



An
Bord
Pleanála

Inspector's Report ABP-300228-17

Development

The development of a solar PV panel array with an export capacity of 5MW comprising approximately 19,000 photovoltaic panels on ground mounted frames within a site area of 11.0 hectares, 4 no. single storey inverter/transformer stations, 1 no. single storey DSO substation, 1 no. single storey customer substation with 1 no. communications pole attached, 1 no. single spares building, boundary security fencing, CCTV, associated electrical cabling and ducting, alteration to existing entrance to include access gates, access track and all associated ancillary development and landscaping works on land.

Location

Mohera
Castlelyons
Fermoy
Co.Cork

Planning Authority

Cork County Council

Planning Authority Reg. Ref.	174369
Applicant(s)	Meridiem Renewables
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party
Appellant(s)	Rachel Robinson
Observer(s)	Declan Spillane Donal Sheehan Garrett Verling – Castlelyon Development Noreen O'Regan John Sisk Elizabeth Geany Andrew and Vicky Snook
Date of Site Inspection	27 th April 2018
Inspector	Ciara Kellett

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1.0 Site Location and Description

- 1.1. The site is located in the townland of Mohera to the east of the village of Castlelyons and north-east of Bridesbridge in County Cork. It is c.6.2km south-east of Fermoy and c. 3.5km north-east of Rathcormac. The site is located c. 1.25km to the north of the River Bride, a tributary of the Blackwater River Special Area of Conservation.
- 1.2. The 11Ha site comprises of fields to the south of a local road named Abbey Lane, c.300m to the east of the crossroads in Castlelyons village. Castlelyons is a small village that extends along a north-south axis with a small commercial core focussed on the crossroads. It comprises a number of Protected Structures and Recorded Monuments, none of which are located within the site. Part of Castlelyons village is designated an Architectural Conservation Area.
- 1.3. The proposed site comprises of five similar sized rectangular shaped fields each bounded by hedgerows and trees. It is currently used for pasture. To the north of the local road, Abbey Lane, opposite the site, lie three dwellings, including the appellant's dwelling. Further to the east lies another dwelling and to the west lie fields that are in use by the local sports club. Other fields lie to the south.
- 1.4. The fields are generally flat with levels rising gently from west to east from +50.2 to +52.5 and then falling by 1m towards the eastern boundary.
- 1.5. Appendix A includes maps and photos.

2.0 Proposed Development

- 2.1. It is proposed to develop a solar farm with a generating capacity of 5MW using 19,000 photovoltaic panels on ground mounted frames. The frames are 600mm above ground at a maximum height of 2.75m. The panels will be oriented towards the south on fixed frames in a table layout. Each table is expected to comprise five rows of 11 solar panels installed at an angle of 20-30 degrees. The mounting frames will be pile driven c.1.5m into the ground.
- 2.2. It is proposed to use central inverter stations that include a medium voltage switchroom and Transformer Hut. It is proposed to include four inverter/transformer

substations, which will be housed in a cabin like structure measuring c. 3.55m high x 6.06m long x 2.44m wide as well as one customer substation, which is similar in scale. A communications pole will be installed to enable remote monitoring which will be mounted to the side of the customer substation.

- 2.3. The substation compound will measure c. 3m high x 5.38m wide x 9.98m long and consist of an ESB substation room. A small storage/spares building is also proposed. A perimeter fence will surround the site with small animal access every 100m. CCTV security cameras are also proposed.
- 2.4. A temporary construction laydown area is proposed of c. 50m x 50m towards the north-western end of the site, close to the main entrance which will be set back 5m from the road and widened to 10m to accommodate construction vehicles etc. Site tracks consisting of sand and gravel will be constructed in some areas.
- 2.5. As well as the required documentation and drawings, a Landscape Mitigation Masterplan, Planning Statement, Design and Access Statement, Environmental Report including an EIA Screening, Ecology Report including Screening for Appropriate Assessment, Landscape and Visual Impact Assessment, Archaeology, Architecture and Cultural Heritage Impact Assessment, Geophysical Survey Report, Flood Risk Assessment, Construction and Traffic Management Assessment and a Decommissioning Statement accompany the application.
- 2.6. Following Further Information requests, a Report on the Results of Archaeological Test Trenching was submitted.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 39 conditions. Condition no.2 permits the operational life of the development for 25 years. Condition no.3 requires the applicant to engage the services of an archaeologist to monitor all ground works. Condition no.11 requires all CCTV cameras to be fixed and angled to face into the site. Condition no.38 requires the developer to pay a bond of €62,720 to secure the reinstatement of public roads if damaged. Condition no.39 requires the

developer to pay cash or lodge a bond to secure the satisfactory reinstatement of the site on the cessation of the project.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The project was subject to a request for Further Information and a request for Clarification of Further Information. Therefore, there are a number of Planning Reports on the file. In summary, the Reports include:

- There is a lack of specific national guidelines on solar energy but the proposal relates to a renewable energy development which is supported by European, National, regional and county policies. Considers there is no objection to the principle of development subject to normal proper planning and sustainable development considerations.
- Notes the site is located within “Broad Fertile Lowland Valleys (6c)” landscape character type, which is considered to have medium landscape value, medium landscape sensitivity and local landscape importance. Notes 11 representative viewpoints were selected for the Visual Impact Assessment. Acknowledges that while views may be likely from the three properties to the north, the provision of additional landscaping will mitigate the impact and the impact is not likely to seriously detract from the visual amenities/landscape of the area.
- With respect to glint and glare, notes properties from the north would be in the order of 33m+ between the closest dwelling and the nearest array. Arrays are orientated to the south with the backs of the solar panels facing towards the dwellings.
- With respect to ecology, notes there are two badger setts identified and that the applicant proposes to leave a 5m buffer zone between the internal hedgerows and the fencing which will create a buffer to allow free movement of animals. No piling will be carried out within 150m of the badger setts between December and June.

