



An  
Bord  
Pleanála

## Inspector's Report ABP-300174-17

### Development

Ten year permission for a solar PV farm consisting of circa 36,950sq.m of solar panels on ground mounted steel frames, 1 no. substation, 3 no. inverter cabins, underground cable ducts and all associated works.

### Location

Trieneragh, Duagh, Listowel, Co. Kerry

### Planning Authority

Kerry County Council

### Planning Authority Reg. Ref.

17/851.

### Applicant(s)

Terra Solar Ltd.

### Type of Application

Permission.

### Planning Authority Decision

Grant

### Type of Appeal

Third Party

### Appellant(s)

Robert O' Mahony

### Observer(s)

(1) An Taisce

### Date of Site Inspection

7<sup>th</sup> May 2018

### Inspector

Fiona Fair

## 1.0 Site Location and Description

- 1.1. The appeal site, 12.8 ha, is located in the townland of Trienearagh, Duagh, approximately 4km south east of Listowel in County Kerry. It is situated north of the R555, Regional road, and bounds the L6053 and L10461 Local roads, 3.2 Km north-west of the village of Duagh and 9.5 Km north-west of Abbeyfeale. Access to the site is from the L10461 local road which is accessed from the Pipers Hill Road (L6053).
- 1.2. The topography of the appeal site is relatively flat with the lands under a variety of agricultural uses. The Smearlagh River, which is designated as part of the Lower Shannon SAC, is located approx. 27m west from the site. The site consists of relatively low – lying, open, wet grassland fields (rushes evident) which have mature field boundaries. It forms part of a larger landholding which extends further to the west and north.
- 1.3. The solar panels are proposed to be set back from mature roadside boundaries. An in-situ hard standing track winds its way from an existing farm entrance off the L10461 west towards the solar farm location. There are a small number of dispersed residential dwellings located to the west, south and east of the site, a number of which incorporate agricultural holdings. The closest residential property, the landowners, is located approx. 35m south of the solar farm perimeter, approx. 73.83m from the solar arrays.
- 1.4. The appellants dwelling is located, to the south east, on the opposite side of the L10461 in close proximity to the existing farm access and proposed new access. The front boundary of the appellants property is approx. 80m south from the perimeter of the solar farm array, with the appellants dwelling house approx. 128m from the closest panels.
- 1.5. A set of photographs of the site and its environs taken during the course of the site inspection is attached. I would also refer the Board to the photographs and photomontages available to view throughout the appeal file.

## 2.0 Proposed Development

2.1. The proposed development comprises a ten-year planning application for:

- A solar farm consisting of circa 36,950 sq. m of solar panels on ground mounted steel frames. The solar array will not exceed 3m in height.
- 1 no substation, (footprint of approx. 53.47 sq. m and an overall height of 4.6m)
- 3 no inverter cabins, (each will contain 2 no. inverter units approx. 3.4m in height)
- Underground cable ducts,
- A temporary site compound area and ancillary facilities,
- Boundary security fence
- Site landscaping,
- Site entrance and access tracks,
- CCTV and
- All associated site works

2.2. It is anticipated that the array will have a maximum export capacity of circa 4MW but would have an installed generation capacity of up to 5.6MW to maximise the solar resource at certain times of year. This is enough electricity to power approx. 1,200 households. The proposed solar farm will connect, via an overhead or underground cable, to the National Grid at Smearla 38kV substation, which is less than 380m from the westernmost point of the site boundary. Electricity proposed from the solar arrays is cabled underground to inverters where direct current (DC) is converted to alternating current (AC). The electrical output is exported through switchgear, protection devices and meters to the National Grid.

2.3. The application was accompanied by the following:

- Letter of consent from landowner
- Letter from Patrick Dillon consenting to hedgerow trimming to the east of the proposed site access to achieve visibility and sightlines.

- Photomontages
- Planning & Environmental Report
- Appropriate Assessment Screening

2.4. The applicant submitted **unsolicited further information** on 12<sup>th</sup> October 2017 addressing a number of issues raised by the observers to the planning application. Topics covered include health and safety concerns, zoning / suitability of the site, archaeology, landscape and visual impact, ecology and traffic impacts.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

3.1.1. Kerry County Council granted planning permission subject to 16 number conditions. The following are of note:

Condition 2. €56,000 in respect of Section 48

Condition 3. Cash deposit, a bond, or other security of €100,000 to secure the satisfactory reinstatement of the site

Condition 4. The period during which the development can be carried out shall be ten years from the date of the permission.

Condition 5. The permission shall be for a period of 25 years from the date of the commissioning of the solar farm.

Condition 8. inverter cabins and site fencing shall be dark green in colour.

Condition 9. Lighting

Condition 10. CCTV

Condition 12. Restoration plan to be agreed.

Condition 13. A 20 m buffer zone shall be preserved recorded monument Ke011 033

Condition 14. Noise, pollution, hazardous waste, waste disposal.

Condition 15. (g) The applicant shall provide sightlines of 120m in both directions of the proposed entrance to the site in accordance with the details received on the 28/08/2017.

Condition 16. Landscaping

### 3.2. **Planning Authority Reports**

#### 3.2.1. **Planning Reports**

3.2.2. The Planners report considers that the site is low lying with low visibility from the surrounding rural area. It is considered that the applicant has addressed in full the reason for refusal attached to planning Reg. Ref. number 16/629. No further changes have been made to the Development Plan in the meantime. Recommends a grant of permission subject to conditions.

#### 3.2.3. **Other Technical Reports**

3.2.4. The **Listowel Roads Office – Roads Report** (20<sup>th</sup> September 2017) no objection to the scheme subject to conditions as outlined in their report. The developer to provide 120m sightlines in both directions of the proposed entrance to the site in accordance with details submitted on the 28/08/17, pre and post construction survey to be carried out, traffic management arrangements at the junction of the L-6053 & L-10461 shall be as agreed for the duration of the works.

3.2.5. The **County Archaeologist** (18<sup>th</sup> September 2017) no objection to the scheme subject to conditions as outlined in their report. A 20m buffer zone should be preserved around the recorded monument Ke011 033.

3.2.6. The **Biodiversity Officer** report concludes that no significant effects on the environment or Natura 2000 sites from the proposed development of the solar farm is considered likely.

3.2.7. The **Environment Report** (6<sup>th</sup> October 2017) has no objection to the scheme subject to conditions as outlined in their report.

### 3.3. Prescribed Bodies

- 3.3.1. **Department of Culture, Heritage and the Gaeltacht.** The report sets out that the proposed solar farm is adjacent to the River Smearlagh and River Feale, which form parts of the Lower River Shannon candidate SAC (2165), This part of the river may also be used by Kingfisher, a species listed on Annex 1 of the EU Birds Directive (2009/147/EC). The screening for AA should take into account attraction by flying stages of aquatic insects, which form part of the diet of salmon and other river fish, to the solar panels. If panels with white edges are proposed to reduce their attractiveness, then data from other solar farms where they have been used should be taken into account. If the route of the electricity export cable must cross the river Feale or River Smearlagh through a directional drilled channel, then AA is recommended.

