



An
Bord
Pleanála

Inspector's Report ABP.300427-17

Development	10-year permission for the construction of a solar farm.
Location	Tomsallagh, Ferns, Co. Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	2017/275
Applicant(s)	JBM Solar
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Tony Dennison
Observer(s)	Wild Ireland
Date of Site Inspection	29 th March 2018
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The subject site is in a rural area located approximately 7 – 8 km north of Enniscorthy, Co. Wexford.
- 1.2. The appeal site is currently agricultural land used for grazing livestock.
- 1.3. The overall size of the appeal site is 44.56 ha (110 acres) and the shape of the appeal site is irregular. There is a farm house, farm yard and adjoining field situated to the centre of the landholding however this parcel of land does not form part of the application / appeal site.
- 1.4. The western side of the appeal site adjoins a local rural road and there is a mature hedgerow along this roadside boundary. There is a small river situated to the immediate east of the appeal site.
- 1.5. The gradient of the appeal site is generally characterised by undulating topography however the land adjacent to the local river to the east and south east of the appeal site falls steadily towards the river.
- 1.6. There are sizable power lines that traverse the appeal site and their route is indicated in yellow on the site location map (Scale 1:10560).
- 1.7. The route of the M11 (Gorey to Enniscorthy) corridor which is currently under construction is situated to the south east and east of the appeal site and it is visible from the eastern parts of the appeal site.
- 1.8. There are a number of houses located adjacent to the boundary of the appeal site. This includes 3 no. houses situated to the south-west corner of the appeal site and 2 no. houses located to the north-west corner of the appeal site and finally 2 no. houses situated immediately east of the appeal site. There are also a number of houses located on the opposite side of the public road from the appeal site.

2.0 Proposed Development

- 2.1. Planning permission is sought for a 10-year permission for the construction of a solar PV energy development comprising installation of solar pv panels.
- 2.2. The proposal will consist of the installation of photovoltaic panels on ground mounted frames within existing field boundaries.

2.3. The proposed development also includes the following;

- Provision of 11 no. inverter / transformer stations
- Underground cabling
- HV cabins
- 2 no. electricity control centres and associated hardstanding area
- Site perimeter fencing
- CCTV cameras
- Upgrade of existing agricultural entrance to north of site
- Internal access tracks
- Landscaping works
- Temporary construction compound.

2.4. The solar panels raise to a maximum height of 2.33m above ground level and a minimum height of 0.8m above ground level.

2.5. The solar panels will be stabilised by poles inserted into the ground.

3.0 **Planning Authority Decision**

Wexford County Council decided to **grant** planning permission subject to 14 no. conditions. Condition no. 4 requires that two fields to the south-east of the subject site shall be omitted and the field immediately to the south of the landowner's farmyard shall be omitted from the proposed development in the interest of reducing visual impact and mitigating any potential glare towards the proposed M11 on motorists.

3.1. **Planning Authority Reports**

3.1.1. The main issues raised in the planner's report are as follows;

Area Planner

- The proposed development is broadly supported by national, regional and local planning policy.
- It is considered that glint and glare does present as an issue given the proximity of the subject development to the M11 motorway. In order to address these issues, it is recommended that 3 no. fields to the south east of the proposed development are omitted from the proposed development.
- It is not considered that the proposed development will have a negative impact on residences in the local area.
- The above modifications would ensure that the visual impact of the proposed development would be acceptable from short, medium and long-term views.
- No significant impacts on drainage patterns are anticipated.
- Insignificant impact on ecology.
- The proposal would have significant impact in terms of noise and fire.
- The grid connection for the existing substation is situated approximately 1.5km to the south of the site.

3.1.2. Environment; - Additional information sought.

3.1.3. Fire Authority; - Compliance with Fire Regulations required.

3.1.4. Environment; - Additional information sought in relation to details of the proposed toilet facilities.

3.1.5. Submissions; - There is a submission from TII who have no objections and recommend that the proposed development abides with official policy in relation to development on/affecting national roads as outlined in the 'Spatial Planning and National Roads Guidelines for PA, 2012'.

3.2. **Third Party Observations**

- There are four third party submissions and the issues raised have been noted and considered. The issues raised are broadly similar to these issues raised in the submitted appeal.

4.0 **Planning History**

- There is no previous planning history on the subject site.

5.0 **Policy Context**

5.1. **Development Plan**

The operational Development Plan is the Wexford County Development Plan, 2013 – 2019. The appeal site is in a rural area in unzoned land.