- Notes with respect to traffic, the Area Engineer requests that the applicant confirms that it is only intended to use one entrance onto the public road.
- Notes that the Heritage Unit concurs with the findings of the EclA.
- Notes Archaeologist is not satisfied that the proposed mitigation measures outlined in the Archaeological Impact Assessment have addressed the issue of the potential archaeology on site, and that further information should be sought via archaeological testing.
- Considers proposal does not come within the scope of any class of development for which EIA is required.
- Notes applicants indicate the site is c.590m north of the ESB substation and they have applied for a formal grid connection offer.
- Recommends that Further Information is sought in relation to carrying out an agreed programme of archaeological testing, targeting the results of the geophysical survey, and to clarify the method of anchoring the solar panel tables in areas where soil depth is shallow (<1.5m).
- The applicant responded noting that an AIA including a VAIA and a Geophysical Survey have been submitted at application stage. Consider assessments were informed via engagement with Cork County Council's Heritage Officer and the National Monuments Service (NMS). Submit that the robust findings confirm that proposal is unlikely to give rise to negative adverse implications for heritage and that any unforeseen issues can be appropriately dealt with having regard to established practices of the Council, the NMS Guidelines and related precedent. Any further mitigation measures can be dealt with by way of condition. With respect to anchoring, the applicant provided an alternative method.
- Following the response, it was decided to seek Clarification of Further Information requiring archaeological testing.
- The applicant carried out test excavations and concluded that no previously unknown archaeological features were found and the potential for sub-surface archaeology is deemed very low.

- Following this response, the Planner notes that the Council Archaeologist has no further objections subject to conditions.
- The Planner recommends that permission is granted.

The decision is in accordance with the Planner's recommendations.

3.2.2. Other Technical Reports

- **Area Engineer:** No objections subject to conditions
- **Environment Officer:** No objections regarding energy and climate change, waste or noise and air. Notes with respect to water quality that the site is underlain by a regionally important aquifer. No objections subject to conditions.
- **Archaeologist:** Following the response to Further Information and Clarification of Further Information, no objections subject to conditions.
- **Conservation Officer:** No objections with respect to the architectural heritage of the area.

3.3. Prescribed Bodies

- **Irish Water:** No objections subject to conditions.
- **An Taisce:** Considers a National and Regional Strategy is required for solar arrays. Works should be carried out without unacceptable risk to potential archaeology.
- **Commission for Energy Regulation:** Acknowledge receipt.

3.4. Third Party Observations

There were 9 third party submissions objecting to the development. The submissions are similar to the planning appeal and are dealt with in detail in Section 6 below.

4.0 Planning History

On the subject site:

- **CCC Reg. Ref. 16/4578:** Permission was sought on the subject site for a similar development in March 2016. Following no response to the Clarification of Further Information request, it was deemed withdrawn.

In the vicinity there have been a number of Solar Farm planning applications.

- **ABP Ref. 248278, CCC Reg. Ref. 16/4570:** The Board decided to grant permission on 12th April 2018 for a 5MW Solar Farm on 8.6Ha to the north-west of Castlelyons following Cork County Council's decision to grant permission in March 2017. This site is c.1.6km to the north-west of Castlelyons crossroads and c.1.9km to the north-west of the subject site. The Board considered that the proposal would not seriously injure the visual amenities of the area or the residential amenities of property in the vicinity, would not be likely to have significant effects on the environment, or the ecology of the area and would be acceptable in terms of traffic safety and convenience.
- **ABP Ref. 248400, CCC Reg. Ref. 16/5414:** Permission for a 5MW solar farm on 8.86Ha was granted by the Board in March 2018. This site is c.1km to the south-west of Castlelyons and c.1.4km to the south-west of the subject site. The Board considered that the proposed solar farm would not seriously injure the visual and residential amenities of the area or depreciate the value of property in the vicinity, would not endanger public health or the environment, would not contribute to, or, exacerbate flooding, and would be acceptable in terms of traffic safety and convenience.

5.0 Policy Context

5.1. National Policy

- 5.1.1. The Government White Paper entitled '*Ireland's Transition to a Low Carbon Energy Future 2015-2030*' recognises that a radical transformation of Ireland's energy system is required to meet climate change objectives and to meet renewable energy targets. It includes an objective to '*accelerate the development and diversification of renewable energy generation*' and *increase the country's output of electricity from*

renewable sources'. It states that this will be achieved through a number of means including wind, solar PV and ocean energy.

5.1.2. With regard to solar energy, it states (Section 137):

Solar photovoltaic PV technology is rapidly becoming cost effective for electricity generation, not only compares with other renewables but also compares with conventional forms of generation. The deployment of solar energy 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.

5.2. **Regional Policy**

5.2.1. The **Regional Planning Guidelines for the South-West Region 2010-2022** recognises that the region has a key role to play in the attainment of the national renewable energy targets. Section 5.6.32 states:

The guidelines support the sustainable development of renewable energy generation subject to the sustainable development of local areas and the protection of areas of high scenic amenity. Possible effects on Natura 2000 Sites, including effects on water supply and hydrology, wildlife disturbance, habitat loss and species mortality associated with collisions should be an essential consideration when planning for renewables and these should be considered at the local or project-level stage.

