



An  
Bord  
Pleanála

## Inspector's Report PL14 .248470

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<b>Development</b>	A solar farm with an energy export capacity of 11.1MW.
<b>Location</b>	Cleggill, Longford, Co. Longford.
<b>Planning Authority</b>	Longford County Council
<b>Planning Authority Reg. Ref.</b>	17/47
<b>Applicant(s)</b>	Grian PV Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellants</b>	Grian PV Limited
<b>Observers</b>	John Ward, Thomas Hopkins, Brendan and Noeline Hopkins and Shane & Aoife Quinn
<b>Date of Site Inspection</b>	6 <sup>th</sup> August 2017
<b>Inspector</b>	Patricia Calleary

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## **1.0 Site Location and Description**

- 1.1. The appeal site with a stated area of c.19 Ha is located in the townland of Cleggill, c.2.5km North West of Longford town. It is irregular in shape comprising six fields most recently used for grazing. The site is relatively flat with a rise in level from the south west corner of field 3 (39.5m) to the north end of field 1 (46.59m).
- 1.2. Current access to the site is via an existing agricultural laneway which serves a farm complex. The laneway connects with the L5003 local road to the north, which has a speed limit of 80kph. Site boundaries consist of mature hedgerows, trees and drainage ditches. Land use in the immediate environs of the site is mostly agricultural. The River Camlin runs along the south-western site boundary.
- 1.3. There is a new dwelling located along the farm road, sited c.320m north of the proposed solar farm. There is another dwelling located along the L5003 local road, c.300m to the north of the proposed solar farm.

## **2.0 Proposed Development**

- 2.1. As described on the public notice, the proposed development is for a solar farm with an energy export capacity of 11.1MW comprising of photovoltaic panels on ground-mounted frames, together with associated infrastructure, including 7 no. inverter cabins, 1 no. control building, 1 no. customer cabin, 1 no. sub-station, temporary construction compound, ducting and electrical cabling, perimeter post and wire agricultural fencing, mounted-CCTV cameras and internal-access tracks. It is stated that the panel frames would be rammed into the ground. No artificial lighting is proposed apart from an emergency sensor light, which would be fixed to the substation.
- 2.2. It is stated that a grid connection application has been submitted to the ESB and the solar farm would likely connect to the 110kv node in the townland of Ballykenny due west. The position of the anticipated connection is presented as Figure 7 of the applicant's submitted Planning Statement.
- 2.3. The planning application was accompanied by a Planning Statement, a Landscape and Visual Impact Assessment, a Glint and Glare Assessment, a Flood Risk Assessment, an Ecological Appraisal, an Appropriate Assessment Screening Report,

a Biodiversity Management Plan, a Construction and Traffic Management Plan and an Archaeology, Architectural and Cultural Heritage Assessment. A ten-year permission is sought.

### 3.0 Planning Authority Decision

3.1. The Planning Authority (PA) issued a decision to **refuse permission** on the 12<sup>th</sup> April 2017 for 3 reasons summarised as follows:

- **Reason 1:** Traffic hazard would result due to significant increases in traffic volume at the existing substandard junction where adequate sightlines are not achievable;
- **Reason 2:** Would result in impacts on the Camlin river and application does not fully assess the impacts of the proposed development on the visual and recreational functioning of the area;
- **Reason 3:** Would have a detrimental impact on the amenity, farming practices and visual amenity of existing farmland isolated between the proposed development.

### 4.0 Planning Authority Reports

#### 4.1. Planning Report

- Considers there are a number of issues which are unacceptable to the PA, including access/road safety, protection of the inland waterways and local amenity. The concerns are reflected in the Planning Authority's reasons for refusal. In addition, the PA refers to issues regarding legal interest, having formed the view that the agricultural laneway which is proposed to be used for access may not be in the sole ownership of the applicant.
- A recommendation to **refuse permission** was put forward.

#### 4.2. Other Technical Reports

- Chief Fire Officer – **No objection** subject to proposed development (outlines a number of requirements which may apply).

#### 4.3. Prescribed Bodies

- **An Taisce** – A national and regional strategy is required for solar array development on land identifying optimum location suitability while protecting biodiversity and landscape sensitive areas and good tillage. Pollution measures required to ensure no deterioration in water quality;
- **Commission for Energy Regulation** – Acknowledges receipt of referral;
- **Iarnód Eireann** – No objection provided construction and operation would not impinge on the day to day operation and maintenance of the main railway line.

#### 4.4. Third Party Observations

4.4.1. Six third-party submissions were received by the Planning Authority and the Planning Officer's report provides a summary of the concerns raised and states that these have been taken into account in their assessment. I also note the contents of the submissions.

### 5.0 Planning History

#### 5.1. Appeal site

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

#### 5.2. County Longford

5.2.1. Under **PL14 .246850**, on 7<sup>th</sup> November 2016, the Board granted a 10-year permission for a solar farm with an export capacity of approximately 4.2MVA and all associated works at Lisnageeragh, Edgeworthstown, Co. Longford.

