



An  
Bord  
Pleanála

## Inspector's Report 301797-18.

### Development

Construction of a 100MW Battery Energy Storage System (BESS) with associated plant and equipment and associated buildings; 2 no. firewater storage tanks; an underground surface water attenuation tank; an underground firewater retention tank; substation and control building; an access and internal circulation road, parking; landscaping; fencing and all associated works.

### Location

IDA Business Park, Purcellsinch, Dublin Road, Kilkenny City, Co Kilkenny.

### Planning Authority

Kilkenny County Council.

### Planning Authority Reg. Ref.

17/818.

### Applicant

Greener Ideas Ltd.

### Type of Application

Permission.

### Planning Authority Decision

Grant of planning permission with conditions.

### Type of Appeal

Third Party

### Appellants

John and Colette Bennett.

**Observer**

None

**Date of Site Inspection**

25<sup>th</sup> July 2018.

**Inspector**

Derek Daly.

## 1.0 Site Location and Description

- 1.1. The appeal site, which is irregular in configuration is located approximately 3 kilometres to the east of Kilkenny City centre. The site is located within a gated business and industrial park operated by the IDA which has access onto the old Dublin Road. The business park had an internal road network and the appeal site is located in the southern area of the IDA site.
- 1.2. The site does not have immediate frontage onto the internal road and is approximately 70 metres south of the road but drawings indicate a wayleave /right of way from the site to the road. The site is irregular in configuration and has a stated area of 1.65 hectares.
- 1.3. To the west the site adjoins the city's waste water treatment plant. To the south the site adjoins a public road referred to as Sion Road. The remainder of the northern boundary adjoins waste handling facility and the eastern boundary open lands.
- 1.4. The area to the south and along the public road has intermittent residential development. Approximately 200 metres to the site is the River Nore.
- 1.5. The site is currently vacant in terms of use and has vegetation and trees along sections of its boundaries. There is a fall in level in a southerly direction.

## 2.0 Proposed Development

- 2.1. The proposed development as submitted to the planning authority on the 11<sup>th</sup> of December 2017 was for a development comprising;
  - The construction of a 100MW Battery Energy Storage System (BESS) with associated plant and equipment and associated buildings which include a BESS building 82 metres in length, and 44 in width with an overall height of 8 metres and has a stated floor area of 3,768m<sup>2</sup>. Internally the BESS building on the ground floor includes a battery rack room; meeting room contractor/store room; UPS room; switch gear room; WC; transformer rooms; inverter rooms and on a mezzanine level a HVAC/ store room.

The building is located in the northern area of the site and there is a 1.5 metre footpath around the perimeter of the building.

The building is modern frame building with a shallow pitched A roof.

- 2 no. 905m<sup>3</sup> firewater storage tanks located to the west of the BESS building with a height of 7.7 metres;
- an underground surface water attenuation tank with a capacity of 803m<sup>3</sup> located to the south of the BESS building, to the east of the substation and west of the underground firewater retention tank;
- an underground firewater retention tank with a capacity of 1030m<sup>3</sup> located east of the attenuation tank and the eastern boundary;
- a 100 kV substation and control building with a stated height of 5.2 metres located to the south of the BESS building. The building which is 11.5 metres by 9.5 metres and has a pitch roof with a stated floor area of 122m<sup>2</sup>.
- An access road from the site to the IDA business park and an internal circulation road around the BESS building and providing access to the substation;
- 8 no parking spaces located adjoining the eastern boundary;
- Landscaping which includes a landscaped 2-metre-high berm;
- A 3-metre-high paladin perimeter security fence and
- all associated works.

Accompanying documentation included

- A covering letter outlining the nature of the development which charges batteries using energy supplied from the national electricity grid via underground cables and the stored energy can then be released back to the grid as needed and required.
- A planning environmental considerations report which indicates the need for the proposed development in terms of national energy considerations in particular stability of electricity supply. Reference is made to a current permission for an Open Cycle Gas Turbine (OCGT) which may be constructed but the current proposal may supersede this depending on requirements and tendering under the “Delivering a Secure, Sustainable

Electricity System” and referred to in the submitted documentation as the DS3 Programme.

The nature of the process is outlined and the services and utilities required including traffic, drainage, fire control and management.

Current planning policy is outlined at EU, national and local level. The report considers the development under a series of heading including planning policy; noise; ecology; soils, geology and hydrogeology; visual impact; archaeology and cultural heritage.

- An EIA Screening Report was prepared although the BESS is not a project identified as subject to EIA.
- A flood risk assessment.
- Screening for Appropriate Assessment
- Appendices in support of the development indicating preliminary reports and studies.