5.3. **County Policy**

5.3.1. The operative development plan is the **Cork County Development Plan 2014**. The site is located in a rural area which is unzoned. Chapter 9 of the Plan deals with energy and the environment.

5.3.2. With regard to Energy/Electricity Network the following objectives are relevant.

Objective ED1-1: Energy - Ensure that through sustainable development County Cork fulfils its optimum role in contributing to the diversity and security of energy supply and to harness the potential of the county to assist in meeting renewable energy targets.

Objective ED6-1: Electricity Network – Support and facilitate the sustainable development, upgrade and expansion of the electricity transmission grid, storage and distribution network infrastructure. Support the sustainable development of the grid including strategic energy corridors and distribution networks in the region to international standards. Facilitate where practical and feasible infrastructure connections to wind farms and other renewable energy sources subject to normal planning considerations. Proposals for development which would be likely to have a significant effect on nature conservation sites and/or habitats or species of high conservation value will only be approved if it can be ascertained, by means of an Appropriate Assessment or other ecological assessment, that the integrity of these sites will not be adversely affected.

Section 9.4.13 refers to Solar Energy specifically. Section 9.4.15 states:

Photovoltaic (PV) is the generation of electricity from light. In essence photovoltaic systems use daylight (not necessarily direct sunshine) to convert solar radiation into electricity. The technology can be used for domestic as well as larger industrial or commercial applications.

Section 9.4.16 states:

At present the main potential in Cork for this form of electricity generation is by adding a small number of panels to an individual building and at this scale these proposals only have localised impacts.

Section 9.4.17 states:

In other jurisdictions there are some larger scale electricity generating schemes using this method where climatic conditions allow. With technological advances it is possible that these larger scale installations may become practical in Cork and if this occurs careful consideration will need to be given to their scale, location and other impacts.

Section 9.4.18 states:

The Council will support and facilitate the development of solar energy, encourage passive solar design and solar water heating in new buildings and in retrofitting buildings.

5.4. Local Policy

5.4.1. Castlelyons is located within the Fermoy Municipal district area. The Fermoy Municipal District Local Area Plan 2017 identifies Castlelyons/Bridebridge as a key village. The site is outside the boundary of Castlelyons identified in the Plan map.

5.4.2. Section 4.4 refers to Castlelyons specifically. It states that:

The vision for Castlelyons /Bridebridge over the lifetime of this plan is to strengthen the range of services and employment opportunities available and ensure new development is sensitive to and in harmony with the scale and character of the picturesque and historic village.

5.5. Natural Heritage Designations

The Blackwater River SAC (Site Code 002170) is c. 1.25Km to the south. The Blackwater Callows SPA (Site Code 004094) is c. 6Km to the north.

6.0 The Appeal

6.1. Grounds of Appeal

A substantial and detailed third party appeal has been submitted from a neighbour who resides in one of the three dwellings to the north of Abbey Lane. In summary, it states:

- Abbey Lane is a popular walking route; lands are prone to flooding; there are badgers on the land; the Abbey Friary is nearby; and, there are three homes directly adjacent and overlooking the site. Consider that the applicant knew it was not the best site for a solar farm and the proposal is not sustainable planning.
- Considers misleading visual impact results have been created.

- The applicant has tended to dismiss or artificially minimise the impacts rather than to mitigate them. The lack of relevant planning details remains a major problem with this application. There is no glint and glare study and no information on noise associated with specific transformers/inverters to be installed. The Flood Risk Assessment is inadequate. Risks to extremely vulnerable ground water are not assessed. There have been no attempts to protect the existing badger population. A locally important personal and community amenity will be blocked from view both outside existing homes and for a long section of a popular walk.
- Proposal will have major visual impact on appellant's home.
- Maximum noise levels allowed during construction are much lower than the actual noise levels that have been created during the construction of similar schemes (UK examples cited).
- The proposal will not be noise compliant during construction or after commissioning, as transformers are a source of tonal noise.
- Many have objected to this proposal because of potential flood risk and risk to groundwater. The site has known poor drainage, with areas of standing water often visible on the lands, particularly after heavy rain. Pollutants from construction or from washing panels, and damage to plant will enter the groundwater.
- It should have been quickly apparent to the applicant that this site is not suitable. There are three separate planning applications for solar farms in Castlelyons alone. There is a very serious risk of irreversibly changing the landscape.
- Photos are provided from the appellant's dwelling with respect to her current view. The appellant considers that the proposal will have a major impact on her home and completely remove her locally important views, as well as reducing direct sunlight from the south and impact the value of her home.
- Appellant considers condition no.3 accepts there is a possible risk to archaeological remains on the site. It would be safer to refuse planning permission. Consider that the conclusion of the archaeologist is dangerously

dismissive and thereby potentially misleading. All activities on the site have the potential to damage archaeological remains – it is impossible for a single archaeologist to either monitor or assess ongoing risk. The proximity of the Abbey Friary and the likely existence of buried archaeological remains is adequate reason to refuse. Queries independence of archaeologist.

- Considers the presence of limestone bedrock close to the site surface has multiple implications. Considers the viability of pile driving is compromised.
- Concludes that it is impossible to adequately appraise many of the major elements of the scheme.
- Appendices include original submission at Planning Authority stage, and a section on noise in the inspector's report from the Public Inquiry for the Hacheston solar farm in England, as well as part of a presentation to the British Hydrological Society regarding hydrological issues with solar farms.