#### 5.3. Similar developments

5.3.1. The Board will be aware of a number of solar farm appeals which have been decided, many of which are in the south east of the country. Two recent examples include:

- **PL26 .247179** – In 2016, permission granted on a 19.9 Ha site for a solar farm with a power output of c.8 to 12 MW at Tomfarney, Clonroche, Co. Wexford;

- **PL93 .246902** - In 2016, permission granted on a 28.8 Ha site for a solar farm with a power output of c.12.5 MW at Drumroe, Cappoquin, Co. Waterford.

## 6.0 Policy Context

### 6.1. EU Directive 2009/28/EC - Energy from Renewable Resources

6.1.1. EU Directive 2009/28/EC sets a target of 20% of EU energy consumption from renewable sources and a 20% cut in greenhouse gas emissions by 2020. As part of this Directive, Ireland's legally binding target is 16% energy consumption from renewable sources by 2020. Ireland has set a non-legally binding target of 40% of renewable energy share for electricity by 2020 (from a 2012 position of 19.6%).

### 6.2. Ireland's Transition to a low carbon Energy Future 2015-2030

6.2.1. This **White paper on Energy policy** (Department of Communications, Energy and Natural Resources – Dec 2015) provides a complete energy policy update for Ireland. It sets out a vision to reduce greenhouse gas (GHG) emissions by between 80% and 95% by 2050, compared to 1990 levels, falling to zero or below by 2100. The policy document recognises that solar photovoltaic (PV) technology is rapidly becoming cost competitive for electricity generation and that the deployment of solar power in Ireland has the potential to increase energy security, contribute to our renewable energy targets and support economic growth and jobs.

### 6.3. Strategy for Renewable Energy, 2012 – 2020

6.3.1. This strategy reiterates the Government's position that 'the development and deployment of Ireland's abundant indigenous renewable energy resources, both onshore and offshore, clearly stands on its own merits in terms of the contribution to the economy, to the growth and jobs agenda, to environmental sustainability and to diversity of energy supply.'

### 6.4. National Renewable Energy Action Plan (NREAP) submitted to the EC in 2010.

6.4.1. The NREAP was submitted to the European commission in 2010. It sets out Ireland's approach to achieving its legally binding targets, with a target of 40% of electricity consumption to be from renewable sources by 2020. A third progress report on the

NREAP was submitted to the European commission in April 2016 which detailed installed capacity of solar power to be 1.38 MW.

## **6.5. National Spatial Strategy 2002-2020 (NSS)**

### **6.5.1. Section 2.6 - How to Strengthen Areas and Places**

- National and international evidence also demonstrates that rural areas have a vital contribution to make to the achievement of balanced regional development. This involves utilising and developing the economic resources of rural areas, particularly in agriculture and food, marine, tourism, forestry, renewable energy, enterprise and local services, while at the same time capitalising on and drawing strength from vibrant neighbouring urban areas.

## **6.6. National Planning Framework**

6.6.1. A new National Planning Framework (NPF) is currently being developed to replace the National Spatial Strategy. The NPF is currently at pre-draft stage.

## **6.7. Planning and Development Guidance Recommendations for Utility Scale Solar Photovoltaic Schemes in Ireland (October 2016)**

6.7.1. This is a research report prepared by Future Analytics and funded by the Sustainability Energy Authority of Ireland (SEAI). The report contains a set of planning policy and development guidance recommendations, which it is suggested may contribute to the evidence base that will inform the development of Section 28 planning guidance for Utility-Scale Solar Photovoltaic (USSPV) developments in Ireland. It notes that over a hundred applications for USSPV developments have been lodged with planning authorities and that an estimated 594 MW have been granted or were on appeal at the time of publishing (October 2016). The combined site area for these schemes at the time of the study is stated as being 1331.9 hectares. This constitutes 0.03% of the area of land available for agriculture.

6.7.2. Recommendations include that development plans set out policy objectives to support USSPV development and put in place development management standards. Clear policy guidance can alleviate public concerns. Agricultural lands are listed amongst the list of types of locations where such development is particularly suited.

## 6.8. Regional Planning Guidelines for the Midland Region 2010-2022

- **Goal 8:**

To promote the delivery of renewable energy particularly in the context of the existing energy infrastructure in the Midland Region.

- **3.4.6.1 - Renewable Energy**

The development of the renewable energy sector in the Midland Region will significantly contribute to the national target of generating 40% electricity from renewable sources by 2020.

## 6.9. Longford Development Plan 2015-2021

- **Policy RE3:**

The Council will consider the promotion of renewable energy and low energy/passive houses to be a high priority to help reduce global warming. The Council will support initiatives that encourage energy conservation and reduce reliance upon non-renewable sources of energy, including schemes for wind energy, biomass, photovoltaics, solar thermal installations, heat exchange, geothermal etc.

