



An
Bord
Pleanála

Inspector's Report ABP-301617-18

Development

Solar photovoltaic panel array consisting of the following: up to 74,172sqm of solar panels on ground mounted steel frames within a site area of 25.04 hectares; a fenced electricity substation compound to include 1 No. electricity control building and hardstands for ancillary electrical equipment; 7 No. inverter/transformer units; underground cable and ducts; internal access tracks and hardstanding areas; boundary security fence; CCTV and all associated site services and works; a new entrance to the public road will be used for construction purposes, the existing access to the lands at the public road will be used for operational purposes.

Location

Smithstown and Roosk, Co. Kildare

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

17/535

Applicant(s)	Harmony Solar Smithstown Ltd.
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party
Appellant(s)	Stephen and Kate McCarton
Observer(s)	None
Date of Site Inspection	5 th July and 18 th July 2018
Inspector	Ciara Kellett

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1.0 Site Location and Description

- 1.1. The site is located in a rural part of Co. Kildare in the townlands of Smithstown and Roosk. The site is c.3km north-east of the village of Rathcoffey, c.5km south-west of Maynooth and c.6km west of Celbridge.
- 1.2. The nearest regional roads are the R406 Maynooth to Straffan road which runs c.2km to the east in a roughly north-south direction, and the R408 Maynooth to Rathcoffey road which runs c.1km to the west. The R408 road provides access to the rural settlement of Smithstown, and the site, via the local road L5044.
- 1.3. The site comprises of 5 fields currently in agricultural use with an area of c.25Ha. A small number of dwellings lie to the west of the site, as well as a commercial car servicing and repair centre just north of Smithstown House (the landowner's dwelling). The appellant's dwelling lies to the north-west. The fields are bounded by hedgerows and trees which provide screening of the lands from the east and west. An area of managed woodland flanks the south-western boundary of the site.
- 1.4. The topography of the site is broadly level, with a central ridge running north-south at an elevation of c.67.75m. From the ridge the lands slope gently to the east and north-west to a broadly level area in the north-west corner of the site to an elevation of 65m, and 64.75m in the north-east corner. Lands drain to two sub-catchments of the Lyreen River catchment. The western portion of the site drains to a field drain on the western boundary of the site to the Threadstone Stream which joins the Lyreen Stream and the eastern portion drains eastward to link with the Taghadoe/ Meadowbrook stream which also joins the Lyreen at Maynooth.
- 1.5. A 220kV overhead power line crosses diagonally over the site connecting to the Maynooth 220kV substation c.2km to the north-east. The substation is the most visible structure in the general vicinity as it bounds the R406 road.
- 1.6. Appendix A includes maps and photos.

2.0 Proposed Development

- 2.1. A 10 year planning permission for a 30 year operational life is sought for the development of a solar photovoltaic farm covering an area of 25.04Ha. The solar arrays cover c.20Ha of the site. The development includes: 74,180sq.m of static solar panels arranged in module type units, typically made up of three no. 1.65m x 0.992m panels in a landscape orientation mounted on steel frames; an electricity substation compound including an electricity control and switch room building with hardstands for ancillary electrical equipment; a transformer substation at the main electrical substation compound; up to 7 inverter/transformer stations comprising up to 7 transformers and up to 14 inverters; upgrade of c.249m of existing tracks and construction of 1,982m of service trackways and associated drainage infrastructure; underground cabling; construction of a new perimeter fence; a new temporary entrance during construction as well as a temporary construction compound and ancillary works; the existing access to the lands will be maintained as the operational access; CCTV; and, 7 new ecology/biodiversity areas over c.3.9Ha with c.2,500m of enhanced hedgerow.
- 2.2. An indicative route for a new grid connection is provided to connect to the national grid at the Maynooth substation via c.5.7km of underground cabling, although the precise route will be determined by ESBN and it does not form part of this application.
- 2.3. Documents submitted with the application included a Planning and Environmental Report, an Archaeological Assessment, a Landscape and Visual Assessment report, an Outline Construction Management Plan, an Ecological Appraisal, an Appropriate Assessment Screening Report and a Glint and Glare Report.
- 2.4. Following the Further Information request, the access to the fields was amended and is now proposed through a new entrance adjacent to the entrance to Smithstown House, improved landscaping and enlarged biodiversity area near the north-west adjacent to closest dwelling, and amendments to the red line boundary were made to accommodate the new site entrance.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 25 conditions. Condition no.2 conditioned the permission to be valid for 5 years only. Condition no.3 permitted the operational life of the development for 30 years.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report is the basis for the Planning Authority's decision. Further Information and Clarification of Further Information were requested, hence there are three reports on file. In summary, they include:

- A brief summary of the accompanying documentation as submitted by the applicant.
- Notes a new entrance to the public roads is proposed for construction purposes and the existing access to the lands at the public road will be used for operational purposes.
- Notes there is no requirement for water or wastewater indicated on the planning application form.
- Considers the applicant has addressed a number of aspects and put forward a strong case to the Planning Authority. Considers the application is acceptable in principle. Notes that whilst the lands are not brownfield considers that the applicant has afforded an opportunity for the continued use of the lands for agricultural purposes.
- Notes report from DARRGA and recommends that archaeological monitoring of groundworks should be carried out.
- Notes proposed method of construction involves screw piles but that no quantification of ground works envisaged has been submitted and further information in relation to same has not been submitted.

- Notes Transport Department seek details of car parking arrangements and management of compound. In addition, the department have requested Further Information in relation to a traffic management plan, sightlines and the provision of a Road Safety Audit.
- Notes the local road network is narrow in sections with concerns raised in relation to the ability of HGVs to access the site.
- Considers that landscaping along the northern boundary should be enhanced given the proximity of the adjoining dwelling or increase the buffer.
- Refers to the Coniferous Woodland along the western boundary which currently screens the lands from view from a number of properties to the west. It is unclear if these trees will be felled during the lifetime of the project.
- Notes views extend as far as passing traffic to the east on the R406 regional road. Considers further visual analysis should be requested along this elevated section.
- Notes no decommissioning plan has been submitted – Further Information should be sought.
- A request for Further Information on 11 items was issued and the applicant responded to same.
- In response the applicant amended a number of features of the layout, most notably the entrance which was moved adjacent to the existing access to Smithstown House, the landowners dwelling. It is noted that the existing agricultural access to the lands which was proposed for operational access is to be retained for agricultural purposes. A temporary car park and wheel wash are proposed, as well as enhanced landscape and ecology measures, particularly along the north-west boundary.
- The changes were considered significant and re-advertised.
- In the second report it is considered that the majority of issues raised have been adequately addressed, but that the Transportation section seek Clarification of Further Information with respect to remedial works at passing bays, sightlines and traffic calming.

- Notes concern with pluvial flooding as highlighted in the third party submission received following the request for Further Information. Does not consider information submitted adequate, and considers it is unclear what impact the proposed new access would have on the existing pluvial flood areas. Considers this should be addressed by way of Clarification of Further Information.
- Clarification of Further Information was sought under 4 headings, including: a drawing showing design details of proposed remedial works for passing areas, traffic management, adequate sightlines; impact of access tracks on drainage, and existing pluvial flood patterns; and to comment on the photographic evidence submitted regarding flooding.
- Following the response from the applicant which included additional detail on traffic management and response to the flood event evidence submitted by the appellant, and after having discussions with the Transport Department, the Planner considered the response acceptable and recommended granting permission subject to conditions.

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

3.2.2. Other Technical Reports

- **Area Engineer:** No objection subject to conditions.
- **Environment:** No objection subject to conditions.
- **Transportation:** Following the response to Further Information and Clarification of Further Information, no objection subject to conditions.
- **EHO:** No objection subject to conditions.
- **CFO:** No objections.
- **Water Services:** No objection subject to conditions.
- **Heritage Officer:** No objection subject to conditions.

3.3. Prescribed Bodies

- **An Comhairle Ealaoin:** No report.