6.2. Applicant Response

The applicant responded to the third party appeal. In summary, it states:

- Consider that the appellant did not make a valid submission within the 5 week period and are of the opinion that this appeal should not be considered valid. Consider original objection was made on an application that was deemed invalid by the Local Authority. No new submission or fee was made on the later application, instead the original date was scribbled out and date stamped with reference to the revised application. Consider the Planning Authority should have returned and refunded the submission on the invalidated application and then a new submission made if appellant wished.
- Consider Planning Authority acted in an arbitrary manner outside the remit of the Planning and Development Regulations.
- Notwithstanding this contention, a response to the appeal is submitted.
- Glint and Glare: the appellant's dwelling is north of the development and it is not physically possible for glint and glare to occur at her property.

- Visual Amenity: Development will be extremely well contained within a number of flat fields which are well bounded by tall hedgerows and trees. Where there are gaps, new lines will be planted as detailed in the Landscape Plan. With respect to concerns with shadowing, considers that roadside hedges are not an alien feature in the local landscape and are considered an acceptable form of mitigation. Considers that the view from the appellant's property is not a material planning consideration. There is adequate separation distances and with landscaping measures proposed, it will not lead to a major visual impact.
- There will be no visual interconnectivity between the Abbey/Castlelyons village and the site, nor will it be visible from Abbey Lane to walkers with the exception of the access gate.
- Noise: The panels do not create noise and the only noise is from the cooling fans of the inverters. They are sited in the centre of the development at a minimum of 100m away. Maximum noise level will be 35dBA which is accepted standard within the wind energy industry.
- Flood Risk: The site is not within Flood Risk Zone A or B. Should a small amount of concrete ballast supports be needed in small sections of the site the proposed increase in impermeable areas will not lead to any unacceptable flood risk issues.
- There is no evidence to support the appellant's assertion that the construction will lead to pollution of the ground water. Best practice measures will be employed as detailed in the Construction and Traffic Management Assessment.
- Ecology: The Ecological Assessment has demonstrated that any potential impacts on badgers can be mitigated by design which has already been done.
- Archaeology: A full impact assessment including geophysical survey and test trenching have been carried out. It is clear from results that there is no significant risk known or unknown. A condition will be applied to any grant ensuring a qualified archaeologist monitors all ground works.

6.3. Planning Authority Response

No response from the Planning Authority was received.

6.4. Observations

A number of observations were made on the appeal by 7 objectors. In summary, they state:

- Concerned that any run off or contamination to groundwater will compromise drinking water supply. Solar panels contain chemicals which are dangerous to the environment.
- Proposal will increase flood risk to adjoining sites – reference to 2015 flooding of the area. The Board refused permission for 45 houses (ABP Ref. PL 218928) due to flooding risk on a site directly across from the subject site. 11Ha of solar panels will increase the flow of water to the Shanowenadrimina river. Reference made to English study of run-off generation.
- Solar farm will be incongruous and remove 11Ha of productive land. It will have the appearance of an industrial development.
- Conditions are contradictory in places.
- Ecological assessment is not thorough and lacks specific detail. A proper biodiversity management plan for the 30-year duration of the project is required. No bat survey was carried out – the area is very close to the Abbey ruins which contain ideal breeding habitat. Survey work was done in mid-January. Removal of hedgerow (5m) on both sides of the site will lead to lack of connectivity for bats or barn owls.
- The ratio of hedgerows to land area is high (11 Ha containing 5 fields). No vegetation survey was carried out. Query who will manage the grazing sheep or honeybee farming.
- Application is premature as guidelines are not yet available.
- Solar Farm will be next door to hurling and football pitches where children play. Concerns with the children's safety. There are many lost sliotars and

footballs. Apart from damage to panels, children will try to retrieve them and these installations are dangerous and should not be located near children.

- Concerns with archaeology. 3000 piles will be driven into the land and will result in the destruction of archaeological heritage.
- There are “swallow holes” and local people recall seeing them in the fields.
- The area is of national and historical importance. Trying hard to promote tourism in the village. A Conservation and Design statement has been prepared for the village. Ballyvolane House is located near the village, as well as well thought of B&Bs in Ballinterry, Rathcormac and Kill St. Annes.
- Solar panels are a potential fire risk.
- An EIA should be carried out.
- Three solar farm applications have been lodged.
- There has been almost no public consultation.
- Site is not well screened and hedges are low enough to enable viewing. CCTV and fencing will have an enormous impact on the visual landscape.
- At no point in the application is the width of Abbey Lane mentioned – access is not good. Concern with construction vehicles.
- Large scale electricity generation via solar panels was not envisaged during the lifetime of the Development Plan.
- Serious health concerns with solar panels.
- Noise is major concern.
- Property will be devalued.
- If venture fails commercially, these panels will be left to rust away.
- Unaware of planning application at time of purchase of dwelling

6.5. Further Responses

The appellant was provided an opportunity to respond to the first party’s response to the appeal. In summary, it states:

- A valid objection was submitted to application Reg. Ref. 17/4001 but Council invalidated that application. The applicant quickly resubmitted their application as Reg. Ref. 17/4369 and the valid objections on the original application were added to the new file. Appellant was informed of the Council's intention and a copy of the letter from the Council is submitted for the Board.
- The Board have accepted the appeal as a valid appeal.
- Applicant is only now raising queries as an attempt to prevent the appeal process taking place.
- Applicant has expended a larger amount of effort in their spurious attempt to claim the appeal is invalid than they have in responding to the planning issues in the appeal.
- Refers to Glint & Glare: The fact that appellant's dwelling is to the north of the site does not make glint and glare impossible.
- Visual Amenity: Existing views will be lost. The applicant's ongoing dismissive attitude to loss of views from sensitive receptors is pertinent.
- Noise: notes detailed analysis of noise in the appeal is not challenged by the applicant.
- Flood Risk: The conditions and associated traffic management plan may not be sufficient to protect the extremely vulnerable aquifer.
- Concludes that because the site is unsuitable this proposal is neither "demonstrably inert" nor does it "have a negligible environmental impact".
- Site selection is an important part of making a planning proposal sustainable.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Procedural Matters and Prematurity

- EIAR Requirement
- Glint and Glare
- Visual Impact
- Noise
- Flooding and risk of groundwater contamination
- Traffic
- Archaeology
- Ecology
- Other Matters
- Cumulative Impact
- Appropriate Assessment

7.1. Procedural Matters

- 7.1.1. The applicant queries the validity of the appeal. It appears that an earlier planning application was submitted (CCC Reg. Ref. 17/4001) and was declared invalid by the Council. The applicant resubmitted the planning application and the Council accepted the earlier submission from the appellant and re-stamped it with the revised date and new planning application reference number. The applicant considers that the original submission should have been returned to the appellant, and the appellant could have re-lodged the submission if she so wished.
- 7.1.2. I note that Section 127 of the Planning and Development Act lists what is required to submit a valid planning appeal. Having regard to Section 127(1), I am satisfied that the appeal has been made in writing, contains the name and address of the appellant, states the subject matter of the appeal, states the grounds of the appeal, is accompanied by an acknowledgement of the submission at Planning Authority stage, accompanied by a fee, and made within the correct period.
- 7.1.3. Therefore, I am satisfied that the appeal is a valid appeal and can be considered by the Board.

- 7.1.4. A number of the observations consider that the proposal is premature because there are no national guidelines. I acknowledge that there are no guidelines specifically for solar farms, but there is guidance and policies for renewable energy developments at national, regional, county and local level. I have referred to renewable energy policies in section 5 above.
- 7.1.5. The Government White Paper entitled '*Ireland's Transition to a Low Carbon Energy Future 2015-2030*' notes that *Solar photovoltaic PV technology is rapidly becoming cost effective for electricity generation, and has the potential to increase energy security, contribute to our renewable energy targets and support economic growth and jobs.*
- 7.1.6. The Regional Planning Guidelines for the area *support the sustainable development of renewable energy generation* subject to normal planning considerations.
- 7.1.7. The County Development Plan at the time of production considered that solar panels would be mostly used in small-scale developments. However, it did recognise that there are some larger scale electricity generating schemes using this method and that with technological advances it is possible that these larger scale installations may become practical in Cork.
- 7.1.8. Having regard to the policy support at national, regional and county level, I am satisfied that subject to other normal planning considerations, the lack of specific national guidelines is not a reason for refusal in this instance.

7.2. **EIAR requirement**

- 7.2.1. An observer considered that an Environmental Impact Assessment should have been carried out. I am satisfied that solar farms are not a development class for which an Environmental Impact Assessment Report (EIAR) is required from the applicant. It does not fall within Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations. I am satisfied that an EIAR is not required and I note that a similar conclusion has been reached by the Board on other solar farm developments.

7.3. Glint and Glare

- 7.3.1. The appellant expresses concern with the potential impact of glint and glare. The applicant considers that as the appellant's dwelling is to the north of the subject solar panels, glint and glare are an impossibility. The appellant considers that there is a possibility of glint and glare in the late summer evening, and having regard to the angle and height of the panels, it is not impossible.
- 7.3.2. I am of the opinion that potential glint and glare impact from the panels on the appellant's dwelling is highly unlikely having regard to the orientation of the panels. In general, the geometry of the relationship between the solar panels and the movement of the sun means that dwellings due east and west of the panels are most likely to view solar reflection, if at all. Furthermore, I note that solar panels are designed to absorb as much light as possible and reflect as little as possible to maximise their electricity generation. I also note that many documents state that the reflectivity of solar panels is similar to that of still water and significantly less than glass and steel. The panels are the 'fixed' type and will not 'track' or follow the sunlight. Thus, I am satisfied that there will not be a negative impact on the amenities of the appellant because of glint and glare.

7.4. Visual Impact

- 7.4.1. The visual impact of the proposal on the appellant's views from her dwelling, as well as the visual impact on walkers along Abbey Lane formed a large part of the objections and observations submitted at Planning Authority stage and as part of the appeal submissions.
- 7.4.2. I have visited the site and can confirm that the site is relatively flat. The site comprises of 5 fields and each field is surrounded by hedgerows and trees on all sides. There are quite a number of gaps in screening along the northern boundary particularly along the fields furthest to the east. The applicant intends to address this with additional planting and the landscape plan refers to "tall" hedgerows to be planted which I consider very necessary. However, it is likely that there will be intermittent views into these fields for the first few years. I recommend that should the Board consider granting permission that a condition requiring semi-mature hedgerows and trees to be planted in the first season is included.