- **Section 5.5.2 – Renewable Energy Sources**

All methods of energy production have impacts on the environment, however, the need to adopt a more sustainable approach to energy production is acknowledged by the Planning Authority. A favourable approach will be taken towards applications for renewable energy developments provided they are environmentally sustainable and are in accordance with general planning criteria.

- **Section 5.5.2.3 – Alternative Energy Development**

Projects involving other indigenous sources of energy such as solar, landfill gas, biomass, energy crops, forestry waste, biogas from sewage sludge and farm slurry, will be assessed in a similar manner with the prime policy of the Planning Authority of permitting developments which are environmentally sustainable and in accordance with the proper planning of the area.

- **Section 6.1.1 – Landscape Character Assessment** - Landscape Policies relevant to the assessment include LCA 1, LCA 2 and LCA 3.
- **Section 4.4.1 – Agriculture Policies and Objectives** - Agriculture Policy AGR2 promotes rural industry and diversification, which would be balanced with natural, architectural and archaeological heritage and the landscape character of the county.
- **Policy NHB 10:** Protect and enhance important landscape features and their setting including rivers, streams, canals, lakes and associated wetlands such as reed beds and swamps, ponds, springs, bogs, fens, trees, woodlands and scrub, hedgerows and other field boundary types such as stone walls and ditches.
- **Other** - Section 6.2.1 – Archaeological Heritage; 6.2.2 – SACs, 6.2.2.5 – Biodiversity, 6.2.2.7 – Inland Lakes and Waterways which includes Policy IW1.

## 6.10. Solar PV Development Guidelines in the UK

6.10.1. While there are currently no planning guidelines for the development of solar PV in Ireland, guidance is well-developed in the UK and can be considered useful as a reference source for good practice. The following guidance is considered relevant:

PPG for Renewables and Low Carbon Energy (DCLG 2015)

- This guidance includes advice on planning considerations relating to specific renewable technologies, including solar power. It advises against inflexible buffer zones or separation distances.

Planning Practice Guidance for renewable and low carbon energy (BRE National Solar Centre [UK] 2013)

- This UK national guidance provides similar advice to the PPG, but also includes advice on Environmental Impact Assessment in relation to solar farms.

## 6.11. Natural Heritage Designations

- 6.11.1. There are six European sites designated under the Habitats Directive located within 15km of the proposed development. These are Brown Bog SAC (002346), Lough Forbes complex SAC (001818), Clooneen Bog SAC (002348), Lough Ree SAC (000440), Ballykenny Fisherstown Bog SPA (004101) and Lough Ree SPA (004064).
- 6.11.2. There are 3 proposed NHAs within 5km of the site. (Brown Bog, Lough Forbes complex and Royal Canal).

## 6.12. Cultural Heritage

- 6.12.1. There is no recorded archaeology or protected structures within the site. There are 37 sites in the Record of Monuments and Places within 2km of the site. The closest cultural heritage feature is a Rath (LF013-006), located 40m northeast of the site. It is not visible on the surface. The Archaeology and Architectural Heritage assessment on file references six historic houses and designed spaces. Ten properties which are protected structures or on the NIAH list are also considered.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

- 7.1.1. An appeal was received from Bamford and Bonner on behalf of the applicant, Grian PV Limited, against the decision made by Longford County Council to refuse permission. The main points put forward in the grounds of the appeal are summarised below:

#### Refusal Reason No.1

- Original construction traffic management plan (CTMP) submitted with the planning application demonstrated that subject to minor temporary works on lands within the appellant's ownership, traffic movements along the L5003 including turning manoeuvres could be accommodated;
- Notwithstanding the above, two alternative proposals are furnished with the appeal. A revised access proposal (Option 1) which includes further works to the original access proposed and a second revised access proposal (Option

2) to construct a temporary construction access c.30m south of the existing entrance for the construction period of approximately three months. It is stated that both proposals involve works within the appellant's landholding;

- All HGVs would travel to the farmyard and goods would be reloaded onto smaller vehicles for onward delivery to the site. A banksman would be present at all times during the unloading and turning process;
- Maximum number of deliveries per day would be nine (equivalent to 18 HGV movements in and out);
- During operation stage, c.5-10 light goods vehicle goods are expected annually;
- Short-term traffic (during construction) would not result in a significant material impact on the capacity of the road network.

#### Refusal Reason No.2

- Policy NHB 10 when read in context is clearly about ecology and not about landscape or visual impact;
- Nearest security fence line which demarks the development is 10m from the riverbank;
- Site development works would be contained within the security fence which would protect the features from accidental damage;
- Proposed planting would help retain and enhance the landscape elements and features of the application site;
- No evidence presented which demonstrates the conclusion of the Planning Officer's report that the proposed development would have a negative impact on the visual and recreational functioning of the area;
- As per standard LVIA guidance, it was not considered necessary to assess the visual effects from the River Camlin or the banks opposite the application site as the lands are not publically accessible and no potential future proposed access points are proposed at present;

- The development would not result in any change to the existing views experienced by bridge users;
- For the large part, the visual and recreational function of the River Camlin would not be affected in any respect;
- The stretch of the river which passes the site is not navigable by boats (due to low bridges and low water level) and is not part of the 'Shannon Blueway – Camlin River Loop';
- There are no walking routes along the riverbank as this location and the appellant's solicitor has confirmed that fishing rights have not been exercised;
- Views of the site from adjoining residences would be limited;
- A revised layout is submitted showing the solar arrays and fencing being shifted a further 50-70m to the northeast to further reduce the impacts.