### 3.4. Third Party Observations

- 3.4.1. There are a number of observations recorded on the planning file from An Taisce, Richard O'Connor, Batt and Gertie O'Keeffe, Michele O'Connor, Robert O'Mahony.
- 3.4.2. The issues raised relate to depreciation in adjoining residential property values, health and safety concerns in particular to children and privacy concerns. The area is not zoned for this type of development. Possible glare impact. Impact on historic Trieneragh House and a Ringfort in the area. Traffic safety concerns. Impact upon Biodiversity and possible pollution impact from undergrounding of cable to export power.

## 4.0 Planning History

- 4.1. **Reg. Ref. 16/629** Request for a ten years planning permission Refused (March 2017) for the development of a solar PV farm consisting of up to 36,940.33 sq. m. of solar panels on ground mounted steel frames, 1 no. Substation, 3 no. Inverter cabins, underground cable ducts, a temporary site compound area and ancillary facilities, boundary security fencing, site landscaping, a site entrance and access track, cctv and all associated site works.

The reason for refusal was based upon traffic safety. It was considered that the proposed development would endanger public safety by reason of a traffic hazard, because the required sightlines at the junction of the L-6053 & L-10461 Local Roads cannot be provided as outlined by the developer in the further information received.

- 4.2. **Reg. Ref. 06/808** Outline Planning Permission to construct a dwelling house and wastewater treatment unit and percolation area on sites No.'s 1, 2 and 3 and permission to construct a road was refused permission for 2 number reasons: Namely (i) excessive density of development and negative visual impact and (ii) endanger public safety by reason of traffic hazard, sightlines restricted and traffic movements generated would cause an obstruction.

### **Adjoining Planning History of Interest**

- 4.3. **PL 08.247653 / Reg. Ref. 16/877** In April 2017 An Bord Pleanála overturned the decision of the planning authority and the Board Inspector to refuse permission by reason of (i) negative visual impact and (ii) endanger the archaeological heritage of the area and granted a ten year permission for the development of a Solar PV farm consisting of up to 30,072 square metres of solar panels on ground mounted steel frames, one number substation, two number inverter cabins, underground cable ducts, a temporary site compound area and ancillary facilities, boundary security fencing, site landscaping, a site entrance and access track, CCTV and all associated site works. This solar farm is located in the townland of Ballygrenane, Listowel, County Kerry which is located 2.7 Km (as the crow fly's), south west, from the subject appeal site.

## **5.0 Policy Context**

### **5.1. International Guidelines**

- 5.1.1. There is a range of UK Guidance. The main guidance notes are **Planning Practice Guidance for Renewables and Low Carbon Energy (DCLG 2013)** and **Planning Guidance for the development of Largescale Ground mounted Solar PV systems (BRE 2013)**. Both refer to the desirability of preserving good agricultural lands and set out issues and mitigations. The BRE Guidance provides advisory information on planning application considerations including construction and

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

## 5.2. National Guidelines

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

- The White Paper is a complete energy policy update, which sets out a framework to guide policy between now and 2030. The vision of the White Paper is to achieve a low carbon energy system that targets greenhouse gas (GHG) emissions from the energy sector that will be reduced by between 80% and 95%, compared to 1990 levels, by 2050, and will fall to zero or below by 2100.
- Paragraph 137 of the White Paper states '*solar photovoltaic (PV) technology is rapidly becoming cost competitive for electricity generation, not only compared with other renewables but also compared with conventional forms of generation. The deployment of solar in Ireland has the potential to increase energy security, contribute to our renewable energy targets, and support economic growth and jobs. Solar also brings a number of benefits like relatively quick construction and a range of deployment options, including solar thermal for heat and solar PV for electricity. It can be deployed in roof-mounted or ground-mounted installations. In this way, it can empower Irish citizens and communities to take control of the production and consumption of energy. Solar technology is one of the technologies being considered in the context of the new support scheme for renewable electricity generation which will be available in 2016*'.

### 5.2.2. The National Spatial Strategy 2002 - 2020



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

### 5.2.3. **Project Ireland 2040 The National Planning Framework**

The following are priorities of the NPF:

- Transition to a Low Carbon and Climate Resilient Society
- Sustainable Management of Water, Waste and other Environmental resources.
- A Strong Economy supported by Enterprise, Innovation and Skills
- Strengthened Rural Economies and Communities

### 5.3. **Development Plan**

- 5.3.1. The operative plan for the area is the **Kerry County Development Plan 2015-2021**. Chapter 3, Section 3.3 sets out Rural Development Policies. Section 3.3.2 deals with Amenity Areas and policies designed to protect the landscape of the county. The Plan identifies three types of rural landscape as follows:

- a) Rural General
- b) Rural Secondary Special Amenity and
- c) Rural Prime Special Amenity

- 5.3.2. The proposed site is located in an area zoned Rural General which is covered by Section 3.3.2.1 of the Plan. These areas constitute the least sensitive landscapes throughout the County and from a visual impact point of view have the ability to absorb a moderate amount of development without significantly altering their character.

- 5.3.3. Chapter 12 deals specifically with Zoning and Landscape. Policy relating to areas zoned Rural General in Section 12.3.1 Rural (c) states that “*it is important that*

*development in these areas be integrated into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development". Policy ZL-1 states that "it is policy to protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to people's lives".*

5.3.4. Chapter 13 sets out the Development Management considerations.

#### **5.4. Natural Heritage Designations**

5.4.1. 0.04 ha of the Lower River Shannon SAC (site Code 002165) falls within the boundaries of the appeal site. The Smearlagh River which forms part of the Lower River Shannon SAC (site code 002165) is located approximately 27m to the west of the proposed appeal site.

5.4.2. Moanveanlagh Bog SAC (site code 002351) is located 1.4Km to the south. Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site No 004161) is located 4.8km to the south. The River Shannon and River Fergus Estuaries SPA (Site No 004077) is located 12.7 km to the north of the appeal site.

5.4.3. The Bunnaruddee Bog NHA, Moanveanlagh Bog pNHA, Ballylongford Bog pNHA, and Cashen River Estuary pNHA are located within 15 Km of the appeal site.

## **6.0 The Appeal**

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

6.1.1. The third-party appeal against the decision of Kerry County Council to grant permission was submitted by Robert O'Mahony and is summarised as follows:

- Entrance to the appellants dwelling is directly across the road from the appeal site entrance.

### **6.1.2. Planning History**

- Planning permission was refused on this site by reason of traffic hazard previously.
- This is essentially the same application as previously refused.

- Negative precedent would be set that any development is acceptable once there is an inclusion of a temporary 'traffic management Plan during construction' despite concerns with respect to health and safety, planning and the county development plan zoning not being adhered to.
- Appellants dwelling house and entrance is not shown on any drawings.