- 7.4.3. The fact that the design and layout of the panels respects the existing field pattern will contribute to mitigating the views. While intermittent views will initially be available from the roadside, those views will not extend to the full site and will be limited to within the relevant field. Furthermore, the height of the panels at 2.75m is not excessive and they are setback away from the roadside. I am satisfied that there will be intermittent views, but that with mitigation measures including the planting of semi-mature vegetation alongside the road, the impact will not be seriously injurious.
- 7.4.4. As noted above, the area is generally flat. During my site visit, I travelled around the local roads and the topography is conducive for the development of a solar farm as there are no high viewpoints in the immediate vicinity that could provide clear vantage points for viewing the development. I am satisfied that views of the site from short range are curtailed by the hedgerows and trees in the general area.
- 7.4.5. I have visited the key buildings in the village to determine if there are views possible. I am satisfied that the proposal will not have a seriously negative impact on the visual amenities of the area.
- 7.4.6. With respect to the appellant, there will undoubtedly be changes in views from within her dwelling. I do not accept that her sunshine will be reduced as a result of the proposal, however, I do acknowledge that there will be a change in the view from her house, and in particular her upstairs bedrooms. However, this has to be balanced against the need to develop sustainable renewable energy infrastructure. Furthermore, while additional landscaping and tree planting will not fully screen the proposal from the appellant's dwelling, it will mitigate her short range views.

7.5. **Noise**

- 7.5.1. The appellant and the observers express concern with noise from the transformers/inverters and the substation. The appellant considers that there has been no meaningful noise analysis carried out by the applicant.
- 7.5.2. The Planning Authority attached a condition (no.22) restricting noise to 55dBA during the daytime and 45dBA at night-time when measured at noise sensitive locations. Condition no.29 applies the same limits during construction.
- 7.5.3. Taking construction noise first, I am satisfied that any noise impacts that may occur during construction will be temporary. The applicant states that construction duration

is only 12 weeks. I am satisfied that with a condition requiring the applicant to prepare a Construction Management Plan incorporating mitigation measures to limit noise during construction and having regard to the relatively short construction duration, there will not be a seriously injurious impact on the residential amenities in the vicinity.

- 7.5.4. During operation, the appellant argues that an increase of 5dBA above the background noise level will have a potentially significant noise impact and noise mitigation measures must be considered. It is further stated that as no specific information relating to the type of transformer to be used has been forthcoming, it is not possible to adequately assess. I do not agree - I am satisfied that with appropriate acoustic mitigation measures, noise from electrical equipment can be mitigated. It is stated by the applicant that the equipment will be housed in noise insulated pre-fabricated structures. I consider that this type of structure is well-established and proven technology to reduce noise levels at boundaries. Furthermore by their nature solar farms only operate during daylight hours, thus there is little noise generated at all in the evening, night and early morning when ambient noise levels are typically lowest.
- 7.5.5. Condition no.22 requires the applicant to comply with specific noise levels. I am satisfied that if the applicant fails to comply with these conditions, the development is unauthorised development and enforcement proceedings can be initiated. In addition, I note that the transformers are located half way down the fields and the substation is to the rear – a significant distance from the dwellings.
- 7.5.6. I recommend that the Board apply a specific condition with respect to permissible noise levels to be met at the boundary, if the Board consider granting permission. This will ensure that there is no unacceptable noise emanating from the site for walkers and occupants of nearby dwellings.

7.6. **Flooding and risk of groundwater contamination.**

- 7.6.1. The applicant submitted a Flood Risk Assessment with the initial application documents. It notes that there are no designated or undesignated watercourses flowing through any part of the site. No flood events are recorded on the OPW mapping.

- 7.6.2. It is stated that the panels will be installed on the land as it is currently and there will be no changes made to the existing ground levels or ground cover. There will be no hard paved roads constructed as part of the proposal.
- 7.6.3. The applicant states that a search of the Council flood records revealed that a small section of the proposed site has been prone to pluvial flooding in the past during periods of heavy rainfall. This is supported by references to flooding and photos submitted by the appellant and observers. I note that this is one field only and appears to occur only during heavy rainfall. The applicant states that the area identified is a local low point where rainfall can pond. The panels and other equipment have not been located in areas at risk of surface water flooding.
- 7.6.4. Whilst it is acknowledged that some of the solar panels will require more than pile driving, this is likely to be a minority. A small amount of concrete ballast supports may be needed in small sections of the site; however, the proposed increase in impermeable areas will not lead to any unacceptable flood risk issues. There are no watercourses on the site. This reduces the risk of run-off to surface waters, as there is no direct pathway for any surface water run-off from the site to enter surface waters.
- 7.6.5. Rainwater falling from the panels will be directed towards the ground as it is now. Based on the proposed layout, and having regard to the location of the substation and inverters, I am satisfied that the development will not increase the rate of discharge from the current rate, and the development will not lead to an increase in flooding elsewhere. The subject application will result in very little interference with the existing drainage systems of the site.
- 7.6.6. I have read the Inspector's Report and the Board decision for the file referred to by one observer, ABP Ref. PL 218928. This was for the development of 45 houses in the village. It was refused permission by the Board in February 2007 due to lack of evidence of sufficient capacity in the local stream, which could give rise to a serious risk of flooding. This was for housing which is a completely different development type and not comparable to the subject application.
- 7.6.7. With respect to the potential for ground water contamination, I am satisfied that any excavation works associated with installing the panels will be minor and for the most part will not require significant foundation works or ground disturbance works.