### Refusal Reason No.3

- Field referred to as isolated is used for agricultural purposes and this would not change;
- Limited height of the solar panels would ensure no loss of light into the field that would be deemed detrimental to farming practice;
- Under the first schedule of the Planning and Development Act 2000, as amended, none preclude the granting of permission in rural areas on the basis of having a detrimental impact on the amenity, farming practices and visual amenity on the existing farmland.

7.1.2. The appeal is accompanied by appendices including figures, drawings and attachment relating to Traffic and Transport, Landscape, Site Layout & Location, Folio and File Plan (Ownership Maps) and an Environmental Response. In addition, the following drawings were received with the appeal: Landscape Strategy Plan, PV Layout, Block Plan and a Site Location Plan.

## 7.2. Planning Authority Response

- None

## 7.3. Referrals Under S.131

7.3.1. The Board referred details of the proposed development to the following:

- Inland Fisheries Eastern Regional Fisheries Board
- Department of Culture, Heritage and the Gaeltacht
- The Heritage Council
- An Taisce
- Fáilte Ireland

A response was received from the Department of Culture, Heritage and the Gaeltacht recommending archaeological monitoring.

## 7.4. Observations

7.4.1. There were four observations on this appeal received by the Board from John Ward, Thomas Hopkins, Brendan & Noeline Hopkins and Shane & Aoife Quinn. The following provides a summary of the collective principal concerns raised:

- Mapping discrepancies in the planning application and maps are not to an appropriate scale;
- Appellant does not have sufficient legal interest across laneway and no consent has been given for its use during or following construction;
- Proposal not comparable to site in Edgeworthstown which was granted permission for a solar farm;
- There is a lack of national guidance for solar farms;
- Road speed limit is 80 kph and vehicles travel at this speed (and not at 40 kph as stated in the appeal) and is not suitable to serve the development;
- Roadway (laneway) is narrow and unsuitable for large HGVs;
- Health impacts from the development could arise;
- Lack of public consultation;

- Would impact on the beauty and tranquillity of the area and also on wildlife;
- Alternative access proposal submitted with the appeal was not publically advertised;
- No detail on proposed connection to the national grid and no consent has issued by the landowner over whose land the powerline might traverse.

## 8.0 Assessment

### 8.1. Introduction

8.1.1. I have read the contents of the planning application and appeal file. I have also visited the site and environs and have considered relevant planning policy. I consider that the key issues in determining the application and appeal before the Board are as follows:

- Principle of the Development
- Traffic and Access
- Landscape and Visual
- Glint and Glare
- Flood Risk
- Other
- Appropriate Assessment
- Requirement for Environmental Impact Assessment

My considerations of each of the above issues are set out under the respective headings below.

### 8.2. Principle of the Development

8.2.1. Solar photovoltaic (PV) development is relatively new in Ireland. Nonetheless, the principle for its development is strategically supported by national and regional policy. Ireland's 'Transition to a low carbon Energy Future 2015-2030 - White paper on Energy policy' has an objective to reduce carbon emissions. It recognises that solar energy will become more cost effective as technology matures and that it will be an integral part of the mix of renewables going forward.

- 8.2.2. Section 2.4 of the National Spatial Strategy recognises the contribution rural areas make in achieving balanced regional development and developing economic resources including renewable energy. Goal 8 of the Regional Planning Guidelines for the Midland Region 2010-2022 seeks to promote the delivery of renewable energy in contribution to the national target of 40% electricity from renewable sources by 2020. The Longford County Development Plan 2015-2021 has stated policy in support of solar energy development (photovoltaics), as well as having an overriding strategy to encourage the provision of renewable energy sources. Specifically, Policy RE3 states that ‘the Council will support initiatives which reduce the reliance on non- sources of energy, including schemes for wind energy, biomass, photovoltaics, solar thermal installations, heat exchange, geothermal etc.’
- 8.2.3. The research paper on USSPV prepared by Future Analytics on behalf of the SEAI indicates that 594MW of solar energy capacity has been permitted or is on appeal. Reference is made to the stated capacity of 5.6MW in situ on an all-Ireland basis by October 2016. This is very low in comparison to UK and EU countries and may well change noting the rapid improvements in technology which is likely to make it more cost competitive. The USSPV research paper also indicates the very significant number of current applications for solar PV developments and the Board will be aware of a number of these which have been decided on appeal.
- 8.2.4. There is currently no national guidance in relation to siting or environmental considerations around solar panel developments in Ireland. However, I note that the proposal for a solar PV energy farm is supported by national and local planning policy at a strategic level and I am satisfied based on a review of the policy documents referenced under Section 6 above, that the principle of the development is acceptable and would contribute to the diversity of sources of energy supply and hence the security of supply. However, other planning and environmental considerations arise and these are now considered under the respective headings in the remainder of my assessment.