- **An Taisce:** No objection subject to conditions.
- **Failte Ireland:** No report.
- **National Heritage Council:** No report.
- **DAHRRGA:** No objection subject to conditions.
- **Dublin Transport:** No report.
- **Waterways Ireland:** No report.
- **TII:** No report.
- **Irish Water:** No objection subject to conditions.
- **ESB:** No report.
- **DCENR:** No comment.
- **CER:** No comment.

3.4. **Third Party Observations**

Three third party submissions were received by the Planning Authority, including a submission from the appellant which is addressed further in Section 6 below. The submissions objected to the development and included: lack of national policy; high court rulings in relation to wind energy; development unsuitable for this rural area; impact on residential amenities; concerns about capacity of road and traffic impact; construction hours, noise and light; drainage of lands; impact on flora and fauna; inadequate screening given existing forestry lands will be felled; glint and glare; scale; and CCTV cameras.

Following the response to the Further Information request, the proposal was re-advertised. One submission was made by the appellants and is similar to the appeal as detailed in Section 6 below.

4.0 **Planning History**

- 4.1.1. There is no relevant planning history associated with the site.

4.1.2. There have been many Planning Applications for the development of Solar Farms in County Kildare as well as surrounding counties. The following is a list of recent decisions by the Board for development in Co. Kildare:

- **ABP Ref. PL09.249348:** Permission was refused in March 2018 for development on 19.33Ha in Southgreen Road. Having regard to its location, it was considered it would seriously injure the visual amenities of the area and would conflict with the development plan objective which seeks to protect the landscape.
- **ABP Ref. PL09.248329:** Permission was refused in June 2018 for development on 10.6Ha site near Athy having regard to its proximity to the River Barrow and the development objectives as detailed in the Development Plan.
- **ABP Ref. PL09.249155:** Permission was granted in March 2018 for development on 31.24Ha near Killeel.

5.0 Policy Context

5.1. Kildare County Development Plan 2017 – 2023.

5.1.1. Chapter 8 of the Plan refers to Energy and Communications, Chapter 10 to Rural Development, Chapter 14 to Landscape, Recreation and Amenity, and Chapter 17 to Development Management Standards.

5.1.2. Chapter 8 of the Plan specifically refers to Solar Energy in Section 8.7. The Plan states *'Like all forms of development, solar farms have the potential to affect the landscape and natural and built heritage. Cumulative impacts may also arise with farms located close to each other. Site selection is vital for potential solar farms as solar resource, topography and proximity to the grid must be considered. There are also many environmental considerations associated with solar farms.'*

5.1.3. Policies SE1, SE2, SE3 and SE4 all refer to solar energy. SE1 promotes the development of solar energy subject to environmental safeguards. SE2 refers to the considerations solar energy development proposals will have to have regard to, including (summary):

- site selection, by focussing in the first instance on developing on previously developed and non-agricultural land;
- where a proposal involves greenfield land, whether poorer quality land has been used in preference to higher quality land;
- decommissioning and site rehabilitation plans;
- glint and glare;
- visual and landscape impact;
- the guidance provided in relation to compatibility with landscape designations of Tables 14.3 and 14.4 of Chapter 14 of the plan;
- the need for, and impact of, security measures such as lights and fencing;
- Conservation of heritage assets including the impact of proposals on protected views and scenic routes etc.

5.1.4. Section 10.4.8 of Chapter 10 refers to Green Energy Projects and states that rural areas have the potential to be harnessed for renewable energy projects including solar energy.

5.1.5. Chapter 14 refers to the landscape and Map V1.14.1 identifies Maynooth as being in the Landscape Character Area *Northern Lowlands* and having a Low Sensitivity classification. Class 1 areas are described as areas with the capacity to generally accommodate a wide range of uses without significant adverse effects on the appearance or character of the area.

5.1.6. Section 14.4.2 refers to Impact of Development on Landscape. Table 14.3 identifies the likely compatibility between a range of land uses and principle landscape areas. The Northern Lowlands are considered to have a high capacity.