### 6.1.3. Traffic Hazard

- The junction at L-6053 & L-10461 does not have sufficient sight lines as required by Kerry County Council
- The proposed entrance on road L-10461 does not have sufficient sightlines to the north-west as there is only 45m to a massive horse chestnut tree and bend in road.
- Drawing Y17417-TA-010 (provided to KCC by terra solar) shows road width that scales up to 6m, it is, however, only 2.6 metres wide,
- Letter from Pat Dillon stating he'll keep hedges cut is misleading as his land is over 300m away from junction L-6053 & L-10461
- The excess traffic that the solar farm will generate will pose a threat to other road users on the Smearla Bridge which is also on a bad bend.
- Kerry county council have stated in condition 15(G) That "The applicant shall provide sightlines of 120m in both directions of the proposed entrance to the site in accordance with the details received on the 28/8/17. This is not possible without:
  - Knocking 240 m of mature trees.
  - Knocking the entrance walls of 400 year old Trieneragh house.
  - Removal of ESB poles.
  - Removal of hedgerow of neighbouring property
  - Straightening the bend
  - And raising dip in road after existing bent

None of these measures are within the applications red line.

- Query why the applicants cannot use the existing wide entrance that has sight lines on the L-6053. Thereby avoiding the dangerous junction at L-6053 & L-10461 (this existing entrance is within the application's red line)

#### 6.1.4. **Health and Safety**

- Health and safety concern in relation to appellants children age 3 and 5 who are hearing aid users. Concerns over any electric magnetic interference (E.M.Is) that will be emitted from the inverters and cabling crossing Smearla Bridge.
- Concern with respect to gap at the base of the security fence to facilitate wildlife. Children could get under the fence.

#### 6.1.5. **Zoning**

- There is no policy in The Kerry County Development Plan for Solar Farms.
- This area is not zoned for renewable energy.
- The proposed site has secondary special amenity lands bounding the north of site and an area of views and prospects bounding the south of the site plus there is a ringfort in the middle of the site.

#### 6.1.6. **Visual Impact**

- For at least six months of the year the solar farm will be fully visible as the existing hedgerow (to the south west of the solar farm) is made up of deciduous trees and planting. (From Kennelly's Bridge to Fitzel's House.)
- Proposed new hedging/planting will take some time to mature.
- The solar panels will be visible from the main Listowel / Duagh road on a very acute bend in a black spot area.
- Negative visual impact upon the area, in particular, when viewed from the appellants dwelling and the access laneway.

#### 6.1.7. **Biodiversity**

- Concern that birds, bats and other wildlife will be affected.

- There is a high population of bats in the area
- Concern that there is a potential of leakage from the PV panels and storage of batteries that may contain dangerous substances.

#### 6.1.8. **Inaccuracies and omissions in the Planning Application Drawings submitted**

- The proposed sub-station and inverters are not detailed exactly on the submitted drawings.
- Road widths indicated on plans are either not to scale or not drawn properly
- Appellants dwelling has been omitted from the drawings
- Terra solar has claimed that they are investing €30 million in 6 sites, 3 in Listowel and 3 in Killarney. Who is contributing to the local community or indeed Kerry either ecologically or economically?

#### 6.1.9. **Devalue Property**

- The solar farm should co-exist with windfarms or on roof tops of agricultural / farm buildings.
- Detrimental impact upon the value of the appellants property

### 6.2. **Planning Authority Response**

6.2.1. Response from Kerry County Council details that no preplanning meeting took place in respect of the subject appeal case. It notes that there was an error in the date of the site visit, as recorded, in the planner's report. The response is accompanied with a letter from The Department of Arts, Heritage, and the Gaeltacht, dated 4<sup>th</sup> May 2016, to the applicants. This letter sets out that a cultural heritage assessment is required and that a buffer zone should be provided around RMP KE011-033.

### 6.3. **First Party Response**

- Sets out background to the planning application.

#### **Previous Refusal by Kerry County Council (Reg. Ref. 16/629)**

- Reg. Ref. 16/629 was deemed acceptable in all respects except for traffic.
- The applicant has consulted with Kerry County Council and the Road Department of KCC
- Revised traffic management measures, agreed with KCC, are now proposed.

- Traffic Assessment Report carried out by J.B. Barry & Partners Ltd and is considered acceptable to KCC subject to condition.

### **Access Suitability and Traffic Concern**

- There is an existing site access on to the L-10461
- It is proposed to alter the access on the L-10461 road to facilitate HGV access associated with the construction phase of the development
- Sightlines at the entrance are in accordance with the 120m requirement
- The existing hedgerows within the visibility splays will be maintained at a height of 0.6m and will not be removed.
- A letter of consent from Patrick Dillon, the neighbouring landowner, is provided. Drawing No. Y17417-TA-009, attached as part of Appendix D of the Transport Assessment Report indicates that the sightlines can be achieved through the maintenance of existing hedgerows.

### **Traffic Concerns**

- The use of temporary traffic management measures at the junction of the L-6053 and the L-10461 roads was discussed and agreed with KCC
- A traffic management plan was compiled in relation to the junction.
- Drawing No. Y17417-TA-012 illustrates proposed temporary traffic management measures and signage.
  - A banksman will be employed to direct traffic at the junction.
  - Construction period is likely to have a duration of approx. 12 weeks
- Will generate an average of 2.65 construction vehicles per day, with a maximum of 5 vehicles in any one day.
- Construction staff trips will be made by light goods vehicles assuming an average of 1.2 per vehicle, the construction phase will result in an additional 42 vehicles during both the morning and evening period.
- There will be a slight but temporary increase in traffic during the construction period, only.

- The Traffic Assessment Report concludes that the proposed development does not pose any significant residual risks
- Condition 15 of the draft grant of planning permission sets out measures in relation to traffic management. The applicant is willing to adhere to these conditions.
- Autotrack Analysis clearly demonstrates that construction vehicles can safely navigate the local road network in particular the L-10461 and L-6053 junction.

### **Clarity of Drawings Submitted**

- Refute this ground of appeal.
- The appellants dwelling is clearly shown on submitted drawing no. 0323-03 as shown in plate 1, which included the distance to surrounding dwellings and in Plate 2. Any technical assessments carried out took into consideration the location of the Appellants dwelling.

### **Visual Impact**

- Site benefits from natural screening.
- The proposed layout retains the existing hedgerows and trees.
- New hedgerow planting (Drg. Ref. 0302-16) is proposed where required and will further enhance the existing level of screening
- Photomontages submitted with the application validate the submission that the proposal will not be overly visible from the surrounding area.
- Conditions 8, 9 and 11 relate to visual amenity

### **Glint and Glare**

- Reference to Chapter 8 of the Planning & Environmental Report that accompanied the application. The development does not include tracking panels. The panels are to be fixed in one direction, due south. Solar panels in order to be effective need to absorb the maximum amount of sunlight available. Light which is reflected is wasted light.
- It is not anticipated that the panels would present any detrimental impact in terms of glint.