### **8.3. Traffic and Access**

- 8.3.1. Traffic and access concerns formed the basis of the Planning Authority’s refusal reason no.1. In particular, it was considered that the proposed development, if permitted, would result in a traffic hazard due to the significant increase in traffic

volume which would result at an existing substandard junction where adequate sightlines are not achievable.

- 8.3.2. The application was accompanied by a construction traffic management plan which highlighted that some minor temporary upgrade works would be required to facilitate the movement of large construction vehicles from the L5003. Swept-path analysis drawings included with the planning application demonstrated that turning manoeuvres could be achieved. The minor improvement works proposed were shown to be within lands in the ownership of the applicant as denoted by the blue-line boundary. A revised ownership map was included with the appeal which I have also noted.
- 8.3.3. The appeal response includes two additional options for road access to the site. Option 1 is similar to that proposed at the outset, but includes a proposal to widen the first 20m of the access road and providing a 10m radius entry curve on both sides of the access point. This option would evidently improve the swept path for HGVs and eliminate turning and delays at the junction. An alternative option, Option 2, is also submitted for consideration. This option would involve the construction of a temporary construction access c.30m south of the existing entrance.
- 8.3.4. The proposed development would generate very low levels of operational traffic, for occasional maintenance visits, and is unlikely to be any greater than existing traffic generated by current agricultural activities. I am therefore satisfied that no material intensification would arise because of the operation of the proposed development, and that the safety and carrying capacity of the road network would accordingly not be prejudiced for the construction or operational phases.
- 8.3.5. The effects of construction traffic on the operation of the road network would be acceptable considering that it would be short term duration. The maximum number of daily HGVs deliveries during the construction period is stated would be nine. In the response to the appeal, it is stated that all HGVs would deliver materials in the first instance to the farm yard complex (where there is space to turn HGVs and where it is closer to the public road) and onward deliveries would be on smaller rigid vehicles. It is also proposed to have a banksman available at all times during the loading and unloading of materials and for the turning manoeuvres of delivery vehicles.

8.3.6. I consider the proposals provided with the application and at appeal stage are reasonable given the short duration of the construction period. Based on information gathered on my inspection, Option 1 put forward at appeal stage would be considered to be the preferred option as it would improve the ability of vehicles to turn into and exit the site with greater ease. The double handling of deliveries by use of HGVs to the farmstead and shunting with smaller rigid truck onward to the site would also reduce the traffic impacts to an acceptable level. Given the traffic proposed at operational stage and measures proposed at construction stage as outlined in the construction traffic management plan and the availability of adequate sightlines at the existing entrance (Option 1), I do not consider a new access, Option 2, which would result in further excavations and hence greater environmental interventions, would be required.

8.3.7. Overall, subject to compliance with the measures set out in the construction traffic management plan which accompanied the application as updated in the appeal response, including revised access Option 1 which I recommend should be conditioned, I am satisfied that the traffic which would likely be generated during construction and operation phases would not constitute a traffic hazard and the development should not be refused for traffic reasons.

#### **8.4. Landscape and Visual**

8.4.1. A Landscape and Visual Impact Assessment (LVIA) accompanied the planning application. The site is located within the Peatlands Landscape Character Unit (LCU) and has no landscape designations. The solar panels take up a wide area but would be low in height which would reduce their visual presence and dominance.

8.4.2. Seven viewpoints were selected which I consider are representative of the views which could potentially be experienced. Only one of the viewpoints would experience partial views from a small farmstead at Viewpoint 4 at Tully which would result in a minor adverse impact. This view would reduce in time as infill landscaping proposals mature.

8.4.3. Potential views from sensitive receptors (residents), views from tourist routes, protected views and other road users were assessed. It was found that the solar farm would not be visible for these receptors due to the low scale of the structures, undulating topography and the intervening screening.