5.2. **Planning and Development Guidance Recommendations for Utility Scale Solar Photovoltaic Schemes in Ireland October 2016.**

5.2.1. This is a research paper which was funded by the SEAI. It does not purport to be a policy document. The report contains a set of planning policy and development guidance recommendations, which it is suggested may contribute to the evidence

base that will inform the development of Section 28 planning guidance for Utility Scale Solar Photovoltaic (USSPV) developments in Ireland.

- 5.2.2. It notes that over a hundred applications for USSPV developments have been lodged with planning authorities by October 2016 and that an estimated 594MW have been granted or are on appeal. The combined site area for these schemes is 1331.9 hectares.
- 5.2.3. Recommendations include that the development plans set out policy objectives to support USSPV development and put in place development management standards to control development. With respect to glint and glare assessments, it is recommended that a national standard for the undertaking of these assessments is developed. It is also recommended that the deployment of USSPV should not be prohibited in undulating landscapes, and that a decommissioning statement should be included as a standard component of a planning application.
- 5.2.4. It is noted that four out of the seven developments refused planning permission (October 2016) have had glint and glare concerns cited as a ground of refusal. The sensitive receptors are loosely categorised as being: Residential dwellings, Historical Monuments/Heritage Landscapes, Road Networks and Aviation Infrastructure.

5.3. **International Guidance**

There are a number of guidance documents produced including the *Planning guidance for the development of large scale ground mounted solar PV systems* BRE (Building Research Establishment 2013). This provides information with respect to Planning Application Considerations, which includes Site Levelling works, Development in relation to Current Land Use, Assessment of impact on agricultural land, ground maintenance, construction compound, soil stripping, storage and replacement, Access Tracks, Security fencing and lighting, Ecology, Drainage, surface water run-off and flooding, Glint and glare and Community involvement and gain.

5.4. **Food Wise 2025 (Department of Agriculture, Food and the Marine, 2015)**

This document sets out a 10-year vision for the Irish agri-food industry up to 2025. Subject to following actions identified in the strategy, the sector projections are:

- Increasing value of agri-food exports by 85%, increasing value added in the agri-food, fisheries and wood products sector by 70%, increasing the value of Primary Production by 65% and the creation of an additional 23,000 direct jobs in the agri-food sector.

To achieve the projections set out above, Food Wise 2025 identifies c.400 recommendations and actions to achieve sustainable growth.

5.5. Natural Heritage Designations

There are three European sites within a 15km radius. They are the Rye Water Valley/Cartron SAC (Site Code 001398) located c.6.2km to the north-east; Ballynafagh Bog SAC (Site Code 000391) c. 9.8km to the south-west; and, Ballynafagh Lake SAC (Site Code 001387) located c. 10.3km south-west of the site.

6.0 The Appeal

6.1. Grounds of Appeal

One third party appeal has been received from the neighbours to the north of the site. In summary it includes:

- Two submissions previously lodged with the Planning Authority accompany the appeal.
- Note there was no avenue to respond to the information submitted at Clarification of Further Information stage – consider it was a material change.
- Note Transport Department expressed grave concerns all the way through the planning process in relation to the volume of traffic in the rural area.
- Consider the use of passing bay no.8 includes the use of private property without the owner's permission. Letter included in appeal refusing access and/or use of the lands. Consider this renders the traffic management plan invalid, as well as 150m sightline being unachievable.
- Contradict statement made by applicants that flooding is due to the size of the culverts on their property, which they consider are the same size as the culverts on applicant's land.

- Greatly concerned with the possibility of flooding of their dwelling for the lifetime of the application i.e. 30 years. Have contacted their insurance company who have revoked flood risk insurance pending outcome of application.
- Photos submitted of flooding and road widths.
- Consider all concerns raised in original submission are still valid: traffic on a small rural road; development materially contravenes Development Plan section SE2; sight lines are unachievable; no NIS submitted; use of private land without permission; and Flooding.