The following policies / sections are relevant to the proposed development;

- Objective ED08 – facilitate and encourage green industries including renewable energy.
- Objective EN18 – promote the use of solar energies in new and existing dwellings, offices, commercial and industrial buildings.
- Map no. 13 sets out a 'Landscape Character Assessment' for Co. Wexford. The appeal site is not located within any landscape designation.
- Section 18.29.2 sets out guidance in relation to sightline provision.

6.0 **National Policy**

The National Planning Framework, 2018 – 2040,

The Policy Objective 55 of the National Planning Framework is relevant and it states; *'Promote renewable energy use and generation at appropriate locations within the*

built and natural environment to meet the national objectives towards achieving a low carbon economy by 2050'.

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 many 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.

7.0 International Guidelines

'Planning Guidance for the development of large scale mounted solar PV systems' prepared by BRE National Solar Centre (UK).

- This guidance document 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.

8.0 The Appeal

A third-party appeal was submitted by Tony Dennison and the following is a summary of the main grounds of appeal.

- The proposed development is premature pending the publication of national guidelines for solar farm development.
- It is contended that the proposed development will have a negative impact of the local rural community and as such the site selection is inappropriate.
- It is submitted that the proposed wind farm development is up to 5 times larger than the norm. The set back distance from properties is approximately 50m whereas in appeal ref. 246902 100m was required.
- The loss of agricultural land when having regard to solar farm development in the local area will be significant.
- The developer has acknowledged that there will be a definite visual impact on the appellant's home.
- It is submitted that when considering the visual impact that the motorway under construction and the wind turbines and solar farms at Killabeg and Oulartard should be considered.
- It is submitted that the photomontages were taken in summer time during full leaf and bloom and do not reflect the visual impact during winter months.
- It is submitted that the overall visual impact will have a detrimental and negative visual impact on the rural landscape. The proposal therefore conflicts with Section 14.4 of the Wexford County Development Plan, 2013 – 2019.

- As there is no detail in relation to the proposed panels a revised glint and glare assessment is required.
- The glint and glare assessment does not adequately assess the impact of the proposed development on motorists along the proposed M11.
- The proposed screening is not significant.
- It is considered that a cash deposit is required for decommissioning.
- It is submitted that toxic chemicals can leak from PV panels which can enter groundwater and Tinnacross Stream which is designated as part of the Slaney River Valley SAC.
- It is contended that there was inadequate community consultation.
- The proposed development will devalue property.
- There are adverse health implications having regard to inverters / panels.
- It is submitted that there are currently too many proposed grid connections to the substation.
- There are concerns in relation to potential wind noise.
- It is questioned whether an EIA should be carried out having regards to the hydrological connections from the site to the SAC, Slaney River Valley.
- The planners report states that the proposed development is in an area normally not permissible.
- It is considered that a revised site layout would not address all the issues.

9.0 Observations

The following is the summary of an observation submitted by Peter Sweetman of Wild Ireland;

- The application is incomplete as it does not include details of the grid connection.
- It is submitted that the screening assessment sets out that a low level of mitigation measures will be required. It is argued that the commission in

Preliminary reference case C-323/17 'People Over Wind' states that the fact that there are mitigation measures considered implies that such significant effects are likely to occur and as such there is a need for appropriate assessment.

- It is questioned whether the appeal has been posted on any website in accordance with Article 7 of EU Directive 2003/4/EC.

10.0 Responses

Local Authority Response

The local authority submitted a response stating that they had no further comments.

First Party Response

The following is the summary of a response submitted by Tom Phillips & Associates, Planning Consultants, on behalf of the applicant.

Premature

- Section 7.16.1 of the Development Management guidelines state that a development can only be premature when there is a realistic prospect of policy guidelines been published.
- Case Law in relation to Hoburn Homes Ltd. v An Bord Pleanala and O'Connor v Clare County Council clarifies the position in relation to prematurity.
- International guidance in relation to solar farms ensures a high level of standard is followed.
- The Minister for Housing has previously stated that the existing planning framework is sufficiently robust.

Site Suitability & Selection

- The scale of the proposed development is compatible with numerous developments across the countryside.
- Good public consultation was undertaken.
- The submitted photomontages and Landscape & Visual Impact Assessment demonstrates that the proposal can be accommodated within the established landscape.