- 8.4.4. The LVIA concludes that the development would have a localised moderate to moderate/minor adverse impact on the characteristics of the Peatlands LCU, reducing to minor adverse impacts in the wider context of the LCU. It is submitted that the development would not have any notable effects in the neighbouring LCUs.
- 8.4.5. In relation to the Camlin river, it is stated that this was not assessed, as it is not publically accessible at the location of the solar farm and that the closest public access along the river lies c.600 m southeast on a small road bridge at Mullagh. It is stated that the solar farm would not be visible at this location. Views from another view point at a bridge crossing c.1.29km to the northwest at Ballykenny were also considered (Viewpoint No.3) in the LIVA, where it was found that the development would not be visible.
- 8.4.6. The appeal states that the Camlin river is not navigable by boat along the stretch of river that passes the site. It is navigable by canoe but the area adjacent to the site does not form part of the dedicated canoe train 'Shannon Blueway – Camlin River Loop'. The water level of the Camlin river is c.2.5m of a sheer drop below the land on which the solar panels would be positioned and would therefore not be visible by a canoeist passing by the development.
- 8.4.7. In the response to the appeal, it is proposed to offset the closest solar arrays by a further 50m-70m to the northwest and the boundary edges would be planted which I agree would serve to further mitigate against inward views from any future recreational users along the River Camlin.
- 8.4.8. I consider that the development, including the alterations proposed at appeal stage, would not prejudice the delivery of the relevant policies outlined in Section 6.2.2.7 (Inland lakes and waterways) of the development plan, including Policy ILW 1 – which seeks to protect, preserve and enhance the river as an important amenity and recreational resource. When taken in conjunction with ecological and biodiversity management proposals and surface water and flood risk management proposals, I consider that the development would not prejudice the protection and enhancement of the Camlin River as set out under Policy NHB: 10 (Identified in the PAs reason No.2 for refusal), which identifies the importance of landscape features because they form a network of habitats and they protect surface water.

8.4.9. In conclusion, I am satisfied, based on the information available on file and gathered during my site visit, that while the proposed development would be a departure from the established landscape locally, the proposal would not adversely impact on the landscape setting or the visual amenities of the area. Having regard to the retention and proposed augmentation of site boundaries, existing environmental screening and the scale and height of development proposed I am satisfied that medium and long range visual impacts arising would be minor. I consider that the landscape change to the Peatlands LCU would result in a minor visual impact. The wider landscape unit would be without significant impacts. Accordingly, I am satisfied that the proposal is acceptable regarding considerations of landscape and visual amenities of the area.

## 8.5. **Glint and Glare**

8.5.1. Glint results from the specular reflection of direct solar irradiation and can cause visual distraction and discomfort. Glare is a continuous source of brightness from the reflection of diffuse solar radiation and is usually not a significant issue with solar farm developments.

8.5.2. Solar panels are normally dark in colour and designed to absorb daylight and therefore have a low level of reflectivity. The potential for glint and glare from a solar farm is much lower than from other manmade structures such as polytunnels and glasshouses, which form a typical part of the rural countryside, as well as natural features such as water or snow.

8.5.3. The application was accompanied by a Glint and Glare Assessment. This involved a geometric analysis which considered receptors including road, rail and dwelling houses within a 500m study area. Rail receptors were scoped out. Out of seven residential receptors, one was ruled out and out of six remaining, there would be no impact on three and a low impact on the other three. The impact on these three receptors would be limited to six minutes per day in the evening time between March and October. When investigated further, the impact would be reduced by intervening buildings and hedgerows which are anticipated to block the line of sight of the solar arrays. It is also proposed to strengthen the hedgerows where gaps exist resulting in low or no impact on receptors as a result of glint and glare.

- 8.5.4. Having regard to the orientation of the panels (facing south), the separation distance from properties, and to the existing mature hedgerow and tree screening and proposals for additional planting, I am satisfied that glint and glare issues would not result in any significant adverse impact on residential amenities or on road or rail users.
- 8.5.5. Overall, I consider that there is low potential for occurrence of glint and glare from the proposed development and neither would result in any significant adverse impact on established amenities. Accordingly, I do not consider the proposal should be refused based on glint and glare impacts.

## 8.6. Flood Risk

- 8.6.1. The observers raise concern that the development would likely result in greater run-off due to the impermeable nature of the solar panels across a wide area which could give rise to flood risk on neighbouring lands and roads in the area.
- 8.6.2. The application is accompanied by a Flood Risk Assessment (FRA). The OPW's Preliminary Flood Risk Assessment (PFRA) interactive flood maps show that areas of the site are within the predicted 100-year fluvial flood risk area. While the site layout is designed to avoid most of this area, it is stated that there are two areas where panels would be located in the area of flood risk. The panels would be located at 670m which is above the flood risk level.
- 8.6.3. It is proposed to construct two swales with a collective storage volume of c.50 m<sup>3</sup>, which is greater than the runoff that would be generated as a result of the impermeable buildings (c. 20 m<sup>3</sup>). The swales have been designed for a 6 hour 1 in 100-year storm event and these would store runoff until excess water could drain into the underlying geology or onto the existing field drains.
- 8.6.4. The proposed access roads would be formed using permeable materials which would avoid increasing the area of impermeable material on the site. The site would be harrowed prior to commissioning of the solar farm to mitigate against any compaction which occurred during construction. It would remain as grassland underneath the solar arrays and would be used for the grazing of sheep.
- 8.6.5. The Flood Risk Assessment (FRA) has demonstrated that the development can be developed without increasing flood risk away from the development site. There may be some minor changes to the journey of rainfall to the ground but having regard to

the rural agricultural context, this would be minimal and would have little or no impact on the infiltration rate.