6.2. Applicant Response

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

- Consider quote used by appellants relating to transport department concerns are lines from the text in Item 1 of the Clarification of Further Information request, and is simply used by the Planner as a heading in the report with the assessment following.
- Refer the Board to the outline Traffic Management Plan submitted in response to the Further Information request and details submitted at Clarification stage. Notes that a Road Safety Audit was submitted.
- State that the identified passing areas were prepared indicating the remedial/betterment works which could be undertaken in conjunction with the Council. All the areas form part of the public road and include enhancements to existing and identify new possible passing areas. The Transport Department indicated that they had no objection subject to conditions, and it was considered reasonable that a detailed Construction and Traffic Management Plan be submitted and was included as a condition of planning.
- Notes area referred to by appellants for passing bay no.8 lies fully within the public road. The lands do not form part of the red-line boundary and consider that the appropriate authority to facilitate these road works is the Road Authority, i.e. Kildare County Council. Submit that the Council have carefully

considered road safety and have no objection having considered the oTMP, the Road Safety Audit and the mitigation and management proposals.

- Submit that the hydrology and flood risk of the site has been carefully considered and assessed. Submit that solar panels will not cause or exacerbate flooding or significantly alter the surface water hydrology of the site. The solar panels do not represent additional impermeable area and any increase in run-off has been demonstrated to be negligible.
- State that their hydrologist has assessed the drainage conditions on site and identified that an existing 600mm pipe in the neighbouring property appears to be creating a bottleneck in the local drainage, resulting in water in the channel backing up and impeding flow. Submit that it is this pipe that is currently creating a constriction to local drainage in a high flow event which resulted in flooding on neighbours property. Submit that the Planner's assessment confirms that the proposed development would not interfere with or exacerbate the existing level of surface water drainage.
- Regarding the appellant's assertion that the culvert on the applicant site is the same size as those on the adjoining lands, it is noted that it is an 'open span' bridge of over 2m in width at its deck versus the 600mm diameter pipes.
- Submit that the proposal will not alter surface water drainage management in the area.
- Submit traffic figures are correct during construction.
- Development is in compliance with policy SE2, as low intensity agriculture can continue post construction and no heritage assets are affected.
- Submitted Road Safety Audit accepted adequacy of sightlines.
- No NIS is needed as the project was screened out at Stage 1.

6.3. Planning Authority Response

The Planning Authority responded to the appeal. In summary it states:

- Contents of third party appeal are similar to issues raised in the submissions.

- Through the planning process, the applicant has addressed items relating to traffic and surface water drainage.
- Consider permission should be granted subject to conditions.
- Refer the Board to the planning report and internal reports.

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:

- Compliance with Development Plan policies
- Traffic and Transportation
- Flooding
- Appropriate Assessment

7.1. Compliance with Development Plan policies

- 7.1.1. The appellant considers that the proposal materially contravenes policy SE2 of the Kildare County Development Plan. Policy SE2 refers to the considerations solar energy development proposals have to have regard to. The policy lists 11 sub-sections which I will address in turn.

Site Selection – focus on previously developed and non-agricultural lands:

Site is on agricultural lands and it is proposed to maintain the lands in low intensive agricultural use.

If greenfield land, whether proposal needs agricultural land and poorer quality land is used, and, proposal allows for continued agricultural use and/or encourages biodiversity improvements:

Proposal allows continued use of agricultural land. Seven new ecology/biodiversity areas over c.3.9Ha are proposed.

Decommissioning plan required:

Decommissioning plan submitted at Further Information stage.

Impact of glint and glare on neighbouring uses and on transportation and aviation:

Glint and Glare study submitted. No impact deemed to be greater than negligible.

Visual and Landscape Impact:

Visual impact assessment submitted and further photomontages submitted at further information stage. Mitigation measures considered acceptable.

Compatibility with Landscape Designations of Table 14.3 and 14.4 of Chapter 14:

Area is located within the Northern Lowlands which is considered to have low sensitivity.

Need for security measures such as lighting and fencing:

Fixed CCTV cameras proposed. No lighting proposed except near substation.

Heritage assets:

Archaeological Assessment carried out. Mitigation measures proposed given the potential to reveal hitherto unknown sub-surface remains. Conditions recommended.

Consider ecology and minimise damage on important species or protected habitats:

Appropriate Assessment Screening Report and an Ecological Appraisal submitted with application. Seven new biodiversity areas proposed.