Size and Scale

- The scale of the proposed development is compatible with numerous developments across the countryside.
- It is acknowledged that the Planning Inspector referred to set back distances in a solar farm development in appeal ref. 246902, this was not imposed by the Board. The Board imposed a minimum set back distance of 22m in appeal ref. 244351.
- The current minimum set back distance in the proposed development is 22m.
- It is submitted that all electrical equipment, including inverters and transformers, is set back a minimum distance of 150m.
- In relation to appellant's property boundary it is set back 540m from the proposed development and allowing for condition no. 4 of the Local Authority permission this setback distance is increased to approximately 600m – 700m.
- The Local Authority, in their planner's report acknowledge that the proposed development is capable of being assimilated to the landscape.

Visual Impact & Property Devaluation

- There is no right to a view and this has been established in English case law, Phipps v Pears, 1965.
- The submitted Landscape Visual Impact Assessment demonstrates that the proposed development will have no adverse impact on the landscape.

- There is no requirement for to provide views / visual impact assessments during the different seasons.
- Mitigation planting is included in the proposed development to reinforce existing hedgerows which will include advanced nursery stock. The majority of hedgerows will be managed to a height of 3m – 6m. Sections along the motorway will be 6m to ensure no glint and glare towards motorway.
- The potential for glint and glare on the motorway is further reduced by condition no. 4 of the Local Authority permission.
- There is no evidence to suggest that there is a positive relationship between a solar farm development and property devaluation.
- An Bord Pleanála is consistent in its view that there is no relationship between property devaluation and industrial development. This is demonstrated in appeal ref. 126307 which relates to an incinerator at Carranstown, Duleek, Co. Meath.

Glint & Glare

- It is submitted that the glint and glare associated with solar panels has the same reflective characteristics as water.
- A Glint & Glare study was prepared and Fig. 2.3 & 2.4 illustrate that the appellant's property will not be affected by the theoretical potential to experience glint and glare.
- Condition no. 4 of the Local Authority permission will address glint and glare concerns from the motorway.

Health & Safety Concerns & EIA

- The most efficient infrastructural specifications available at the time of construction will be used.
- There is no evidence to suggest that solar farms pose a health and safety concern.

- All electrical equipment used meets the EMC Directive.
- The electromagnetic radiation emitted from the electrical equipment will be substantially below acceptable thresholds and will not interfere with broadband and phone transmissions.
- An Bord Pleanála has previously discounted public health issues associated with solar farms and this was evident in appeal ref. 246902.
- Solar farms do not contain any chemicals with potential to leach into the environment.
- Whilst in operation a solar plant produces no emissions or waste.
- The Planning Authority screened out an EIA.
- The planning application documentation includes many documents that would form part of an EIA.

Decommissioning

- The site will be fully decommissioned after the 25-year permission.
- It is also a condition of the lease agreement that the land will be returned to the landowner with land reinstated following the lease period.
- The applicant is satisfied to comply with condition no. 3 which requires a detailed restoration plan providing for decommissioning.
- Condition no. 7 requires the applicant to lodge cash deposit of €140,000 to ensure adequate decommissioning.

Community consultation

- A flexible community consultation event was held prior to lodging the application.

Community Benefit Fund

- The applicant is satisfied to comply with condition no. 8 of the Local Authority decision.
- The applicant also intends to offer energy improvements works to households located within 200m of the site boundary.
- This offer is not intended to remove all visual impacts but directly link properties closest to the development with renewable energy and sustainability attributes.

Grid Connection

- The applicant has no objections to running cables underground.

Other issues

- There will be adverse wind issues due to the proposed development.
- It is submitted that the Local Authority is not required to notify Inland Fisheries Ireland regarding the proposed development.
- There is no basis for considering that there are impacts on water or contamination.
- It is contended that there is no provision in the County Development Plan that states that solar farms are not normally permissible in certain locations.
- The Planning Authority is fully within its rights to request modifications to a scheme by condition.

11.0 Assessment

I would consider that the main issues for consideration in this case are: -

- Principle of Development

- Premature pending publication of national guidelines
- Visual and Landscape Impact
- Property Devaluation
- Glint & Glare
- Traffic & Access
- Requirement for EIA
- Appropriate Assessment
- Health Considerations
- Grid Connection

11.1. **Principle of Development**

11.1.1. In considering the principle of a proposed solar farm development I would have regard to national and local policy provisions.

11.1.2. It is a Government target that 40% of energy output will be from renewable energy sources by 2020¹. The Government White Paper entitled ‘Ireland’s Transition to a Low Carbon Energy Future 2015 – 2030’, published in December 2015, is relevant. The main objective of this policy document is to reduce carbon emissions and in this regard solar panel developments are considered an integral part of achieving this objective.