8.6.6. Having regard to the above, I do not consider that the surface water regime would be altered such that the development would result in any significant increase in flood risk. Accordingly, I am satisfied that the development should not be refused for issues of surface water drainage or flood risk.

## 8.7. **Other**

### Archaeological Monitoring.

8.7.1. The requirements of the Department of Culture, Heritage and the Gaeltacht on archaeology, namely archaeology monitoring by a qualified archaeologist are noted. I have included a condition on monitoring in the recommended planning conditions below.

### Public Consultation

8.7.2. The observers to the appeal submit that the public consultation was not effective or meaningful and accordingly the Board should refuse permission for the proposed development.

8.7.3. I am satisfied that the public consultation followed the statutory requirements and that third parties were aware of the proposed development, had access to the planning application and supporting documents. The third parties engaged with the process by making their views known through written submissions to the Planning Authority in the first instance and to the Board at appeal stage.

8.7.4. Having regard to the information on file, I am satisfied that the applicant has complied with the statutory requirements, particularly that the applicant published the required newspaper notice and erected a site notice in accordance with the requirements of Article 17 (1)(a) and (b) of the Planning & Development Regulations 2001-2017.

### Legal Interest

8.7.5. The observers contend that the applicant does not have sufficient legal interest to make the application, particularly for the use of the lane, and that no consent has been given.

8.7.6. The planning authority accepted the application as valid and the Board's function now is the determination of the appeal. It is also of relevance to note that a grant of planning permission does not in itself confer the right to implement the permission, as set out under 34(13) of the Planning & Development Act 2000, as amended. Accordingly, I am satisfied that the permission should not be refused because of legal interest / ownership issues.

Impact on existing farmland between proposed development.

8.7.7. The third reason for refusal in the Planning Authority's decision centred around concerns that if permitted, the development might result in a detrimental impact on the amenity, farming practices and visual amenity of a section of an adjoining existing farmland isolated between the proposed development.

8.7.8. The farming practices on the adjoining field, which is located between the two portions of the development could not in any way be impacted on as a result of the development and farming practices would continue as normal. In relation to visual amenity, having regard to the extensive mature hedgerows and tree lined boundaries, I am satisfied that development would not result in a detrimental impact on visual amenity of the adjoining farmland.

Development Contributions

8.7.9. The Section 48 Development Contribution scheme for County Longford does not include a category for solar farms. While it does contain a category for wind farm developments/turbines at a rate of €7110 per MW, I consider that solar power is a different method of power generation to wind. There is nothing in the current adopted scheme that allows for such an alternative development type to be applied outside of the adopted scheme. There is a statutory requirement that contributions are applied to development in accordance with the adopted scheme. Accordingly, I consider that no Section 48 contributions are applicable in this case.

**8.8. Requirement for Environmental Impact Assessment**

8.8.1. Solar farms are not listed as a class of development under Part 1 or 2 of Schedule 5 of the Planning and Development Regulations 2001-2017, as amended, whereby a mandatory EIA and the submission of an EIS is required. I note that there are some projects under No. 3 of Part 2, 'Energy Projects' which relate to energy production. I consider that none of these projects would be applicable to the proposed solar farm.

Article 92 of the Planning & Development Regulations, 2001-2017 defines sub-threshold development for the purposes of EIA as ‘development of a type set out in Schedule 5 which does not exceed a quantity, area or other limit specified in that Schedule in respect of the relevant class of development’. As I have considered above that the solar panel development is not a development set out in Schedule 5, then I also consider that the subject development is a not ‘sub-threshold development’ for the purpose of EIA and an EIS is not required for the development.

## **8.9. Appropriate Assessment**

- 8.9.1. Article 6 (3) of The EU Habitats Directive (92/43/EEC) requires that ‘any plan or project not directly connected with or necessary to the management of the (European) site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site considering its conservation objectives’.
- 8.9.2. No conservation designation applies directly to the appeal site. A Stage 1 Screening Assessment report was submitted with the application. It identified six Natura sites within 15km of the proposed development. These include Brown Bog SAC (002346), Lough Forbes complex SAC (001818), Clooneen Bog SAC (002348), Lough Ree SAC (000440), Ballykenny Fisherstown Bog SPA (004101) and Lough Ree SPA (004064).
- 8.9.3. The qualifying interests are listed for each site and are contained in Table 4.1 of the AA screening report. Brown Bog SAC (002346) has no hydrological connection with the site. All other five European sites are stated to have a hydrological connection via the Camlin river. The conservation objectives of all of the sites are outlined on the NPWS website.
- 8.9.4. Section 5 of the AA screening report describes potential impacts which could give rise to significant effects for the construction and operation phase of the development. It is submitted that there is no potential for significant effects either from the proposed development on its own or in combination with other plans and projects and that the process does not need to proceed to Stage 2 of the Appropriate Assessment process.
- 8.9.5. I consider that the possible effects of the proposal on the conservation status of the designated sites include loss/reduction of habitats, disturbance of key species,

habitat or species fragmentation, reduction in species density and decrease in water quality and quantity. However, the site does not form part of any designated site and does not require any resources from any.