Energy Generating potential:

Not specified. Indicative grid connection route provided.

Design of scheme needs to be carefully considered:

Design of scheme has had regard to the surrounding environment.

- 7.1.2. In conclusion I do not consider that the proposal materially contravenes the policies in the Development Plan, and in particular does not materially contravene policy SE2.

7.2. Traffic and Transportation

- 7.2.1. The traffic and transportation associated with the development during construction was subject to a request for Further Information and Clarification of Further

Information. With respect to traffic during the operation period, I am satisfied that the volumes are very low at 3-4 vehicles per month, which will not negatively impact on the amenities or traffic safety of the adjoining neighbours. As such, I intend to address traffic associated with the construction period.

7.2.2. Construction period

In the first instance, the construction period is expected to be 16 weeks. The applicant states that the average number of HGVs trips is expected to be 16 a day (8 no. visits by HGVs) and 26 LGV trips (13 no. visits per day). While I accept that these are averages and that there will be a higher number of trips on certain days, particularly when the arrays are being delivered and as outlined in the outline Traffic Management Plan (oTMP), I am satisfied that this is a temporary duration and will not cause significant longterm inconvenience to the local residents.

7.2.3. Passing Bays

There are a number of passing bays proposed for enhancement or to be newly provided. The table submitted by the applicant at clarification stage indicates that there will be a total of 8 passing bays along the L5044 local road, which provides access to the site off the R408 road. It is stated that the average distance between passing bays is 147m. Five of the passing bays already exist and three new passing bays are proposed.

The appellant considers that passing bay no.8 is on private land and submits a copy of the land registry map and a letter from the landowner stating that consent will not be forthcoming. Passing bay no.8 is adjacent to the proposed entrance and beside the commercial car enterprise.

The applicant considers that this area is part of the public road and that modifications are not required. It is stated that the applicant is happy to enhance and improve the road surface in consultation with the Council. It is also stated that the existing alignment provides adequate space to facilitate passing vehicles if required.

Having visited the site and the area identified as passing bay no.8, I am satisfied that the road as it stands is acceptable. The access to the commercial car enterprise is adjacent to the passing bay which would already be subject to vehicular activity daily, and contained a substantial number of cars on the days of my site visits. In my

opinion the proposal to resurface this area would provide a planning gain to the local residents.

The applicant notes that the road is not included in the red-line boundary and does not form part of the planning application. It is stated that the appropriate authority to facilitate these roadworks is the Road Authority, i.e. Kildare County Council.

I am satisfied that the road in its current condition is acceptable to permit vehicles to safely pass. The clarification documentation submitted by the applicant states that they are happy to enhance and improve the road surface in consultation with the Council which I consider to be a planning gain.

I am satisfied that should there be a difficulty with enhancing passing Bay no.8, the condition and alignment of it currently is acceptable and would not endanger public safety by reason of traffic hazard.

Having driven up and down the L5044 road, I can confirm to the Board that it is narrow in sections. However, I am satisfied that there are sufficient passing bays already and with the submission of a Construction Traffic and Management Plan, and the use of signalmen if considered necessary, coupled with the temporary duration, there will not be a seriously negative impact on the local residents during the construction or operation phase.

7.2.4. Sightlines

The appellant considers that the sightlines are unachievable. The applicant submitted an outline Traffic Management Plan (oTMP) following the request for Further Information. The oTMP states that the Road Safety Audit found the design speed to be 50kph, albeit the speed limit on the local road is 80kph by default. At 50kph the sightlines are above the 70m required, being 89.55m to the north and 80.24m to the south.

Having regard to the low levels of traffic generally and the temporary nature of the construction period, I am satisfied that with a condition requiring a final Construction and Traffic Management Plan to be submitted, the development would not endanger public safety by reason of traffic hazard or obstruction of road users.