11.1.3. The Government adopted ‘National Policy Position on Climate Action and Low Carbon Development, 2014’ and this publication states that it is a long-term vision that there is ‘an aggregate reduction in carbon dioxide emissions of at least 80% (compared to 1990 levels) by 2050 across the electricity generation. To achieve this reduction, the National Planning Framework, 2018, states that our transition to a low carbon energy future requires a ‘shift from predominately fossil fuels to

¹ EU Directive 2009/28/EC – Renewable energy targets

predominately renewable energy sources'. The Policy Objective 55 of the National Planning Framework, 2018, is relevant and it states;

- 11.1.4. *'Promote renewable energy use and generation at appropriate locations within the built and natural environment to meet the national objectives towards achieving a low carbon economy by 2050'.*
- 11.1.5. There is currently no national guidance in relation to solar panel developments in Ireland however I would note that the UK Guidelines 'Planning Guidance for the development of large scale mounted solar PV systems' recommend that when solar panels are in agricultural land there is a preference to locate them in poorer or more marginal agricultural land as opposed to fertile agricultural land. The appeal site is generally good agricultural land with the exception of the land located to the south east of the appeal site as this land slopes towards a river.
- 11.1.6. The Wexford County Development Plan, 2013 – 2019, has no strategy or guidance in relation to larger solar panel developments. However, the County Development Plan states that the Council will encourage the development of renewable energy resources and the maximisation of electricity production from renewable sources.
- 11.1.7. Overall, I would consider that there is a positive presumption in favour of alternative energy projects including renewable energy, having regard to the Governments renewable energy targets and this is acknowledged at National and County level. However, while such developments may have a positive outcome in terms of national and county objectives I would also consider that locally there are likely to be concerns. Issues such as the visual impact on the landscape considering the siting, scale and layout of the proposed solar panel development, impact on residents and the amenities of the area including glint and glare, environmental issues including impact on the ecology, cultural heritage and accessibility/traffic and drainage issues need to be considered.

11.1.8. In conclusion therefore, I would consider that there would be a general positive consideration towards solar panel developments in rural agricultural land provided that the proposed development would not adversely impact on the established environmental and residential amenities of the local area.

11.2. **Premature pending publication of guidelines**

11.2.1. It is argued by the appellant that the proposed solar development is premature pending the publication of national guidelines. The first party appeal response submits Irish case law to support the argument that the absence of national guidelines is not a valid reason to withhold a permission. The first party appeal also refers to Section 7.16.1 of the Development Management Guidelines, 2007. Section 7.16.1 states that *'prematurity arises where there are proposals to remedy the deficiency. If there are no such plans to remove the constraints within a reasonable period this form of wording should not be used as a reason for refusal'*. In the interest of clarity, I would also note a recent High Court case (Element Power Ireland Limited v An Bord Pleanala, 2017) which related to a strategic wind farm development in Counties Meath and Kildare. The Board refused permission for 3 no. reasons and the first reason for refusal, which related to prematurity, was successfully challenged in the High Court. The High Court judgement stated that the Board had *'an obligation to properly evaluate the application in the light of existing policy and particularly the WEDG 2006 and the two relevant County development plans'*.

11.2.2. Overall, I would conclude that the Board's consideration of the proposed solar farm would not be premature pending the publication of national guidelines. There is no indication of any national guidelines soon and I would acknowledge that planning permission is sought for many types of development without national guidelines and this would be no different for the proposed development.

11.3. **Visual and Landscape Impact**

11.3.1. The appeal site is currently made up of 13 no. fields and is used for agricultural use. The appeal site and the immediate area is characterised as a quite rural area with a

sporadic concentration of rural houses in the immediate vicinity of the appeal site particularly to the south of the appeal site where there is a concentration of 5 no. houses to the immediate south west of the appeal site. There is a small river flowing along the eastern and south-eastern boundary of the appeal site.

11.3.2. The proposed development covers an area of 44.56 ha (110 acres). The established landscape is a significant factor in considering the impact of the proposed development on visual amenities and the landscape. The existing landscape comprises of undulating / rolling countryside; however, the topography of the appeal site falls from west to east towards a river, i.e. Tinnacross Stream. Therefore, some of the existing fields on the appeal site are sunken and not visible from public roads in the local area due to established mature hedgerows / field boundaries in the local area and site topography.