Subject to a condition requiring the submission of a detailed Construction Management Plan, I am satisfied that the groundwater is unlikely to be impacted by construction or operational activities.

- 7.6.8. In conclusion, I am satisfied that the proposed development would not negatively impact on current drainage patterns or result in a significant increase in flood risk elsewhere. Therefore, having regard to the above, I am satisfied that the development should not be refused on the basis of surface water management or flood risk.

7.7. **Traffic**

- 7.7.1. A number of observers express concerns with traffic and access to the site. As previously noted the construction duration is 12 weeks, which is not excessive. During operation, there will be very limited traffic as it is proposed to monitor the system remotely. The transport assessment referred to in the Environmental Report states that 248 HGV deliveries will be required throughout the construction stage and a delivery route has been identified.
- 7.7.2. The access from Abbey Lane is through the existing farm access point that is to be altered to accommodate large vehicles entering the site. There is no issue with sightlines, and signage will be used as part of construction activities. A Construction and Traffic Management Plan has been submitted.
- 7.7.3. I am satisfied that a detailed Construction Management Plan can address all standard mitigation measures for the duration of construction, and with the low numbers of vehicles proposed during the operational life of the development, there will not be a seriously negative impact on traffic safety or amenities as a result of the proposed development.

7.8. **Archaeology**

- 7.8.1. Archaeology formed the main reason for the request for Further Information and the Clarification of that Further Information. The applicant submitted an Archaeological Assessment and a geophysical survey with the initial assessment. The geophysical survey identified responses of low and moderate archaeological potential with a particular concentration to the eastern limit of the site. The Council's archaeologist

was not satisfied that the proposed mitigation measures addressed the issue of the potential archaeology on the site and sought further information in the form of archaeological testing. In response, the applicant stated that it was not feasible for testing to be carried out and that it can be dealt with by way of condition. The Council archaeologist did not accept this response and requested that testing be carried out. Targeted test trenching was carried out and some agricultural features were uncovered but no archaeological site was identified. The geophysical anomalies were found to be mainly related to the underlying geology. This was accepted by the archaeologist and subject to conditions, there was no objection to the granting of permission.

- 7.8.2. The appellant does not accept the findings of the archaeologists report and considers that the proximity of the Abbey Friary and the likely existence of buried archaeological remains is an adequate reason to refuse permission. The appellant considers that condition no.3 accepts there is a possible risk to archaeological remains on the site.
- 7.8.3. Having regard to the information on file, including results of test excavations under licence, I am satisfied that the proposal is unlikely to give rise to seriously adverse impacts on heritage. I am satisfied that the inclusion of a standard condition (no.3 of Planning Authority decision) does not accept that there is a risk to archaeology. I am of the opinion that a suitably robust condition can be attached, should the Board consider granting permission, which will ensure that all ground works are archaeologically monitored.
- 7.8.4. Therefore, I am satisfied that there is unlikely to be a significant impact on unrecorded subsurface archaeological features, and I do not consider that the proposal should be refused permission on archaeological grounds.

7.9. Ecology

- 7.9.1. An Ecological Report accompanied the application that included an Appropriate Assessment Screening Report. The appeal site is not located within an SAC or an SPA. It is located c.1.25km to the north of the River Bride which is a tributary, and designated as part of the Blackwater River SAC. There is no pathway between the site and the SAC – there are no watercourses on or near the site.

- 7.9.2. The site is currently in use for pasture and used for grazing horses. The site is occupied by improved agricultural grassland and no rare or protected plant species were recorded by desk or field surveys carried out by the applicant. While the applicant acknowledges that the time of year for the survey was sub-optimal, it is noted that habitats on site were highly modified and not suitable for rare or protected species. The Report concludes that the development site is of Local Value for biodiversity, which is typical of the surrounding intensive agricultural landscape. It is proposed to permit grazing when the site is operational and as such, I am satisfied that there will not be a net loss of biodiversity given the planting to be undertaken.
- 7.9.3. Two single entrances to badger setts were noted. The applicant has stated that the design has been modified to take account of the setts – mitigation by design. It is also proposed that the pile driving works should not be carried out within 150m of the setts during the badger breeding season, December to June. Small openings in the fence are proposed every 100m to enable small animals gain access into the site.
- 7.9.4. Small sections of hedgerow will be lost during construction, however this is considered a negligible impact as the layout of the tables has taken account of the locations of the hedgerows. I consider that the small amount lost (noted as being <20m) is acceptable. I further consider that the supplementary planting of native species will have a positive effect on biodiversity of the area.
- 7.9.5. One observer notes that the ratio of hedgerows to land area is high and makes the hedgerows all the more valuable as biodiversity rich habitat. I agree with the observer – however, as noted there will be minimal loss of hedgerow and with the additional planting this will not result in an unacceptable impact.
- 7.9.6. I am satisfied that there will not be a significant net loss for biodiversity when the development is operational. The applicant has stated that no piling works will take place within 150m of the known badger setts in the breeding season. I am satisfied that with the addition of a condition requiring a further pre-construction badger survey to be carried out there will not be a significant impact on the ecology of the area.