## **Planning Policy**

- Section 4 of the P&E Report that accompanied the planning application sets out Policies, both national and local for renewable energy and solar development.
- Section 2.6 of the National Spatial Strategy makes reference to the importance of renewable energy in terms of balanced regional development.
- Ireland 2040 Plan – NPF sets out a goal to deliver 40% of our electricity needs from renewable sources by 2020 with a strategic aim of in excess of 50% by 2030 and more by 2040 and beyond using, wind, wave, solar, biomass and hydro sources.
- Kerry County Development Plan 2015 – 2021 supports the development of sustainable energy and the Kerry Renewable Energy Strategy 2014 – 2022 supports the development of solar infrastructure provided the development have a minimal visual impact.

## **Biodiversity**

- Solar farms in general lead to an environmental gain with the introduction of measures that enrich wildlife habitats.
- The design avoids using areas shaded by vegetation by leaving wide open spaces and generous field margins around the site perimeter. These spaces can be utilised to improve prospects for wildlife.
- Application was accompanied with an AA screening report which determines that the proposal is not likely to have a significant effect on any European site.
- Kerry County Council carried AA screening and it concluded that the development individually or in combination with other plans / projects is not likely to have significant effects on a European Site.
- Condition 6 attached to the draft grant of permission requires that the development be undertaken in accordance with all environmental



commitments made in the supporting documentation. The applicant is willing to adhere to these conditions.

## **Health and Safety**

- Solar PV Farms do not cause health risks for local residents
- Recent planning application Reg. Ref. 14/06644 relating to a 1 MW solar farm in County Cork. The inspector's report confirms that the probabilities of panels being damaged and chemicals leaking into the ground are unlikely.
- Electrical and magnetic fields (EMFs) caused by a development of this nature are similar to those which already exist in houses.
- CCTV will be provided around the perimeter of the site, as there is no requirement for permanent staff presence, CCTV will be used to monitor the development.
- Condition 14 which requires that noise monitoring and pollution control measures are put in place and adhered to will be observed by the developer.

## **6.4. Observations**

6.4.1. There is one observation recorded on the appeal file from An Taisce. It is summarised as follows:

- Solar farms are a new development for Kerry, it is difficult to assess the negative impacts likely to arise.
- Reservations in general.
- Loss of productive farm land is of concern.
- More environmentally friendly methods of energy production is needed.
- Solar PV farms have a serious negative impact on highly scenic landscapes.
- The site is close to the River Feale which is designated as a SAC and is also an important salmon river. Sufficient safeguards need to be put in place.
- Solar panels can be confused with water by certain species, leading to their deaths.

- The planning history of the site and previous refusal of permission for a solar PV farm by reason of visual impact and traffic hazard should be taken into account.
- Removal of mature trees is of concern.
- Works would lead to considerable ground disturbance and once constructed it would be difficult to return the lands to agricultural use.

## 7.0 Assessment

7.1. I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:

- **Principle / Policy Considerations**
- **Visual & Residential Amenity Impact**
  - **Glint & Glare**
  - **Noise & Electric Magnetic Interference (E.M.I.)**
  - **Health and Safety Issues**
  - **Depreciation of Residential Property Values**
  - **Clarity of Drawings Submitted**
- **Traffic Impact & Access**
- **Impact Upon Ecology**
- **Appropriate Assessment**

### 7.2. Principle / Policy Considerations

- 7.2.1. Renewable energy projects are supported 'in principle' at national, regional and local policy levels, with the impetus at all policy levels being the need to reduce greenhouse gas emissions, reduce reliance on fossil fuels and combat climate change.
- 7.2.2. 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. The more ambitious national objective, as expressed in the NREAP, is for 40% of electricity consumption to be from renewable sources by 2020. The White Paper entitled 'Ireland's Transition to a low carbon Energy Future 2015-2030' sets out a vision to reduce greenhouse gas emissions by between 80% and 95% compared to 1990 levels by 2050, and notes that solar photovoltaic 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.

- 7.2.3. Chapter 12 deals specifically with Zoning and Landscape. Policy relating to areas zoned Rural General in Section 12.3.1 Rural (c) states that "*it is important that development in these areas be integrated into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development*". Policy ZL-1 states that "*it is policy to protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to people's lives*".
- 7.2.4. Objective EP-1, set out in section 7.6.2 'Energy Conservation' in the County Development Plan 2015 – 2021, states that it is an objective of Kerry County Council to place *an emphasis on increasing energy supplies derived from renewable resources*. Further Objective EP-3 states that it is an objective of Kerry County council to *facilitate sustainable energy infrastructure provision, so as to provide for the further physical and economic development of the County*. In principle the County Development Plan and the accompanying Renewable Energy Strategy are supportive of the development of a ground based solar PV array.
- 7.2.5. I am satisfied that there is substantial policy support at national, regional and local level for renewable energy projects, including solar energy projects. The proposed development will make a contribution to Ireland's targets for electricity generation from renewable sources and for reductions in greenhouse gas emissions. The proposed site is located in an area zoned Rural General which is covered by Section 3.3.2.1 of the Kerry County Development Plan 2015 - 2021. These areas constitute the least sensitive landscapes throughout the County and from a visual impact point of view have the ability to absorb a moderate amount of development without significantly altering their character. I therefore consider the proposed development to be acceptable in principle, subject to consideration of the key planning issues outlined in Section 7.1 above.

### 7.3. Visual & Residential Impact

- 7.3.1. The appellant has raised concerns regarding visual amenity and claims that for six months the solar farm will be fully visible as the existing hedgerow (to the south west of the solar farm) is made up of deciduous trees and planting. Also, the proposed hedging / planting will take time to mature.
- 7.3.2. The proposed development is located on lands designated “Rural General” in the Kerry County Development Plan 2015 – 2021. Rural General in the Development Plan is described as lands having a higher capacity to absorb development than the other rural designation (e.g. Rural Prime Special Amenity and Rural Secondary Special Amenity). The potential landscape and visual impact of the scheme is considered in the Landscaping Section of the Planning and Environment Report that accompanied the application. The application is also accompanied with Photomontages setting out 9 viewpoints in terms of ‘existing view’, ‘post development view’ and ‘proposed view 5 plus years’.
- 7.3.3. The applicant does not consider that the scheme is out of keeping with the scale and nature of the receiving landscape context. It is submitted that the site benefits from ample natural screening and the proposed layout retains the existing mature hedgerows and trees in and around the site. Landscape Plan, drawing ref. 0323-16 is noted for details of proposed new vegetation, proposed whip vegetation, site tree location and site compound.
- 7.3.4. New hedgerow planting consisting of bare root whip plants at 300mm centres spacing as a double stagger hedge will be introduced on the outside perimeter of the proposed security fence (2.626m in height). The landscaping plan provides for fast growing whip trees comprising Willow and Alder species on the south-western perimeter of the site to screen the security fence and solar farm from the Piper’s Hill Road and from the residential receptors located approx. 35m (the landowners home) and 200 m to the south of the site and 140 m west of the site. It is submitted that the residential receptors located approx. 100 m south east (appellants dwelling) of the site benefit from a high level of natural screening. The proposed landscaping plan also provides for medium to fast growing deciduous hedging comprising Hawthorn and Blackthorn on the outskirts of the remaining perimeter of security fencing.