11.3.3. I would note that Figure 4 of the Landscape and Visual Impact Assessment which provides a theoretical visibility of the proposed solar farm estimates that within the 5km study area of the appeal site that only approximately 20% – 30% of the proposed development is visible. The largest area of visibility is the eastern slopes of the river valley which is situated to the east of the proposed solar farm. I would note that Section 1.5 of the Landscape and Visual Impact Assessment sets out an assessment on the landscape and concludes that the magnitude of the landscape impact is medium to low in the immediate vicinity of the site, i.e. within 500 metres of the proposed development.

11.3.4. The Landscape and Visual Impact Assessment (LVIA) provides an assessment of the proposed development from 9 no. vantage points. The residual impact of these nine views is recorded in the LVIA and the most significant impact is recorded as 'moderate – slight' for VP2 and VP6. I would note from a visual observation of the local area that the view VP2 is likely to be impacted upon given the proximity of the proposed development to the local road at this point. I would also note VP3 and VP6 and the visual impact of the proposed development from these vantage points. In relation to VP3 I would consider that the proposed development is sunken in the

landscape in relation to the location of this vantage point and would therefore not be prominent in the landscape. I would also note VP6 and likewise I would not consider that the proposed development would be prominent in the landscape from this vantage point.

11.3.5. Therefore, having regard to the topography of the appeal site and the local area I would conclude that the subject site, enclosed by mature hedgerows, is not generally visible from the wider area. Furthermore, the maximum height of the proposed solar panels is 2.33 metres above ground level and allowing for established hedgerows and the proposed planting as outlined in the Landscape Mitigation Plan the vegetation, both existing and established will, provide screening to the proposed development.

11.3.6. The Wexford County Development Plan sets out a Landscape Character Assessment for the County and this is set out in Volume 3 and Map 13. The appeal site is in an area designated 'Lowlands'. I would note that this designation generally comprises of gently rolling lands and relates to extensive areas of the County. The County Development Plan outlines that these lowland areas have a higher capacity to absorb development without causing significant visual intrusion.

11.3.7. The Local Authority permission, which includes condition no. 4, omits 3 no. fields from the proposed development. I would note that the planner's report concludes that, having regard to condition no. 4, that the visual impact of the proposed development is acceptable from short, medium and long-range views. I would recommend condition no. 4 to the Board, should they favour granting permission.

11.3.8. Overall, I would conclude that having regard to condition no. 4 of the local authority permission, to the local topography, the existing and proposed planting, the scale of the proposed development, including the height, and the landscape designation of the appeal site in accordance with the provisions of the County Development Plan that the proposed development will not unduly impact on the landscape setting or the visual amenities of the local area.

11.4. **Property Devaluation**

11.4.1. I would acknowledge that the appellant argues that the proposed development will devalue their property. However, these claims are not substantiated with any evidence or studies. I would consider that the site in question is subject to development potential as would any other site in the local area and there is no basis that proposed development would devalue house values in the local area more so than any other development that maybe permitted on the site.

11.5. **Glint & Glare**

11.5.1. In considering the implications for glint and glare from the proposed development I would have regard to the submitted 'Glint and Glare Assessment' prepared by 'macroworks' on behalf of the applicant. Glint and glare is the occurrence of reflecting sunlight. In terms of residential properties there is a cluster of houses located to the immediate south-west of the appeal site. Having regard to orientation of the proposed solar arrays and the proximity of these properties to the proposed development there is potential for the solar farm to have an impact in terms of glint and glare on these properties. I would note that the submitted 'Glint and Glare Assessment' (GGA) has identified that houses no. 2, 3 and 4, as outlined in Figure 8 of the 'GGA', are likely to be impacted upon. The assessment outlines with mitigation measures which includes boundary planting to a height of 4m along the western boundary the potential for glint and glare on these properties is reduced from very low magnitude to none. In relation to house no. 2 it is concluded that once the introduction of boundary planting along the western boundary the overall potential for glint and glare on house no. 2 is a very low magnitude of effect.

11.5.2. There is a more limited number of houses located to the east of the proposed development and the 'GGA' identifies house no. 14, as outlined in Figure no. 8, as having potential for glint and glare impacts. The assessment outlines that the proposed mitigation measures include boundary planting to a height of 4m-6m along the western boundary and once established the potential for glint and glare on these properties is reduced from very low magnitude to none.

