Council.
- Wicklow County Council have agreed a restrictive covenant in relation to the road off the L113 which precludes this road being used for any purpose in connection with the proposed development
- Has concerns that this may lead to the use of this private road for traffic relating to the proposed development in breach of the restrictive covenant

- Planner's report stated that a condition should be included that states construction traffic shall use exit 17 of the M11 only – no such condition was attached to the subsequent permission
- We request that traffic generated from the proposed development shall only access the site from Junction 17 of the M11.

## 6.6. Further Responses

6.6.1. None

## 7.0 Assessment

7.1. The following assessment covers the points made in the appeal submissions and also encapsulates my *de novo* consideration of the application. The main issues in the assessment of the proposed development are as follows:

- Principle of Development
- Landscape/Visual Impact
- Impact on Residential Amenity
- Traffic and Access
- Ecology
- Surface Water Drainage
- Archaeology
- EIS Screening
- Other Issues
- Appropriate Assessment

## 7.2. Principle of Development

7.2.1. There is currently no national guidance in relation to solar panel developments in Ireland. I would note that since the publication of the 2009 Renewable Energy Directive (2009/28/EC) that Ireland has a target objective requiring that 16% for all energy comes from renewable sources by 2020. In considering the principle of a

proposed solar panel development, I have had regard to both national and regional policy provisions and site specific objectives. I have had regard to the Government White Paper entitled 'Ireland's Transition to a Low Carbon Energy Future 2015-2030', published in December 2015. The main objective of this policy document is to reduce carbon emissions and in this regard solar panel developments are considered an integral part of achieving this objective. The National Spatial Strategy 2002-2020, recognises the importance of renewable energy as it is stated that the aim should be to ensure that resources such as energy is used in sustainable ways.

- 7.2.2. The Wicklow County Development Plan 2016-2022 includes objectives that support solar energy development, as well as having an overriding strategy to encourage the provision of renewable energy sources.
- 7.2.3. As such the proposal is acceptable in principle and the nature of use would not be contrary to the objectives and policies either nationally or under the County Development Plan.
- 7.2.4. I would note that the acceptability of the proposal is contingent on issues such as the visual impact on the landscape taking into account the siting, scale and layout of the proposed solar panel development, impact on local residents and the amenities of the area including noise and glint and glare, impact on ecology, cultural heritage, accessibility/traffic impacts and drainage issues.

### **7.3. Landscape/Visual Impact**

- 7.3.1. The application site lies within a valley which is contained by areas of more elevated landscape. The application site includes two complete agricultural fields and a large portion of a third and occupies an area of 23.07 hectares. The application site generally slopes from west to east from approximately +82.0m to approx. +66.0m. It is surrounded by vegetation which includes mature hedgerow and mature tree lines. The boundaries of the field parcels are also defined by mature tree and hedgerow. At the time of my site visit all three fields were planted with crops.
- 7.3.2. The appeal site lies an area of defined as 'Low Sensitivity' within the CDP. The CDP notes that the site lies within the 'Corridor Area' Landscape Category as and this is given a hierarchy of 4 out of a possible ranking of 1 to 6, i.e. 1 - high vulnerability on a sliding scale to 6 - low vulnerability.