7.3. Flood Risk

- 7.3.1. Flooding was raised as an issue by the appellants and photographs were submitted as part of the appeal of a significant flood event at their property. The applicant in response to the appeal, states that their hydrologist has identified that there is an existing 600mm diameter culvert in the appellant's property downstream of the site that is undersized, and appears to be creating a bottleneck in the local drainage in a high flow event. The applicant states that in contrast there is a 2m open span bridge crossing the stream on their lands.
- 7.3.2. The applicant in the response to the request for Further Information states that an area of c.9.8Ha drains to the western boundary, while c.15Ha drains to the east. The applicant states that based on a preliminary culvert capacity analysis the existing bridge structure on their land is adequately sized to convey the flow. It is also considered that the risk of blockage is moderate due to the size of the opening, vegetation of the bank and surrounding catchment. It is considered that the 600mm diameter pipe on adjoining lands is inadequately sized to convey the same flow, and it is considered that the risk of blockage is high. Another 600mm diameter culvert lies 50m further downstream and is also considered to be undersized. The applicant is of the opinion that in high flow events, water exceeds the top of the bank and floods the nearby low-lying land.
- 7.3.3. The applicant suggests that the flood event of December 2015, where there were 28 wet days recorded in a row with record rainfall for December, may have been as a result of water levels in the pluvial ponds increasing and merging, resulting in a greater area being flooded. It is considered that the flooding on the appellant's land in December 2015 was a combination of pluvial flooding and fluvial flooding as a result of inadequately sized pipes.
- 7.3.4. The applicant states that the existing drainage regime will be maintained throughout the site to enable surface water to percolate to ground and the existing drains. The solar panels are raised a minimum of 900mm above ground level allowing overland flow paths to continue without obstruction. The existing arable land will be seeded and grass covered, which the applicant considers will improve the infiltration and further reduce flood risk in the area.

7.3.5. I am satisfied that the provision of solar panels will not cause or exacerbate flooding in the area. Solar panels do not represent significant additional impermeable areas. Having visited the site and observed the open span bridge and the 600mm culvert and having regard to the nature of solar farms, I am satisfied that the subject proposal will not significantly alter the drainage regime of the site and will therefore not cause or exacerbate flooding of the lands or adjoining lands.

7.4. Appropriate Assessment

7.4.1. An Appropriate Assessment (AA) screening report has been submitted by the applicant. It included a preliminary appraisal of the proposed grid route even though it is not part of the planning application.

7.4.2. I follow the staged approach to screening for appropriate assessment as recommended in both EU Guidance and by the Department of Environment, Heritage and Local Government: -

1. Description of the plan or project and local site or plan area characteristics.
2. Identification of relevant Natura 2000 sites and compilation of information on their qualifying interests and conservation objectives.
3. Assessment of likely significant effects-direct, indirect and cumulative, undertaken on the basis of available information.
4. Screening statement with conclusions.

7.4.3. Project Description and Site Characteristics

The proposed development is as described in the report above and in the application documentation.

7.4.4. Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives

Three Natura Sites are identified as being within a 15km radius of the site. The sites are:

Site Code, Site Name and Designation	Approx. distance from the site at Smithstown	Qualifying Habitats and Species
001398, Rye Water Valley/Carton, SAC	6.2km north-east	Petrifying Springs, Narrow-mouthed Whorl Snail and Desmoulin's Whorl Snail

Site Code, Site Name and Designation	Approx. distance from the site at Smithstown	Qualifying Habitats and Species
000391, Ballynafagh Bog, SAC	9.8km south-west	Active raised bogs priority habitat, degraded raised bogs still capable of natural regeneration, depressions on peat substrates of the Rhynchosporion
001387, Ballynafagh Lake, SAC	10.3km south-west	Alkaline Fens, Desmoulin's Whorl Snail and Marsh Fritillary.

The site, via adjacent streams, is hydrologically linked to the Lyreen River which feeds into the Rye Water Valley/Carton SAC. There are no hydrological links between the project and the other two European sites.

7.4.5. Generic Conservation Management Plans for two of the sites have been published.

001398 Rye Water Valley/Carton SAC

To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

001387 Ballynafagh Lake SAC

To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.