- 11.5.3. In terms of potential impacts on local road users I have had regard to the local road situated to the immediate west of the appeal site. I would consider that having regard to boundary hedging, both existing and proposed, that there would be no significant glint and glare impacts on motorists in this local road.
- 11.5.4. The proposed M11 corridor, currently under construction, is located to the south east of the proposed development. The 'GGA' acknowledges that there is a potential for glint and glare to arise from the proposed development and as such may impact on motorists. Accordingly, the applicant has omitted solar arrays from the proposed development to mitigate potential impacts and this is outlined in Figure 14 of the GGA. The Local Authority permission which includes condition no. 4 omits 3 no. fields from the proposed development in the interest of addressing potential impacts of glint and glare. This condition, in my view, would potentially eliminate any glint and glare for motorists on the proposed M11.
- 11.5.5. Furthermore, and it is important to note when considering glint and glare implications that Glint and Glare will only occur when weather conditions allow for direct sunlight and will not occur in cloudy conditions which can therefore limit the potential impacts. There is therefore an argument that the overall impacts from glint and glare as outlined in the 'GGA' would be reduced to approximately 50% given prevailing Irish weather conditions.
- 11.5.6. Overall, I would consider that it has been adequately demonstrated by the applicant that Glint and Glare arising from the proposed development will not have a significant impact on local residential amenities and local motorists and I would consider that condition no. 4 of the Local Authority permission would be justified as it would, in my view, eliminate any potential for glint and glare on motorists using the M11. I therefore recommend to the Board that condition no. 4 is included to a grant of permission should they favour granting permission.

11.5.7. Overall, I would consider that there is a low potential for the occurrence of glint and glare from the proposed development and it would not result in any significant adverse impacts on established amenities.

11.6. **Traffic and Access**

11.6.1. In terms of traffic generation, the operational traffic generation for solar farms is very limited and in accordance with the submitted 'Transport Assessment' would amount to 2 two-way vehicles per month. This is not significant and would represent a de-intensification relative to the existing agricultural use.

11.6.2. In terms of the construction phase the Transport Assessment estimates that the proposed development will amount to 10 inbound and 10 outbound traffic movements. The construction period is temporary and is expected to last approximately 20 weeks in duration. The construction phase will represent a 18.6% increase in traffic volumes.

11.6.3. The construction period will also require a significant number of deliveries to the site and this is illustrated in Table no. 7.1 of the submitted Transport Assessment. The total number of deliveries to the site anticipated is 518 vehicles and this will cater for CCTV cameras, security fencing, solar panels etc. I would note that the delivery route is set out in Figure 7.2 of the Transport Assessment and I would also note that the timing of deliveries will be restricted outside the times of 8am-9am and 5pm-6pm to prevent conflict with established traffic. I would consider that the applicant has adequately demonstrated that the traffic generation associated with the proposed development, during both construction and operational phase, would not adversely impact on the established road network given the limited nature of the construction phase.

11.6.4. The sightline provision from the established agricultural vehicular entrance is also acceptable.

11.7. Requirement for EIA

- 11.7.1. Schedule 5 of the Planning and Development Regulations, 2001 (as amended), sets out Annex I and Annex II projects which mandatorily require an EIS. Part 1, Schedule 5 outlines classes of development that require EIS and Part 2, Schedule 5 outlines classes of developments that require EIS but are subject to thresholds.
- 11.7.2. I have examined the Part 1, Schedule 5 projects and I would not consider that a solar farm is included in any of these project descriptions. I have also examined the Part 2, Schedule 5 projects and although I would note that there are some projects under Paragraph 3 'Energy Projects' which relate to energy production I would consider that none of these projects would be applicable to a solar farm as proposed. In reaching this conclusion I would have regard to many Board decisions in relation to solar farms and this includes, i.e. appeal ref. 244539 and appeal ref. 244351, where a similar conclusion in relation to EIA was reached.
- 11.7.3. In accordance with the 'EIA Guidance for Consent Authorities regarding Sub-threshold Development', 2003, the following is stated "there is a requirement to carry EIA where competent/consent authority considers that a development would be likely to have significant effects on the environment". The guidelines advise the criteria to be considered for the need for sub-threshold E.I.S. and this includes (i) characteristics of the proposed development, (ii) location of the proposed development, and (iii) characteristics of potential impacts.
- 11.7.4. Schedule 7 of the Planning and Development Regulations, 2001 (as amended), sets out criteria for determining whether a sub-threshold development is likely to have significant effects on the environment and therefore would require an EIS.
- 11.7.5. However, an important issue before considering sub-threshold development is Article 92 of the Planning and Development Regulations, 2001, (as amended). Article 92 defines sub-threshold development, i.e. 'development of a type set out in Schedule 5 which does not exceed a quantity, area or other limit specified in that Schedule in

respect of the relevant class of development'. As I have considered above that the solar panel development is not a development set out in Schedule 5 then I would not consider that the subject development is a 'sub-threshold development' for the purpose of EIS.