- 7.3.3. A Landscape and Visual Impact Assessment (LVIA) has been submitted with the application. The extent of the study area was a 5km radius around the site, although the report states that the proposed development is not likely to give rise to a significant landscape or visual impacts beyond approximately 2km.
- 7.3.4. The LVIA identifies ten viewpoints which are intended to reflect a range of different receptor types, distances and angles. The significance of visual impact is stated as being imperceptible from six of these viewpoints. From Viewpoint 5 (local road 2.8km southeast of the appeal site), the impact is considered slight. From Viewpoint 8 (local road – former N11 – 0.26km east of appeal site) the magnitude of visual impact is Medium Low prior to the establishment of mitigation screen planting. From Viewpoint 9 (M11 0.28km northeast of appeal site) the impact is slight imperceptible and from VP10 (forest trail 1.1km northwest of the appeal site) the visual impact is slight.
- 7.3.5. As noted earlier the appeal site is within a landscape area designated as Low Sensitivity. I consider the viewpoints chosen within the LVIA are fairly representative of the views gained towards the application site. I note the existing screening gained from the boundary trees and from the undulating character of the landscape.
- 7.3.6. However, the proposed development is relatively large in scale, with a site area of 23.07 hectares, and will be visible from a number of viewpoints. Notwithstanding this, the solar panels themselves are low profile structures and the proposals entail retention of existing mature trees and hedgerow boundaries surrounding the appeal site although it is proposed to remove the mature tree boundary running through the site between the easternmost and westernmost fields, where tree heights are greater than 5m, and replace with hedgerow planting.
- 7.3.7. The panels will be most visible from Viewpoints 8, 9 and 10. Viewpoint 8 is from a local road and the viewpoint chosen is adjacent to the boundary fencing alongside the road. While the proposed development will be visible to a viewer standing at the boundary fencing, from the local road itself however, the visibility of the site is very limited. As such I concur that the visual impact would slight from this viewpoint.
- 7.3.8. From Viewpoint 9, from the M11, the proposed development would be screened to a large degree by existing boundary planting. Furthermore, cars travelling on this road are travelling at a relatively fast speed so the actual amount of time gained to view the site is very limited.

- 7.3.9. From Viewpoint 10, the proposed development is visible in part through existing planting. This is a distance of 1.1 km from the appeal site and it does not appear to be a public road, although the LVIA notes that it is used by walkers. However, I concur with the conclusion within the LVIA that the visual impact will be slight.
- 7.3.10. Having inspected the site and the surrounding area, I would concur with conclusions of the Landscape and Visual Impact Assessment submitted by the applicant in that the development is not going to have visual impact beyond the 5km radius identified in the Zone of Theoretical Impact and that proposed development is not likely to give rise to significant landscape or visual impacts within this 5km radius.
- 7.3.11. Having regard to the above, I consider that the overall visual impact and impact on the character of the landscape would be acceptable.
- 7.3.12. In addition, the proposed development would have no significant or adverse impact in relation to any of the views and prospects including scenic routes identified under the County Development Plan.

#### **7.4. Impact on Residential Amenity**

- 7.4.1. There are a number of residential dwellings located in the wider environs of the appeal site. The closest dwelling is located approximately 550m from the north-eastern site boundary.
- 7.4.2. The significant issue before the Board is whether glint and/or glare from the proposed development would have any adverse impact on local amenities. I note from the application documents that it is stated that the glass surface panels are coated to maximise daylight absorption, and thus minimise glare potential.
- 7.4.3. The applicant has submitted a Glint and Glare Analysis as part of the Planning and Environmental Report. Glint is defined as 'a momentary flash of bright light' and glare is defined as 'a continuous source of bright light'. The solar panels are orientated in a southwards direction. The Glint and Glare Analysis identified 2 dwellings within a 1km radius of the appeal site, all located to the east of the proposed development, that have the potential to be impacted by glint and glare, given the orientation of the solar panels. It is noted that mitigation measures such as additional hedgerow planting will reduce glint and glare at these two dwellings but not eliminate it completely. It is concluded in the analysis that there will not be significant nuisance or hazard effects generated from glint and glare at surrounding dwellings.

- 7.4.4. I note that the 2 dwellings identified above are approximately 300m from the appeal site and there is significant planting between the appeal site and the dwellings. I consider both the distance from the appeal site, and the existing and proposed boundary planting, would mitigate against any significant glint or glare impacts.
- 7.4.5. In regards to noise impacts, it is noted that all manufacturing is to be carried out off site with no welding or cutting machinery to be used. In terms of the operational phase, the solar panels are fixed and do not create noise. The inverter/transformer stations create a very low level of noise. As the noise generated correlates with the generation of the solar energy no noise is produced outside of daylight hours. I would consider that noise levels likely to be generated would be within acceptable limits and that a standard condition requiring compliance with recommended EPA noise emission limits could be applied.
- 7.4.6. I would consider that the main noise impacts would be during the construction phase. However, given the temporary nature of construction and appropriate construction management restrictions including noise limits and hours of construction the proposal would be acceptable in to noise impact.
- 7.4.7. I note the Third Party Appellant has raised the issue of privacy in the appeal submission. However, I do not consider that additional traffic arising from the construction, operational or decommissioning phases would have any material impact on the privacy of surrounding residential dwellings.