000391 Ballynafagh Bog SAC

The NPWS has identified site specific conservation objectives to restore the favourable conservation condition of the active raised bog Annex I habitat available on www.npws.ie. Conservation objectives are not set for the remaining qualifying interests (as of 19th July 2018).

7.4.6. *Assessment of likely effects*

The site is not within a designated site, thus there would be no direct impacts from the proposed development. The SACs are water dependent ecosystems, and therefore, any changes to the groundwater regime or surface water quality as a result of the proposal could have adverse effects on the habitats and species for which the SAC's are designated.

There is a hydrological link between the proposed development and one European site namely the Rye Water Valley/Cartron SAC (Site Code 001398). The link is via a stream which runs along the sites western boundary and site drainage ditches which feed into a stream at the north-eastern corner of the site which feed into the Lyreen river which feeds into the Rye River.

The western boundary stream which feeds into the Lyreen River travels 8.4km from the site to the Rye Water Valley/Cartron SAC. The unnamed stream at the north east of the site travels 8.8km from the site to the Rye Water Valley/Cartron SAC. At these distances, as well as the nature of the development, no impact is envisaged on the Rye Water Valley/Cartron SAC from the proposed development.

Having regard to the nature of the development, which does not entail significant excavations and which will see a significant area of arable land returned to grassland between the solar panel arrays, with additional ecology/biodiversity areas, and the distances involved and subject to compliance with best practice construction methods, no impacts are envisaged.

There are no hydrological links between the development site and the other two European sites namely the Ballynafagh Bog SAC (Site Code 000391) and the Ballynafagh Lake SAC (Site Code 001387) and a resultant hydrological impact is not envisaged.

7.4.7. Screening Statement and conclusions

In conclusion, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the Rye Water Valley/Cartron SAC (Site Code 001398), Ballynafagh Bog SAC (Site Code 000391) and the Ballynafagh Lake SAC (Site Code 001387) or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the provisions of national and regional policy objectives in relation to renewable energy, the provisions of the Kildare County Development Plan 2017 – 2023, the nature and scale of the proposed development, the continued agricultural use and improved biodiversity which would result and the proximity of a potential grid connection, it is considered that, subject to compliance with the conditions set out below, the proposal would support national and regional renewable energy policy objectives, would not conflict with the provisions of the Development Plan, would not seriously injure the residential amenities of property in the vicinity, would not have unacceptable impacts on the visual amenities of the area, would not result in a serious risk of pollution, would be acceptable in terms of traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 21st day of December 2017 and by the further plans and particulars received on the 20th day of March, 2018, 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 ten years from the date of this Order.

Reason: In the interest of clarity.

3. (a) All structures including foundations hereby authorised shall be removed not later than 30 years from the date of commissioning 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 the removal of the solar arrays, including all foundations, anchors, inverter/transformer stations, substation, CCTV cameras, fencing and site access to a specific timescale, shall be submitted to, and agreed in writing with, the planning authority. 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/anchors, and all associated equipment, shall be dismantled and removed permanently from the site. The site shall be restored in accordance with this plan and all decommissioned structures shall be removed within three months of decommissioning.

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

4. No works shall commence without the submission for the approval of the planning authority final details for the chosen solar panels.

Reason: In the interest of clarity.

5. (a) No artificial lighting shall be installed or operated on site unless authorised by a prior grant of permission.
- (b) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or roads.
- (c) Cables within the site shall be located underground.
- (d) 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 amenity and residential amenity.

6. Before construction commences on site, details of the structures of the security fence showing provision for the movement of mammals shall be submitted to, and agreed in writing with, the planning authority.

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

7. 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.

8. 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.

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. 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.

11. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

12. The landscaping scheme shown on drawings, as submitted to the planning authority on the 21st day of December, 2017 shall be carried out within the first planting season following substantial completion of construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

13. The broadleaved woodland measuring 1.42Ha in area comprising consecutive lines of spruce and native oak which were indicated as being planted in 2011/2012 shall be maintained and managed in accordance with details submitted on the 21st day of December 2017.

Reason: In the interest of residential and visual amenity.

14. 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.

15. 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

19th July 2018