11.7.6. However, setting aside Schedule 7 I would note that the proposed development is not located within or adjoining a designated Natura 2000 site. I have also noted above in accordance with the provisions of the Wexford County Development Plan, 2013 – 2019, that the appeal site is not located within a landscape that is designated for protection, nor will the proposed development impact on a protected view or prospect.

11.7.7. I would also have regard to the characteristics of the proposed development and characteristics of the potential impacts and overall, I would conclude, based on the information on the file, that the proposed development is not likely to have significant effects on the environment and that an E.I.S. would not be warranted in this case.

11.8. **Health Considerations**

11.8.1. The main health concern in relation to solar panel is from the inverter, which is a device that takes the electricity from the solar panels and turns it into alternating current (AC) and puts it out on the electric grid. The inverter generates radio frequency radiation. The wires connected to the inverter acts as antennas, so the radiation may be picked up within proximity.

11.8.2. I would note from the submitted drawing entitled 'Indicative General Layout' that the proposed inverters are generally located removed from any established housing in the local area. Furthermore, I would also note that there is no scientific evidence that solar farms can cause a human health risk. Therefore, I would not consider this a significant issue.

11.9. Appropriate Assessment

11.9.1. The purpose of the Appropriate Assessment Screening is to determine, based on a preliminary assessment and objective criteria, whether a plan or project, alone or in combination with other plans or projects, could have significant effects on a Natura 2000 site in view of the site's conservation objectives. The 'Appropriate Assessment of Plans and Projects in Ireland Guidelines, 2009,' recommend that if the effects of the screening process are 'significant, potentially significant, or uncertain' then an appropriate assessment must be undertaken.

11.9.2. I would note that the following designated Natura 2000 sites located within 10km of the appeal site. These Natura 2000 sites include;

- The River Slaney SAC (site code 000781)
- Wexford Slobs and Harbour SPA (site code 004076)

11.9.3. In relation to a SAC the most significant issue from a screening perspective is the hydrological pathway from the appeal site to the SAC. In this instance there is a hydrological pathway to a designated site and this involves the Tinnacross Stream which flows along the south-eastern boundary of the appeal site. The distance of the stream, where it adjoins the appeal site, to the SAC is 1.35 km via the watercourse. Having regard to the nature of the proposed development it is unlikely that any adverse impacts will occur during the operational phase however during the construction phase there is potential for run-off.

11.9.4. The applicant's Stage 1 AA Screening Assessment concluded that no indirect hydrological impacts on any Natura 2000 are expected because of the proposed development due to the minor scale of the construction and earthworks (with no in-stream works). I would consider that the proposed development would represent a lower risk of siltation to watercourses than the current practice of tillage farming and the occasional ploughing of the fields. I would acknowledge the conclusion of the applicant's AA Screening which determined that the proposed development will not

cause adverse direct impacts on the conservation objectives and qualifying interests given the nature of the proposed development. I would concur with this conclusion.

- 11.9.5. An observer submits that having regard to the European Commission reference in High Court case 'People Over Wind' that it is stated that once mitigation measures are considered then a Stage 2 appropriate assessment is required. The Commission stated that '*the fact that mitigation measures are considered implies that such significant effects are likely to occur*' and as such an AA is required. The measures proposed in the construction phase in the current proposal are, in my view, best practice regarding standard environmental practice and are practices usually contained in an Outline Construction Environmental Management Plan and would form, in my view, an integral part of the overall development and therefore would not trigger the requirement for a Stage 2 AA.
- 11.9.6. The local authority completed a AA Screening Report and this concluded that having regard to the limited extent of the proposed works no element of the proposed project alone or in combination is likely to give rise to any impacts on the Natura 2000 sites. The Local Authority concluded that significant impacts can be ruled out and a Stage 2 AA is not required.
- 11.9.7. It is reasonable to conclude that based on the information on the file, which I consider adequate to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European Sites, i.e. site code 000781, and site code 004076 in view of the sites conservation objectives and a stage 2 AA is therefore not required.