#### **7.5. Traffic and Access/Road Safety**

- 7.5.1. The proposed site access is located on a private service road which runs adjacent to the M11. There is no posted speed limit on the road.
- 7.5.2. The proposed access will have sufficient sightlines in excess of 160m in both directions.
- 7.5.3. During the construction phase, construction traffic will access the site via junction 17 of the M11 and then via local roads. The construction period will take approximately 18 weeks. A temporary construction compound is to be constructed on site which will be used to store construction materials as well as a parking and turning facility for construction and delivery traffic. The submitted Traffic and Transport Assessment estimates a total of 15 HGV movements per day, based on trips generated by similar sized solar farms. Staff numbers will peak at 45 during the construction period.



- 7.5.4. During the operation traffic numbers will be very low in the region of 25 trips per year.
- 7.5.5. In relation to a potential access from the south of the site, the appellant has stated, as has an observation on file, that the road to the south of the site is a private road over which the applicant does not have any control, and as such this is not a possible access point to serve the proposed development.
- 7.5.6. I do not consider that the traffic impacts of the proposed development will be significant and construction times can be limited by way of condition.
- 7.5.7. In relation to the potential impact of glint and glare on the M11 motorway and other surrounding roads, I note that Further Information on this issue was submitted to the LPA. The Glint and Glare Analysis, and the Further Information submission, note that any potential impacts are only likely to occur along a 250m section of the motorway. It is noted that any reflectance would be fleeting and oblique to the direction of travel and as such would not impact the forward view of the driver. For northbound traffic reflectance is only possible once the vehicle has passed the site. Impacts are further mitigated by additional planting. The magnitude of effect is classed as very low/none. It is further stated that impacts on the R772 Regional Road (Previously N11) are very unlikely.
- 7.5.8. My observations on site were that there were only very fleeting views of traffic on the surrounding roads and there is substantial vegetation in between the appeal site and these roads. As such I concur with the observations above and do not consider that glint and glare will create significant nuisance or hazard effects along surrounding roads.

## 7.6. **Ecology**

- 7.6.1. An Ecological Impact Assessment was submitted with the application. Further Information was submitted in relation to badger gates in the proposed fencing which allow for access for smaller mammals.
- 7.6.2. The appeal site is not a protected habitat nor identified as supporting any protected species. The Glenealy Castle River runs along the eastern boundary of the appeal site.

- 7.6.3. The ecological survey was carried out at a time when the field was being grazed by sheep. At the time of my site visit the area was dominated by crops.
- 7.6.4. In relation to the baseline survey, a number of amber-listed species were recorded on or near the site as well as a larger number of green listed species. In relation to bats it is noted the hedgerows are likely to provide more favourable habitats and a minimum of 4 species were recorded during the bat survey. There was no indication the disused building on the site provided any bat roosts.
- 7.6.5. The neighbouring river was likely to support otters. There was no other indication of badger or red squirrel activity. Frog activity may be likely in the small wetland area or in the drain running through the site.
- 7.6.6. There will be an impact on the vegetation type on the majority of the appeal site, given that the solar panels will cover a larger area. Vegetation will continue to grow between and underneath the solar panel arrays.
- 7.6.7. The most significant impact in my view is cutting to 5m of the mature tree line running north-south, between the easternmost and westernmost fields. This will result in the loss of 320m of treeline habitat which include mature specimens of Scots Pine, Oak and Ash. It is noted that trees and hedgerows below 5m will be retained and a hedgerow planted along the entire length of the felled treeline.
- 7.6.8. Mitigation measures proposed include hedge planting, species rich boundaries, enhancement of the riparian zone and creation of a buffer zone between the development and the Glenealy Castle River, and the placement of 20 bat boxes on the northern boundary of the site. Badger gates will be installed at 50m intervals along the entirety of the proposed fencing.
- 7.6.9. Overall, subject to the mitigation measures outlined in the Ecological Impact Assessment, and as submitted at Further Information stage, I do not consider that there would be a significant impact on ecology as a result of the proposed development.