- 8.9.6. There is potential for the development to indirectly affect the River Camlin and the designated sites connected to it. However, there are no significant earthworks required to facilitate the development. Controls to reduce risks of suspended sediment entering a watercourse can be reinforced through an appropriate planning condition regulating compliance with the construction management plan received by the Planning Authority, which I consider is satisfactory. With the implementation of good construction management, I am satisfied that the proposal would not result in any habitat loss or reduction in the quality of the habitat and subsequently the conservation status of the designated sites. I would also consider that the project would not have any likely effects in combination with other plans or projects, on any designated Natura 2000 sites.
- 8.9.7. In this regard, it is reasonable to conclude that based on the information on file, which I consider adequate to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any designated European site in view of those sites' conservations objectives and that a Stage 2 Appropriate Assessment (and submission of an NIS) is not therefore required.

## 9.0 Recommendation

- 9.1. Further to the above assessment of matters pertaining to this appeal, including the consideration of the submissions made in connection with the appeal and including my site inspection, I recommend that permission is **granted** for the reasons and considerations set out below.

## 10.0 Reasons and Considerations

- 10.1. Having regard to the nature and scale of the proposed development, the suitability of the aspect and topography of the site, the proximity of the grid infrastructure, the pattern of development in the vicinity, the provisions of the Longford County Development Plan 2015–2021, and of regional and national policy objectives in

relation to renewable energy including solar photovoltaics, it is considered that, subject to compliance with the conditions set out below, the proposed development would not have an unacceptable impact on the visual amenities of the area, would not seriously injure the residential amenities of property in the vicinity, would be acceptable in terms of traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

#### Appropriate Assessment Screening

In undertaking a screening exercise in relation to the proposed development, the Board had regard to the Appropriate Assessment screening report submitted in support of the application, the nature, scale and location of the proposed development, the distances to and potential for connectivity with European Sites, and the report of the Inspector. The Board accepted the assessment of the Inspector that the proposed development, individually or in combination with other plans and projects, would not be likely to have a significant effect on any European site in view of those sites' conservations objectives and shared her conclusions that a stage 2 assessment is not required.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. 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 considers it appropriate to specify a period of validity of this permission in excess of five years.

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 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. Access to the site shall be in accordance with the details received by the Board on 9<sup>th</sup> May 2017 in support of the appeal (Drawing No. NEO00401\_0391\_B Figure 2: Temporary Proposal Access – Proposal 1). HGVs shall not travel to the site beyond the farmyard complex.

**Reason:** In the interest of traffic management and road safety.

7. Details of materials, colours and textures and finishes to the inverter cabins, control building, customer cabin and sub-station shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

8. 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 and of property in the vicinity.

9. The solar panels shall have driven or screw pile foundations only, unless otherwise agreed in writing with the Planning Authority.

**Reason:** In the interest of clarity.

10. Cables within the site shall be located underground.

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

11. All landscaping shall be planted to the written satisfaction of the Planning Authority prior to commencement of development. Any trees or hedgerow that are removed, die or become seriously damaged or diseased within five years from planting shall be replaced within the next planting season by trees or hedging of similar size and species, unless otherwise agreed in writing with the Planning Authority.

**Reason:** In the interest of biodiversity and the visual amenities of the area.

12. (1) 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.

(2) 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.

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
- (a) notify the planning authority and the Department of Culture, Heritage and the Gaeltacht in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works,
  - (c) provide arrangements, acceptable to the planning authority and the DACHG, for the recording and for the removal of any archaeological material which either authority considers appropriate to remove,
  - (d) Should archaeological material be found during the course of monitoring, the archaeologist may have work on the site stopped, pending as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department of Culture, Heritage and the Gaeltacht with regard to any necessary mitigation action (e.g. preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found,
  - (e) The planning authority and the Department of Culture, Heritage and the Gaeltacht shall be furnished with a report describing the results of the monitoring.

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

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

14. The construction of the development shall be managed in accordance with the construction traffic management plan received by the Planning Authority on

17<sup>th</sup> February 2017 and shall include any further requirements of the Planning Authority.

**Reason:** In the interests of road safety and residential amenity.

15. 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 that may be damaged by construction transport coupled with an agreement empowering the Planning Authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the Planning Authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the reinstatement of public roads that may be damaged by construction transport.

16. Prior to commencement of development, the developer shall lodge with the Planning Authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the Planning Authority, to secure the satisfactory reinstatement of the site upon cessation of the project, coupled with an agreement empowering the Planning Authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the Planning Authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the reinstatement of public roads that may be damaged by construction transport.

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Patricia Calleary

Senior Planning Inspector

23<sup>rd</sup> August 2017