11.10. **Grid Connection**

- 11.10.1. An observer submits that the application is incomplete as it does not include a grid connection. However, and on the contrary I would note that the Section 5.1.12 of the submitted 'Planning and Environment Report' includes information on the grid

connection. This section outlines that the appeal site is located approximately 1.5km north of the existing substation. An indicative grid connection is outlined in Figure 5.20 of the Planning and Environment Report and it is stated that the grid connection can either be underground or over ground and this will be decided by ESB. I would also note that the AA Screening submitted by the applicant assesses the impact of the grid connection on the River Slaney SAC and concludes no significant impact on same. Overall, I would conclude that the application is complete.

12.0 Recommendation

12.1. I have read the submissions on the file, visited the site, had due regard to the County Development Plan, and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

13.0 Reasons and Considerations

13.1. Having regard to the provisions of the current development plan for the area and to the national policy objectives, it is considered that, subject to compliance with the conditions set out below, the proposed construction of a solar farm would not seriously injure the visual amenities of the area, the residential amenities of the area, the ecology of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

14.0 Conditions

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

Reason: In the interest of clarity.

2. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this order.

Reason: Having regard to the nature of the proposed development, the Board considered it reasonable and appropriate to specify a period of the permission in excess of five years.

3. (a) All structures including foundations hereby authorised shall be removed not later than 25 years from the date of commencement of the development, and the site reinstated unless planning permission has been granted for their retention for a further period prior to that date. (b) Prior to commencement of development, a detailed restoration plan, providing for removal of foundations and access roads to a specific timescale shall be submitted to the planning authority for written agreement. On full or partial decommissioning of the solar farm, or if the solar farm ceases operation for a period of more than one year, the solar arrays, including foundations, shall be dismantled and removed from the site. The site (including all access roads) shall be restored in accordance with the said plan and all decommissioned structures shall be removed within three months of decommissioning.

Reason: To enable the planning authority to consider the impact of the development over the stated time period, to enable the planning authority to review the operation of the solar farm having regard to the circumstances then prevailing, and in the interest of orderly development.

4. Two fields immediately adjacent to (west of) the stream at the south-east portion of the site shall be omitted from the proposed development. Similarly, the entire field immediately to the south of the landowner's farmyard shall be omitted from the proposed development. Prior to commencement of development, the applicant shall submit for written agreement of the Planning Authority a revised site layout plan demonstrating this and the development shall be carried out in accordance with the revised layout.

Reason; In the interests of visual amenity of the area and in order to entirely remove any possible impact of glare on the users of the M11 motorway.

5. No external artificial lighting shall be installed or operated on site, unless otherwise authorised by a prior grant of planning permission.

Reason: In the interest of visual and residential amenity.

6. All landscaping shall take place in the first planting season upon commencement of development and shall be in accordance with the scheme as submitted to the planning authority by way of further information. The landscaping and screening shall be maintained at regular intervals. Any trees or shrubs planted in accordance with this condition which are removed, die, become seriously damaged or diseased within two years of planting shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

Reason: In the interest of the amenities of adjoining properties.

7. (a) The construction of the development shall be managed in accordance with a Construction Management Plan, which shall provide details of intended construction practice for the development including noise management measures and off-site disposal of construction/demolition waste, and (b) Construction traffic mobility plan, including details of minibus for construction workers, in accordance with the application documentation, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public safety and residential amenity.

8. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

9. Cables from the solar arrays to the compound shall be located underground.

Reason: In the interest of visual amenity.

10. 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.

11. 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.

12. Prior to connection to the national grid, a community liaison committee shall be established to liaise between the developer and the local community. The membership of this committee shall reflect membership of the local community, shall include representatives of Wexford County Council and the developer. Full details of the committee shall be agreed between the Planning Authority and the developer prior to commencement of development. The community liaison committee shall have responsibility for the administration of any community benefit fund account, to be set up in accordance with details contained in Section 2.4.3 of the Planning and Environmental Report dated

25th September 2017, and for decisions on projects to be supported by the fund in addition to acting as a liaison committee with the local community in relation to ongoing monitoring of the operation of the proposed development.

Reason: To provide for the allocation of resources from the community gain fund in accordance with the requirements of the local community and to provide for appropriate ongoing review of operations at the site in conjunction with the local community.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit of one hundred and forty thousand euro, (€140,000.00) to secure the satisfactory reinstatement of the site upon cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure satisfactory reinstatement of the site.

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. The contribution shall be paid prior to the 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 the Board 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.

Kenneth Moloney
Planning Inspector

26th June 2018