7.10. Other matters

- 7.10.1. Other issues were raised by observers including fire risk, use of good agricultural land, tourism, project viability and security concerns.
- 7.10.2. An observer considered that the panels constitute a fire risk. No further information is provided to support this claim. Having regard to the type of materials used in the solar panels and the mounting frames, I do not agree that the materials could be seen as potential fuel for a fire. The components have to comply with EU safety legislation. This is the same for the electrical equipment.
- 7.10.3. The loss of good agricultural land for the solar farm is noted by a number of the observers. I do not accept that this land is lost to agricultural uses. It is stated that grazing of small animals will be considered by the applicant. This appears to be the norm for most solar farms being proposed. This will maintain the fields in agricultural use, albeit restricted in the type of agricultural use. As noted, it is used for pasture lands currently. I do not accept that this is a reason for refusal of permission.
- 7.10.4. Tourism concerns are raised. I have addressed the visual impact above, and conclude that there will not be a significantly adverse impact on the amenities in the surrounding area. The site cannot be seen from the crossroads in the village and with the additional planting in place, only glimpses of the site will be available along Abbey Lane. I am satisfied that there will not be an adverse impact on visual amenities that could be of tourism concern.
- 7.10.5. The project life is expected to be 25 years. A decommissioning statement accompanied the application. However, I do share the concerns that if the project is not viable the equipment could be left in situ to deteriorate. However to prohibit this situation from occurring the Planning Authority included a condition requiring a bond to be paid in the event that this did occur. I am satisfied that this is an appropriate measure to take and recommend a similar condition is applied if the Board consider granting permission.
- 7.10.6. The site is proposed to be surrounded by security fencing and a number of CCTV cameras are proposed. I do not consider that this will result in any privacy concerns. A condition requiring the cameras to be fixed in place facing into the site should be attached, which will address any concerns.

7.11. Cumulative Impact

- 7.11.1. There are two other solar farms that have recently obtained planning permission in the vicinity, ABP Ref. 248278 and ABP Ref. 248400. The former is located c.1.6km to the north-west of Castlelyons crossroads and c.1.9km to the north-west of the subject site. The latter is c.1km to the south-west of Castlelyons and c.1.4km to the south-west of the subject site.
- 7.11.2. While this would appear to be a substantial number of solar farms in one area, having regard to the topography and intervening vegetation, I am satisfied that this will not give rise to cumulative visual impacts in the area. I do not consider that cumulative impacts is a ground for refusal in this instance.

7.12. Appropriate Assessment

- 7.12.1. As noted above there are no watercourses on the site and as such, there is no pathway between the site and any European site. Therefore, having regard to the nature and scale of development proposed and to the nature of the receiving environment, 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

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

9.0 Reasons and Considerations

Having regard to the provisions of the Cork County Development Plan 2014 - 2020, and national and regional policy in relation to renewable energy, the nature and scale of the development proposed, the suitability of the screening and topography of the site, and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be prejudicial to public health or the environment, would not contribute to, or, exacerbate flooding, would not seriously injure the amenities of the area and would be acceptable in terms

of traffic safety and convenience. Therefore, the proposed development would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 24th day of May 2017 and the 28th day of September 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The permission shall be for a period of 25 years from the date of 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.

3. (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 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.

4. 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 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, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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.

5. 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.

6. The landscaping scheme shown on drawing no. 19, as submitted to the planning authority on the 21st day of February, 2017 shall be carried out within the first planting season following substantial completion of construction works.

In addition to the proposals in the submitted scheme, a plan of not less than 1:500 showing the location of proposed semi-mature hedgerows and trees along the boundary with Abbey Lane shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

All planting shall be adequately protected from damage until established.

Reason: In the interest of residential and visual amenity.

7. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This schedule shall cover a period of at least five years, and shall include details of the arrangements for its implementation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of visual amenity.

8. A pre-construction badger survey shall be carried out in accordance with the National Roads Authority Guidelines. During the construction phase, the developer shall adhere to the 'Guidelines for the Treatment of Badgers prior to the Construction of National Road Schemes', published by the National Roads Authority in 2006. In particular, there shall be no pile driving within 150 metres of an active badger sett during the breeding season (December to June) or construction works within 50 metres of such an active sett during the breeding season.

Reason: In the interest of wildlife protection.

9. 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 interests of public health.

10. (i) No artificial lighting shall be installed or operated on site unless authorised by a prior grant of permission.
- (ii) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or roads.
- (iii) Cables within the site shall be located underground.
- (iv) 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 slate or tiles.

Reason: In the interests of visual and residential amenity.

11. Before construction commences on site, details of the structures of the security fence showing provision for the movement of mammals shall be submitted for prior approval to the planning authority. This shall be facilitated through the provision of mammal access gates every 100 metres along the perimeter fence and in accordance with standard guidelines for provision of mammal access (National Roads Authority 2008).

Reason: To allow wildlife to continue to have access across the site.

12. The construction of the development shall be managed in accordance with a Construction Management Plan, to include a Construction Traffic 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) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) 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;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road during the course of site development works;

(i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(j) 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;

(k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

(l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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 amenities, public health and safety.

13. Noise levels emanating from the proposed development when measured at Noise Sensitive Locations shall not exceed 55dBA between 0700 and 1900 hours, and 45dBA between 1900 and 0700 hours.

All sound measurements shall be carried out in accordance with ISO Recommendations 1996 – “Acoustics – Description, Measurement and Assessment of Environmental Noise”.

Reason: In the interest of residential amenities.

14. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory reinstatement of the local public road (Abbey Lane), if damaged by the transport of material to the site in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. 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 reinstatement of local roads.

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 satisfactory reinstatement of the site on 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 satisfactory reinstatement of the site.

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Ciara Kellett
Senior Planning Inspector

30th April 2018