## 7.7. **Surface Water Drainage**

- 7.7.1. The proposed development will result in limited additional hard surface areas. This would include upgraded access tracks, the construction compound and the invertor/transformer structures. The solar panels are to be supported on piles and

therefore have a very low hard surface area. The proposed development would increase would increase surface water run-off on the site. However, given the scale of the hard surface areas in relation to the overall site I do not consider that the construction, operational phase and decommission phases of the proposed development would generate any significant additional surface water. Standard conditions in relation to surface water drainage should be imposed on any permission.

#### **7.8. Archaeology**

7.9. The application is accompanied by an Archaeological Assessment. There are no national monuments of which the Minister is owner or guardian with 5km of the application site. There are 33 known archaeological sites within 1km of the proposed development, mostly excavated at the time of the construction of the M11 motorway and the exaction of the adjacent landfill site. The nearest monument is the gateway and moated site located 100m to the south of the appeal site. There will be no significant direct or indirect impacts on any recorded archaeological site or monuments as a result of the proposed development. Where excavation is required i.e. for the construction of the upgraded access tracks, temporary storage area and the inverter/transformer stations there may be impacts on any unrecorded sub-surface archaeological remains. Should the Board be minded to grant permission, conditions in relation to archaeology should be imposed.

#### **7.10. EIS Screening**

7.10.1. Schedule 5 of the Planning and Development Regulations, 2001 (as amended), sets out Annex I and Annex II projects which mandatorily require an EIS. Part 1, Schedule 5 outlines classes of development that require EIS and Part 2, Schedule 5 outlines classes of developments that require EIS but are subject to thresholds. I have examined the Part 1, Schedule 5 projects and I do not consider that a solar farm is included in any of these project descriptions. I have also examined the Part 2, Schedule 5 projects and although I note that while there are some projects under Paragraph 3 'Energy Projects' which relate to energy production, I do not consider that these projects would be applicable to a solar farm as proposed. In reaching this conclusion I have had regard to the other recent solar farm developments before the

Board, i.e. appeal reference no's PL27.247714 and PL27.246527, where a similar conclusion was reached in each case.

#### 7.11. **Other Issues**

7.12. In relation to a future connection to the National Grid, I note that any proposed connection would be subject to a further consent and a condition should be imposed to reinforce this point. Such a condition has been imposed on previous consents for such developments i.e. appeal ref 246527.

#### 7.13. **Appropriate Assessment**

7.14. 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 Nature 2000 sites identified within a 15km radius of the site. This also considers the impacts of the Indicative Grid Connection Routes Option 1 and 2.

7.15. Magherabeg Dunes SAC, which is located 5.4km from the application site and 5.8km from the Indicative Grid Connection routes, has a source-pathway link to the appeal site via the tributaries of the Three Mile Water River, of which Glenealy Castle River is one, which ultimately flows through the SAC.

7.16. The habitats identified under the Conservation Objectives for this site are Dune Habitats and the Screening Report states that it is very unlikely that the proposed development would impact on these. The 'Petrifying springs with tufa formation;' habitat occupies only 1% of the area and such springs generally arise from localised groundwater upwellings and as such are unlikely to be impacted by the development.

7.17. The submitted Screening Report notes mitigation measures include a minimum 20m set-back of any infrastructure from the Glenealy Castle River, except for fencing, as well as specific pollution control measures. It is concluded within the Screening Report that there is no likely significant effect of the proposed development on Magherabeg Dunes SAC, as a result of direct, indirect or cumulative impacts.