2.2. Further information was submitted on the 16<sup>th</sup> of April 2018 which included:

- A commentary on surface water management in which reference is made to previous applications on the site and the studies carried out no potential for significant effects. The current proposal will dispose of surface water in a similar manner and the conclusions in relation to surface water remain unaltered in relation to impacts.
- The BESS will make a long term positive contribution towards Ireland’s renewable energy objectives past 2020 targets and the development is justified in meeting these targets.
- The project is of a type or scale to require consideration of alternatives but given the site’s zoning and history it is suitable site.
- No site contamination was found in surveys of the site.
- Revised screening for Appropriate Assessment which concludes no potential for significant effects on Natura sites.
- An Environmental Management Plan.

- A well monitoring programme and measures which are contained in the Environmental Management Plan.
- Boundary treatment details with particular reference to potential impacts on sightline visibility on existing accesses onto Sion Road.

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. The planning authority granted planning permission subject to 12 conditions.

Conditions of note include;

Condition no. 3 relates to a waste management plan.

Condition no. 6 relates to environmental monitoring.

Condition no. 9 relates to archaeology.

Condition 10 relates to agreement on external finishes

Condition 11 relates to agreement in relation boundary finishes and treatment.

#### 3.2. Planning Reports

3.2.1. The planning report dated the 12<sup>th</sup> of February 2018 refers to

- The planning history of the site.
- Development plan provisions.
- Submissions received.
- EIAR is not mandatory.
- Further information was recommended in relation to a number of matters including surface water runoff and potential effects on a nearby Natura 2000 site; the submission of an environmental monitoring plan and boundary treatment in particular along Sion Road.

The planning report dated the 10<sup>th</sup> of May 2018 in relation to the further information considers the proposal as submitted acceptable subject to revisions which can be conditioned. The report recommends permission.

### 3.2.2. Other Technical Reports

The fire and rescue service report dated the 25<sup>th</sup> of January 2018 indicates no objection subject to conditions.

Road design in a report dated the 6<sup>th</sup> of February 2018 indicates no objection to the development. A subsequent report dated the 8<sup>th</sup> of May 2018 referring to the further information indicates no objection.

The environment report dated the 7<sup>th</sup> of February 2018 recommends further information in relation to monitoring. A further report dated the 9<sup>th</sup> of May 2018 indicates no objections.

### 3.3. Other submissions

Irish Water in a submission dated the 8<sup>th</sup> January 2018 indicated no objections.

Submissions were received by third parties referring to the AA screening is fundamentally flawed; proximity to dwellings and Natura 2000 sites; the proposal uses lithium batteries and is relatively new concept which has yet to be fully proven; issues of fire and explosion hazard; the site is contaminated by hydrocarbons; the issue of more suitable alternative sites; issues of noise; deficiencies in ecological surveys and reference is made to bats and kingfisher species in particular and questions in relation to the justification of the development.

Department of Culture, Heritage and the Gaeltacht Nature Conservation in a S131 response dated the 3<sup>rd</sup> of August 2018 outline recommendations in relation to

- That planting on the site be native trees and shrubs and non-native species referred to in the landscape master plan be replaced by native species.
- Removal of hedgerows should only occur outside of the designated bird nesting season between the 1<sup>st</sup> of September and the 28<sup>th</sup> of February.
- The provision of suitable mammal passes along the perimeter fencing.

## 4.0 Planning History

4.1. The site has a planning history.

4.2. ABP Ref. No PL.10.230211 / P.A. Ref. 07/2164

Permission granted for by the Board on the 6<sup>th</sup> of February 2009 for a 100 MW open cycle Gas Turbine Plant. with gas turbine hall 8.75 metres high, maintenance bay, exhaust stack 20 metres high, air vent 20 metres high, air cooler, water cooler, power control module, main transformer, auxiliary transformer, bunded fuel oil tank 900 m<sup>3</sup>, raw water tank 600 m<sup>3</sup>, water treatment module, treated water tank 600 m<sup>3</sup>, firewater module, tanker unloading area, office/workshop, access road, and associated site development works subject to 13 conditions.