- 7.3.5. Once the relevant construction and associated works are complete (solar arrays have a proposed height of 2.8m, security cameras have a proposed height of 3.964m), hedgerows and screen planting on the boundary will be brought under regular agricultural management and trimmed to a height of approx. 2.8m. The whip planting in the south west section of the site will be maintained at a level of up to 4.3m to screen the development from the Piper's Hill Road and nearby residential receptors.
- 7.3.6. The proposed solar arrays are located 171.42m from a dwelling to the west and 215.84 m from a dwelling to the south west. Two more dwellings are located to the south east of the site and they are located 128.55m and 171.24 m respectively from the solar panels. The landowner's residence is the one located 73.83 meters to the south of the nearest solar array (35m from the boundary of the site). The appellants dwelling is the one located 128.55m to the south east.
- 7.3.7. Having inspected the site and surrounding area and having reviewed the viewpoint photographs and photomontages, I consider that the visual impact of the proposed development will be minimal due to the site topography, the extensive hedgerows and tree planting and the separation distances from roads and residential dwellings. The limited visual impact that will arise will have a slight impact upon installation of the panel arrays from Viewpoint 1, Viewpoint 2 and Viewpoint 3, only, but this will be mitigated by additional planting.
- 7.3.8. I note that the designation relating to protected 'amenities / views and prospects' from the L-0653 Pipers Hill Road is one direction, only, (north) and as per Map 12.1c starts a short distance to the south east of the junction of the L-6053 / L-10461 junction, therefore it would not be impacted by the proposed development. The proposed solar PV farm is located to the north-west of this designation.
- 7.3.9. I highlight the assessment by the planning authority considered that the solar farm would not be overly visible from the surrounding area.
- 7.3.10. Regard is had to conditions 8, 9 and 10 of the draft grant of planning permission from Kerry County Council related to visual amenity and which seek to protect the visual amenity of the area by ensuring that security fencing and inverter cabins be coloured dark green to assimilate into the surrounding vegetation. No CCTV cameras shall be directed towards adjoining properties or the public road and cables within the site will

be located underground. I recommend that in the event that the Board agree permission should be forthcoming for the proposed development similar conditions should be attached to any grant of planning permission.

- 7.3.11. Following decommissioning of the proposed development, when the panel arrays and supporting infrastructure are removed, and the lands reinstated to agricultural use, I do not consider that there will be any significant residual landscape or visual impacts. I recommend that the Board attach a condition with respect to a detailed restoration plan being submitted to the p.a., for written approval, prior to commencement of development. Also that a bond is required by condition, to ensure satisfactory completion of the development (in accordance with plans, drawing, and environmental commitments made to the satisfaction of the p.a.) and its restoration.
- 7.3.12. The third party is concerned with respect to Health and Safety in relation to his children, aged 3 and 5 who are hearing aid users. Concern is raised over glint and glare and noise, electric magnetic interference (E.M.I's) that would be emitted from the inverters and cabling across the Smearla. The appellants also have concern regarding devaluation of property and the gap at the base of the security fence to facilitate wildlife and possibility of children getting under the fence. I highlight that traffic hazard is dealt with in a subsequent section of this report.

### **Glint and Glare**

- 7.3.13. Solar farms have the potential to result in glint and glare impacts on surrounding receptors, such as residential properties and road users. Glint results from reflection of the sun off the surface of the PV panel and is seen as a momentary flash of bright light, while glare is a continuous source of bright light resulting from the reflection of the sky around the sun. Since solar panels are designed to absorb light rather than reflect it, glint is most likely to occur in early morning and late evening when the sun is at its lowest in the sky.

The issues of glint and glare are dealt with in the Planning and Environment Report that accompanied the application. It is noted that the proposed development does not include tracking panels and that the panels are instead fixed in one orientation, facing due south. Solar PV panels, in order to be efficient, need to absorb the maximum amount of sunlight available. Light which is reflected is wasted light.

7.3.14. Regard is had to separation distances to roads and adjoining dwellings to in-situ landscaping and proposed landscaping. I support the findings of the Planning and Environment Report that it is not considered that there will be any significant nuisance effects to surrounding dwellings or along surrounding roads from glint and glare generated by the proposed solar farm.

#### **Noise & Electric Magnetic Interference (E.M.I.)**

7.3.15. There is no evidence to suggest that solar panels and their mounting structures create noise disturbance and the argument made in relation to EMI has been successfully rebutted in preceding solar farm applications before the Board. Particularly in relation to electric magnetic fields produced being similar in nature to those which already exist in houses. The solar panels make no noise and the layers of existing and proposed vegetation screening surrounding the site will effectively shield the wind from the solar farm. Regard is had to planning application 14/06644, relating to a 1 MW solar farm in County Cork in which the Inspector in that case concluded that there was no credible evidence that suggests that noise is an issue with solar farms. The proposed substation and the three inverter control units are located in excess of 250m from the appellants dwelling and in excess of 70 m of the closest dwelling. These separation distances will ensure that there will be no significant impact on occupants of nearby houses.

#### **Health and Safety**

7.3.16. The first party submits that Solar PV Farms do not cause health risks for local residents. Recent planning application Reg. Ref. 14/06644 relating to a 1 MW solar farm in County Cork. The inspector's report confirms that the probabilities of panels being damaged and chemicals leaking into the ground are unlikely. CCTV will be provided around the perimeter of the site, as there is no requirement for permanent staff presence, CCTV will be used to monitor the development. The cameras will be monitored on a continual basis using infrared lighting as the facility will be unlit at night-time.

7.3.17. I agree that the proposed development does not pose any health or safety issues for members of the public. Condition 14 of the draft decision to grant permission by the planning authority requires that noise monitoring and pollution control measures are put in place and adhered to. The applicant has indicated a willingness to comply with

this condition. I recommend a similar condition be attached to any grant of planning permission forthcoming from the Board.

### **Depreciation in adjoining residential Property Values.**

7.3.18. I note the third-party concern raised regarding the depreciation in adjoining residential property values. However, given the measures proposed to be put in place in terms of environmental controls, landscaping, security, separation distances from dwellings and set back from local roads I do not consider that the proposed development would devalue residential dwellings in the surrounding rural area.

### **Clarity of Drawings Submitted**

7.3.19. It is the sole responsibility of the p.a. to validate planning applications and I see no reason to question the clarity of the suite of plans and drawings submitted with this planning application.