7.18. The Board, as a competent authority, shall only agree to a plan or project only after having ascertained that it will not adversely affect the integrity of a Natura 2000 site. In this regard it is appropriate to carry out a stage 1 screening assessment and then if necessary a stage 2 appropriate assessment.

7.19. I have considered those sites within 15km of the appeal site and the impacts of the development which is under consideration here. I have not considered the impacts of the indicative grid connection routes which do not form part of this appeal.

**7.20. Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives**

7.20.1. The appeal site is not currently designated for any nature conservation purposes under national or international legislation but a number of Natura 2000 sites (SAC/SPA) are within a 15km radius of the subject site. These are set out in the table below:

<b>Site Code, Site Name and Designation</b>	<b>Approx. distance from the appeal site</b>	<b>Qualifying Habitats and Species</b>
000717 Deputy's Pass Nature Reserve SAC	3.8 km S.W.	Old sessile oak woods
002249 The Murrough Wetlands SAC	4.7 km N.E.	Annual vegetation of drift lines Perennial vegetation of stony banks Atlantic salt meadows Mediterranean salt meadows Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> Alkaline fens
004186 The Murragh SPA	4.7 km N.E.	Red-throated Diver Greylag Goose Light-bellied Brent Goose Wigeon Teal Black-headed Gull Herring Gull Little Tern
001766 Magherabeg Dunes SAC	5.8 km S.E.	Annual vegetation of drift lines Embryonic shifting dunes Shifting dunes along the shoreline with (white dunes)

		Fixed coastal dunes with herbaceous vegetation (grey dunes) Atlantic decalcified fixed dunes Petrifying springs with tufa formation
004127 Wicklow Head SPA	6.5 km E	Kittiwake
000733 Vale of Clara (Rathdrum Wood) SAC	7.6 km W	Old sessile oak woods
002274 Wicklow Reef SAC	7.4 km E	Reefs
004040 Wicklow Mountains SPA	12.5 km N.W.	Merlin Peregrine
000729 Buckronev-Brittis Dunes and Fen SAC	9.5 km S.E.	Annual vegetation of drift lines Perennial vegetation of stony banks Mediterranean salt meadows (Juncetalia maritimi) Embryonic shifting dunes Shifting dunes along the shoreline with (white dunes) Fixed coastal dunes with herbaceous vegetation (grey dunes) Atlantic decalcified fixed dunes (Calluno-Ulicetea) Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (Salicion arenariae) Humid dune slacks Alkaline fens
002122 Wicklow Mountains SAC	12.5 km N.W.	Otter Oligotrophic waters containing very few minerals of sandy plains Oligotrophic to mesotrophic standing waters with vegetation

		of the Littorelletea uniflorae and/or Isoeto- Nanojuncetea Natural dystrophic lakes and ponds Northern Atlantic wet heaths with <i>Erica tetralix</i> European dry heaths Alpine and Boreal heaths Calaminarian grasslands of the Violetalia calaminariae Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) Blanket bogs (if active bog) Siliceous scree of the montane to snow levels Calcareous rocky slopes with chasmophytic vegetation Siliceous rocky slopes with chasmophytic vegetation Old sessile oak woods
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**7.21. Assessment of likely effects**

7.21.1. There is an indirect source-pathway linkage (hydrological) between the development proposal and the Magherabeg Dunes SAC. The Gleanealy Castle River, a tributary of the Three Mile Water river, flows along the eastern boundary of the appeal site. The Three Mile Water river flows through the Magherabeg Dunes SAC. The Conservation Objective for the SPA is to maintain or restore the favourable conservation condition of habitats listed above. Of all of these habitats the Petrifying springs with tufa formation habitat could be potentially impacted upon. However,

given that such springs are sourced from upwelling groundwater, it is very unlikely the proposed development will have an impact on this habitat.