7.3.20. I agree, with the first party, that it is easily identifiable from the plans and drawings submitted, as to the location of the appellants dwelling, the applicants dwelling, separation distances to sensitive receptors such as adjoining dwellings and adjoining roads.

7.3.21. I note the applicant's response that all technical assessments carried out as part of the application, namely ecological, traffic and archaeology, took into consideration the location of the appellants dwelling.

7.3.22. I consider that the information on file, including the plans and drawings submitted, are sufficient for an informed assessment and decision to be made in the appeal case instance.

## **7.4. Traffic Impact & Access**

7.4.1. The third party has raised concerns regarding the proposed access arrangements to the site via the L-10461 local road, the junction of the L-6053 and the L-10461 and general traffic associated with the development. It is submitted that adequate sightlines cannot be achieved at the site entrance off the L-10461 and that the proposal would involve the cutting down of a mature tree if they are to achieve the required sightlines. The third party query the access proposed given that there is an alternative access to the site from the L-6053.



- 7.4.2. I note that the applicant has not responded to the matter of an alternative entrance to the site via the wider, straighter L-6053 local road. I highlight that the access point to the site from the L-6053 is directly across from a residential access. The p.a. roads report does not deal with this matter nor does the planners report.
- 7.4.3. The p.a. consider that the applicant has over-come the reason for refusal in the case of Reg. Ref. 16/629, the preceding application on this site, for essentially the same development. The reason for refusal in that instance related to traffic hazard (it was considered that the required sightlines at the junction of the L-6053 & L-10461 Local Roads cannot be provided as outlined by the developer in the further information received).
- 7.4.4. At present there is an existing vehicular entrance to the site from the L-10461 road, it is located just a short distance north east of the appellants residential entrance on the opposite side of the road. It is proposed to alter this site entrance layout by relocating the entrance some 6m to the south west along the road. As is evident from Drawing no. Y17417-TA-011 Revision A attached to the submitted Transport Assessment Report, the relocated entrance is almost directly across the road from the appellants residential entrance, just slightly to the north west. An Autotrack analysis of the revised entrance has been undertaken.
- 7.4.5. It is submitted that sightlines at the entrance are in excess of 120m in both directions along the L-1041 which is commensurate with a 70 Kph design speed and is compliant with TII requirements. The existing hedgerows within the visibility splays will be maintained at a height of 0.6m and will not be removed. A letter of consent from Mr. Patrick Dillion conforming he is the landowner of the lands to the east of the entrance, and he has no objection to the applicant providing and maintaining sightlines over his property.
- 7.4.6. Regard is had to the temporary traffic management measures / procedures which the applicant proposes to employ for HCV Access, HCV Egress, during the construction period. A banksman is to be employed to manage traffic at both the junction of the L-1041 and the L-6053 and also at the site entrance. No HCV deliveries are proposed to be made between weekday AM peak (08.00 – 09.00) and evening peak (16.00 – 17.00) hour periods. Proposed temporary traffic management

control measures and signage are illustrated and discussed in Drawing Y17417-TA-012 included in Appendix A of the Traffic Assessment Report.

It is anticipated that there will be a slight but temporary increase in traffic during the construction period, only, which is anticipated will take just 12 weeks. It is submitted that the proposed construction phase would generate an average of 2.65 construction vehicles per day, with a maximum of 5 vehicles in any one day. Construction staff trips would be made by light goods vehicles assuming an average of 1.2 per vehicle, the construction phase will result in an additional 42 vehicles during both the morning and evening period. The traffic Assessment report concludes that the proposed development does not pose any significant residual risks.

- 7.4.7. I note the p.a. Roads Office report which requires that a pre and post construction survey's shall be undertaken by the applicant in conjunction with Kerry County Council to assess the condition of the roadway pre and post construction phase. And that a bond be provided by the applicant in respect of the section of the public road from the junction of the R-555 – L-6053 to the proposed site entrance. In this regard I note condition 3 of the draft decision to grant permission which requires a bond of €100,000 to secure the satisfactory reinstatement of the site on cessation of the project, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development.
- 7.4.8. I am of the opinion that subject to the developer complying with proposals put forward in the Traffic Assessment report with respect to the junction of the L-6053 & L-10461 that the proposal is acceptable from a traffic and access perspective at this location.
- 7.4.9. From my site visit, in particular see photographs 3 and 4 and from Drawing no. Y17417-TA-009 submitted with the application I am of the opinion the developer would be able to comply with Condition number 15 (g) of the decision to grant permission, which requires that the applicant provides sightlines of 120m in both directions of the proposed entrance on the site in accordance with the details received on the 28/08/2017. I acknowledge the rather undesirable clearance of roadside frontage to insert the entrance and the substantial cutting of hedgerow to maintain sightlines. While I have some sympathy for the appellants in terms of

location of the access in such close proximity to their access, it is acknowledged that the construction phase, which is the busiest period with respect of the traffic impact, would be for a maximum of 12 weeks and a robust traffic management plan is in place. During the operational phase of the solar farm the impact on the surrounding local road network will be negligible save for the occasional visit by maintenance staff to the site.

7.4.10. I consider that the applicant could have proposed to access the site via the existing access off the L-6053 rather than the narrower L-10461. I note, albeit the applicants have not addressed this issue, the alternative access, while less circuitous, on a straighter stretch of road, and on a wider road is also a busier road and is located directly across the road from a residential access / laneway.

7.4.11. I do not consider it would be appropriate at this stage in the application process, to amend the access arrangement, by way of condition. It would be a fundamental change to the proposal, which would require the Board by way of Section 142(2) of the Planning and Development Acts 2000-2006 to request the First Party to submit revised plans or other drawings pertaining to such a revised proposal. The revision would be such that revised public notices would be required. Therefore, if the Board wish to consider the revised access arrangement, as requested by the appellants, it is advised that the Applicant be required to submit to the Board revised plans and re-advertise the proposal as per Section 132(1) of the Planning and Development Acts 2000-2006.

7.4.12. In conclusion, having regard to the relatively low level of construction-related traffic, the short duration of the construction period and the low level of operational traffic, I am satisfied that the proposed development will not give rise to a significant degree of traffic congestion or give rise to a traffic hazard, subject to compliance with conditions outlined above.

## **7.5. Impact Upon Ecology**

7.5.1. An observer to the appeal, An Taisce, have raised concern that the site is close to the River Smearleagh and River Feale which form parts of the Lower River Shannon SAC, located to the north west of the appeal site. Concerns are raised that solar panels can be confused with water by certain species, leading to their deaths. Third

party concern is raised regarding the effects of the proposed development on the biodiversity of the area, in particular, aquatic insects which form the diet of salmon and other fish, the flight patterns of birds and bats and the possibility that nesting birds may be at risk.