7.21.2. Given the distance to the other Natura 2000 sites identified above, and the lack of direct or indirect source-pathways to the sites, I do not consider that the proposed development will impact on these sites.

7.21.3. In conclusion I do not consider there is any identifiable direct or indirect or in combination impacts on any Nature 2000 site from the development as proposed.

7.21.4. While I note the potential impact of a future connection to the grid on Natura 2000 sites, this element does not form part of this planning appeal and therefore it is not considered appropriate to assess the impacts of same for the purposes of Appropriate Assessment.

## 7.22. **Screening Statement and Conclusions**

7.22.1. In conclusion having regard to the foregoing, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European Site and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## 8.0 **Recommendation**

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

## 9.0 **Reasons and Considerations**

Having regard to the provisions of the Wicklow County Development Plan 2016-2022, the nature and scale of the development proposed, the suitability of the site in terms of location, topography and visibility, and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposal would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity, nor would the proposal have a



significant impact on the surrounding road network, and would be in accordance with the proper planning and sustainable development of the area.

## 10.0 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 submitted on the 16th day of March 2017, 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:** Having regard to the nature of the proposed development, the Board considered it reasonable and appropriate to specify a period of the permission in excess of five years.

3. The permission shall be for a period of 30 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 in the light of the circumstances then prevailing.

4. 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.

- 5 The proposed development shall be undertaken in compliance with all environmental commitments made in the documentation supporting the application.

**Reason:** To protect the environment.

- 6 Save for those trees identified for removal, existing field boundaries shall be retained, and new planting undertaken in accordance with the plans submitted.

**Reason:** In the interest of biodiversity, the visual amenities of the area, and the residential amenities of property in the vicinity.

- 7 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:

(a) details of site security fencing and hoardings,

(b) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,

(c) measures to obviate queuing of construction traffic on the adjoining road network,

(d) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,

(e) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,

(f) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained; such bunds shall be roofed to exclude rainwater,

(g) details of on-site re-fuelling arrangements, including use of drip trays,

(h) details of how it is proposed to manage excavated soil, and

(i) means to ensure that surface water run-off is controlled such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of environmental protection, amenities, public health and safety.

- 8 The noise level from any plant/machinery shall not exceed 55 dB(A) rated sound level, as measured at the nearest noise sensitive location.

Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To protect the residential amenities of property in the vicinity of the site.

- 9 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 amenities of property in the vicinity.

- 10 The landscaping to the site boundaries, as submitted to the planning authority on the 16<sup>th</sup> March 2017, shall be carried out within the first planting season following substantial completion of external construction works. 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 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 visual amenity.

- 11 In the event of development commencing between the months of March and August, existing vegetation on site shall be inspected by an ecologist for the presence of nesting birds. Where no nesting is found, vegetation shall be removed within 48 hours and in the event of a nest being found, it shall not be removed except under licence from the National Parks and Wildlife Service.

**Reason:** To ensure the protection of the natural heritage on the site.

- 12 Cables within the site shall be located underground.

**Reason:** In the interests of visual and residential amenity.

- 13 Final design details of the inverter/transformer structures, substation and weather station shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development.

**Reason:** In the interest of clarity and visual amenity.

- 14 (a) Prior to commencement of development, a detailed restoration plan, including a timescale for its implementation, shall be submitted to, and agreed in writing with, the planning authority.

(b) 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 ensure the satisfactory reinstatement of the site on full or partial cessation of the proposed development.

- 15 All surface water run-off from the development shall be collected and disposed of with the site to soakpits.

**Reason:** To prevent pollution.

- 16 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 and residential amenity.

- 17 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.

- 18 The developer shall facilitate the 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.

- 19 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 reinstatement of public roads which may be damaged by construction transport, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. 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:** In the interest of traffic safety and convenience.

- 20 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:** In the interest of orderly development and visual amenity and to ensure the satisfactory reinstatement of the site.

- 21 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.

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Rónán O'Connor  
Planning Inspector

11<sup>th</sup> September 2017