- 7.5.2. Chapter 7 of the Environmental Report submitted with the planning application addresses flora and fauna, and an Appropriate Assessment Screening Report was also submitted, which is addressed in Section 7.6 below.
- 7.5.3. 0.04ha of the Lower River Shannon SAC (site code 002165) falls within the boundaries of the proposed development site. Moanveanlagh Bog SAC (site code 002351) is located 1.4Km to the south. Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site No 004161) is located 4.8km to the south. The River Shannon and River Fergus Estuaries SPA (Site No 004077) is located 12.7 km to the north of the appeal site.
- 7.5.4. The Bunnaruddee Bog NHA, Moanveanlagh Bog pNHA, Ballylongford Bog pNHA, and Cashen River Estuary pNHA are located within 15 Km of the appeal site.
- 7.5.5. With regard to notable species the survey's carried out found no evidence of rare or protected species within the site. It is submitted that the mammal species recorded have widespread range and distributions in Ireland and are likely to be recorded frequently throughout Ireland. The Smearlagh River, which runs some 27m to the west of the application site, provides a good foraging habitat for bats. However, it is contended that the site has limited potential for foraging and commuting bats, due to its large open field structure. A dedicated Bat survey was not completed as there are no BCI records within one Km of the appeal site. No evidence of mammal species such as Badger was identified within the boundaries of the proposed development site.
- 7.5.6. No significant wintering or breeding habitats for any bird species including those listed in Annex 1 or BoCCI red list occurs within the site boundaries. A number of birds recorded are reliant on semi natural habitats such as wetlands, peatlands or coastal habitats (e.g. Hen Harrier and Little Egret) these habitats are not present within the site of the proposed development. Overall it is submitted that the site is of low value to faunal species as it is managed agricultural grassland. The field boundaries including hedgerows, drainage ditches and broadleaf treelines offer the

most value to faunal species and these will not be lost as part of the proposed development.

- 7.5.7. The Smearlagh River can be considered to be of international importance as it forms part of the Lower River Shannon SAC. The River does not, however, fall within the boundaries of the site and is buffered from the appeal site by existing roads and mature treeline. Water pollution measures will be implemented on-site to prevent negative impacts on the River and its associated flora and fauna.
- 7.5.8. The appeal site is managed for agricultural purposes including regular maintenance of drainage ditches and hedgerows. The site does not provide suitable nesting or foraging areas for waders or water birds. The hedgerow and tree line provide suitable nesting and breeding habitat for common countryside birds. These will not be removed. Water birds will be buffered from disturbance through the installation of mammal friendly fencing and adherence to a set-back area of 5 meters from natural watercourses and drainage ditches. Best practice measures shall be put in place and strictly adhered to during the operational and construction phase, to ensure that the proposed development does not impact in any way on the Lower River Shannon SAC or the Smearlagh River.
- 7.5.9. I note the submission by the NPWS with respect to aquatic flying insects and the grid connection, specifically the crossing of the Smearlagh River. Both are addressed in the Planning and Environmental Report, Ecological impact Assessment and Appropriate Assessment screening report that accompanied the application. The proposed development does not involve drilling within the Smearleagh and no interference with the watercourse is required. As set out in paragraph 7.6.2 of this report the grid connection does not form part of this planning application or appeal.
- 7.5.10. The footprint of the proposed development consists of agricultural grassland surrounded by mature hedgerows and drainage ditches. Albeit part of the site is within the Lower River Shannon SAC, it is not annexed habitat and overall the footprint of the development is within habitat of local ecological importance (low and high value)
- 7.5.11. I agree with the Bio-diversity officer that information submitted provides a thorough evaluation of the ecology of the site and the likely impacts from the proposed development. I note the conclusions, of the planning and environmental assessment,

that the proposed development is not likely to result in significant impacts on the ecology of the wider area.

## 7.6. **Appropriate Assessment**

- 7.6.1. The application was accompanied by a Screening Assessment the contents of which have been noted. It is stated that the proposed connection will be via overhead or underground cable from the proposed development site to the exiting Smearla substation, approximately 0.3km west of the site.
- 7.6.2. While the location of the future grid connection is indicated in the plans and details submitted, and potential ecological impacts of the grid connection cable route has been taken into account in the screening assessment, I note it does not form part of the application and subsequent appeal. The AA screening notes that in relation to the crossing of the Smearlagh River by a grid connection, that an overhead option would see a single span of the river by wiring with no interference with the watercourse. An underground option would see a duct crossing the existing Kennelly Bridge within the existing road surface of the Bridge. No interference with the watercourse would be required, including no directional drilling. This being a concern of the Department of Culture, Heritage and the Gaeltacht.
- 7.6.3. As stated above in the Ecological Assessment section of this report 0.04ha of the Lower River Shannon SAC (site code 002165) falls within the boundaries of the proposed development site. Moanveanlagh Bog SAC (site code 002351) is located 1.4Km to the south. Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site No 004161) is located 4.8km to the south. The River Shannon and River Fergus Estuaries SPA (Site No 004077) is located 12.7 km to the north of the appeal site.
- 7.6.4. The AA screening report submitted sets out that construction works impact an area of 10 sq. m (0.001 ha) to facilitate a substation associated with the development. Potential impacts on the European Site as a result of land-take are not anticipated as the area of works proposed within the SAC are minimal (10 sq. m) and are confined to species poor wet grassland which is not a Qualifying Interest (QI) of the SAC or of ecological sensitivity.

7.6.5. Qualify interests / Special Conservation Interests for which the Lower River Shannon SAC (site code 002165) European Site has been designated as:

- Sandbanks which are slightly covered by sea water all the time [1110]
- Estuaries [1130]
- Mudflats and sandflats not covered by seawater at low tide [1140]
- Coastal lagoons [1150]
- Large shallow inlets and bays [1160]
- Reefs [1170]
- Perennial vegetation of stony banks [1220]
- Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]
- Salicornia and other annuals colonising mud and sand [1310]
- Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330]
- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260]
- *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinion caeruleae*) [6410]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]
- *Margaritifera margaritifera* (Freshwater Pearl Mussel) [1029]
- *Petromyzon marinus* (Sea Lamprey) [1095]
- *Lampetra planeri* (Brook Lamprey) [1096]
- *Lampetra fluviatilis* (River Lamprey) [1099]
- **Salmo salar (Salmon) [1106]**
- *Tursiops truncatus* (Common Bottlenose Dolphin) [1349]
- *Lutra lutra* (Otter) [1355]

7.6.6. The Conservation Objective of which is to restore the favourable conservation condition of Freshwater Pearl Mussel in the Lower River Shannon SAC, which is defined by a list of attributes and targets set out in National Parks and Wildlife Service Conservation Objectives available at [www.npws.ie](http://www.npws.ie)

7.6.7. Qualify interests / Special Conservation Interests for which Moanveanlagh Bog SAC (site code 002351) European Site has been designated are:

- Active raised bogs [7110]
- Degraded raised bogs still capable of natural regeneration [7120]
- Depressions on peat substrates of the Rhynchosporion [7150]

7.6.8. The Conservation Objective of which is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

7.6.9. Qualify interests / Special Conservation Interests for which Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site No 004161) European Site has been designated is:

- Hen Harrier (*Circus cyaneus*) (A082)

7.6.10. The Conservation Objective of which is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:

7.6.11. Qualify interests / Special Conservation Interests for which the River Shannon and River Fergus Estuaries SPA (Site No 004077) European Site has been designated are:

- Cormorant (*Phalacrocorax carbo*) [A017]
- Whooper Swan (*Cygnus cygnus*) [A038]
- Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]
- Shelduck (*Tadorna tadorna*) [A048]
- Wigeon (*Anas penelope*) [A050]
- Teal (*Anas crecca*) [A052]
- Pintail (*Anas acuta*) [A054]
- Shoveler (*Anas clypeata*) [A056]
- Scaup (*Aythya marila*) [A062]
- Ringed Plover (*Charadrius hiaticula*) [A137]
- Golden Plover (*Pluvialis apricaria*) [A140]
- Grey Plover (*Pluvialis squatarola*) [A141]
- Lapwing (*Vanellus vanellus*) [A142]
- Knot (*Calidris canutus*) [A143]



- Dunlin (*Calidris alpina*) [A149]
- Black-tailed Godwit (*Limosa limosa*) [A156]
- Bar-tailed Godwit (*Limosa lapponica*) [A157]
- Curlew (*Numenius arquata*) [A160]
- Redshank (*Tringa totanus*) [A162]
- Greenshank (*Tringa nebularia*) [A164]
- Black-headed Gull (*Chroicocephalus ridibundus*) [A179]
- Wetland and Waterbirds [A999]

7.6.12. The Conservation Objective of which is maintain the favourable conservation condition of Cormorant in the River Shannon and River Fergus Estuaries SPA, which is defined by a list of attributes and targets set out in National Parks and Wildlife Service Conservation Objectives available at [www.npws.ie](http://www.npws.ie)

7.6.13. The project involves the construction of a solar farm development and associated works (as described under section 2.0 of this report above). Elements of the works during the construction phase with potential to result in impacts on Natura 2000 sites include the following:

- Site preparation works including excavation works
  - Erecting security fencing (mammal – friendly)
  - Screwing support frames into the ground
  - Affixing panels to mounting frames
  - Trenching for cables to approx. depth of 1 m and laying cables
  - Installation of inverters and transformer cabinets
  - Connecting cables and backfilling trenches
- Emissions to surface and ground water such as silt laden run off, hydrocarbons or other pollutants during construction phase
- Erection of solar panels

7.6.14. Aspects of the project in the operational phase with potential to result in impacts on Natura 2000 sites include the following:

- Excavation emission impacts.

7.6.15. A detailed construction environmental plan shall be put in place which will include prevention of pollution control measures. Should the Board decide to grant planning permission a robust CEMP should be subject to condition of any grant of planning permission.

7.6.16. As documented the Smearlagh River, considered to be of international importance as it forms part of the Lower River Shannon SAC, is located 27 m to the west of the appeal site, there are drainage ditches around the appeal site that could provide hydrological connectivity to the SAC. However, a buffer (5m set back distance) is to be maintained from all watercourses and there is no instream works proposed. No impacts on aquatic invertebrates were identified and therefore impacts on an annexed species (salmon) could also be ruled out. The works as proposed are otherwise within an environment of low ecological value and best practices will protect water quality at construction stage. It is not considered that the size and scale of the project will contribute to any significant impacts on any Natura 2000 sites. No impacts are anticipated as a result of land-take (10 sq. m / 0.001ha) of the Lower River Shannon SAC, which is confined to species poor wet grassland. In relation to the crossing of the Smearleagh by a grid connection the overhead option would see a single span of the river by wiring no interference with the watercourse. An underground option would see a duct crossing the existing Kennelly Bridge within the existing road surface of the Bridge. No interference with the watercourse would be required, including no directional drilling. I agree with the Kerry County Council Biodiversity Officer that no direct impacts on the SAC annexed habitats and / or species is considered likely considering the nature of work proposed on site, which do not impact upon Q.I of the SAC or of ecological sensitivity. The AA screening assessment carried out by the Biodiversity Officer of the p.a. concludes that significant effects on a European site is not considered likely from the proposed development.

7.6.17. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest European site Lower River Shannon SAC (Site No 002165), Moanveanlagh Bog SAC (Site No 002351), Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site No 004161) and River Shannon and River Fergus Estuaries SPA (Site No 004077)) no

appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

8.1. I recommend that permission be **Granted** subject to the conditions set out below.

## 9.0 Reasons and Considerations

9.1.1. Having regard to the scale, extent and layout of the proposed development and to the “Rural General” designation of the local area in the current Kerry CDP it is considered that, subject to compliance with the conditions set out below, the proposed solar farm would not be injurious to the visual and residential amenities of the area, would not endanger human health or the environment and would be acceptable in terms of landscape impacts and of traffic safety and convenience. The proposed development would, therefore, be in accord with the proper planning and sustainable development of the area.

### **CONDITIONS:**

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

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

2. 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 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. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

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. All landscaping, including augmentation of existing boundary trees and hedgerows, shall be planted, in accordance with Lansscape 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. Existing field boundaries including hedgerows and trees shall be retained.

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

7. The inverter/transformer stations shall be dark green in colour. The external walls of the proposed substation shall be finished in a neutral colour such as light grey or off-white and the roof shall be of black tiles.

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

8.
  - (i) No artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.
  - (ii) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the road.
  - (iii) Each fencing panel shall be erected such that for a minimum of 300 millimetres of its length, its bottom edge is no less than 150 millimetres from ground level.
  - (iv) The solar panels shall have driven or screw pile foundations only, unless otherwise agreed in writing with the planning authority.
  - (v) Cables within the site shall be located underground.

**Reason:** In the interest of clarity, of visual and residential amenity, traffic safety, and to allow wildlife to continue to have access to and through the site.

9.
  - (i) 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.
  - (ii) 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 road, 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.

10. 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.
- c) A 20m buffer zone shall be preserved around the recorded monument Ke011 033. The buffer zone shall be measured from the outer edge of the possible ditch feature exposed during testing.
- d) The buffer zone shall be security fenced during construction works on the site.
- e) No storage of materials, excavation or traffic of machinery shall be permitted within the buffer zone.

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.

11. The applicant shall provide sightlines of 120m in both directions of the proposed entrance to the site in accordance with the details received on the 28/08/2017.

**Reason:** In the interests of traffic safety.

12. 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.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the satisfactory reinstatement of the site as envisaged in condition number 9 above. 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 satisfactory completion and maintenance of the development until taken in charge.

14. 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 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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**Fiona Fair**

**Planning Inspector**

**30<sup>th</sup> May 2018**