#### 4.3. ABP Ref. No PL.10. 242247 / P.A. Ref. 12/472

Permission granted by the Board on the 13<sup>th</sup> of December 2013 for revised layout to the permitted 100 MW open cycle Gas Turbine power station design modifications to the development granted previously under Reg. ref. No. 07/2164 and PL.10.230211 with associated balance of plant, equipment and buildings including: an open cycle gas turbine with 26m exhaust stack and 15m air vent stack, air inlet filter; heat exchanger, power control module, generator and generator transformer; 110kv electricity substation and control building; LV electricity substation; emergency diesel generator; cooling tower; gas compressor building; above ground gas installation compound; 3 no. subterranean process water and rain/storm water tanks; administration/workshop/stores/control building and 7 no. car parking spaces; 1,610m<sup>3</sup> bunded light fuel oil storage tank; 5,500m<sup>3</sup> raw water storage tank; water treatment building; 1,300m<sup>3</sup> demineralised water storage tank; the construction of a 71.5 linear metre site access road and new junction onto the IDA business and technology Park access road to the north of the site; refurbishment of an existing pumphouse and river abstraction chamber; and all other ancillary buildings and associated site development works below and above ground to facilitate the development subject to 18 conditions.

An EIS and a NIS was submitted in support of this application.

## 5.0 Policy Context

### 5.1. European Policy Context

- 5.1.1. The EU has through a series of policy framework and directives outlined an approach to reduce greenhouse gas emissions, the Europe 2020 Climate and



Energy Framework and Europe 2030 Climate and Energy Framework to reduce greenhouse gas emissions by 40% from 1990 levels with increasingly the use of renewable energy as a source of energy and also for greater efficiency in the production of energy.

- 5.1.2. In addition, Directive 2009/28/EU the Renewable Energy Directive promoted the increased use of renewable energy and increased targets for the overall level of energy produced and consumed by member states from renewable energy sources; the adoption of greater efficiency in energy production; the preparation of national plans and for the use of energy storage systems for integrated intermittent production of energy from renewable sources.
- 5.1.3. The Energy Roadmap 2050 published in 2011 continues the overall policy direction of previous policy frameworks and guidance on how to attain targets and objectives up to 2050 with continued adherence to energy efficiency; the use of renewable energy and advancing and using storage technologies and capacity.

## **5.2. National Policy**

- 5.2.1. In relation to energy arising from the EU Directive national policy has focussed measures to achieve the targets set out in the European policy framework.
- 5.2.2. The National Renewable Energy Plan published in 2010 is an action plan indicating how the targets would be achieved. Ongoing progress plans have been produced in 2012, 2014 and 2016 on progress in meeting targets in relation to renewable energy and efficiencies in energy.
- 5.2.3. Strategy for Renewable Energy 2012 published by Department of Communications, Climate Action and Environment outlines a policies and strategies for the developing of increased renewable energy production to meet targets in relation to renewable energy including the development of cost efficient systems of energy production and the development of commercial large-scale electricity storage.
- 5.2.4. Ireland's Transition to a Low Carbon Energy Future 2015-2030 is a White Paper published by the Department of Communications, Climate Action and Environment in December 2015 as a framework to guide policy and the actions that the Irish Government intends to take in the energy sector from now up to 2030 and takes into account European and International climate change objectives and agreements, as

well as Irish social, economic and employment priorities as part of a progression towards a low carbon energy system.

The White Paper considers the increasing transition from fossil based fuels to greater use of Renewable Electricity (RES-E) and issues of security of supply and issues relating to security of supply arising from increased use of renewable energy which can be intermittent and the need to develop back up technologies in order to ensure that stability of supply is maintained.

The White Paper in section 5.4 refers to Technology Choices and in relation to electricity Storage that *“electricity storage is expected to play an important role in facilitating the deployment of intermittent renewable energy technologies like wind, solar PV and ocean energy. The EU’s Energy Roadmap 2050 confirms that storage technologies remain critical, and that future integration of RES-E will depend on increased storage capacity. Electricity storage can be deployed in a number of circumstances in Ireland, including at grid-scale and at consumer level. These included very short-term storage in intelligent storage heaters in domestic premises, intermediate-level storage in battery and ice banks, and very large-scale compressed air storage in salt caverns. The work demonstrated that significant levels of storage, in particular multi-megawatt-scale grid-connected storage, would be needed to maximise the utilisation of RES-E. Small-scale storage would facilitate more efficient use of the networks, maintain high standards of security of supply, and keep network operating costs lower than they would be without storage”*.

#### **5.2.5. The Planning System and Flood Risk Management Guidelines for Planning Authorities November 2009.**

These guidelines require the planning system at national, regional and local levels to:

- Avoid development in areas at risk of flooding, particularly floodplains, unless there are proven wider sustainability grounds that justify appropriate development and where the flood risk can be reduced or managed to an acceptable level without increasing flood risk elsewhere;
- Adopt a sequential approach to flood risk management when assessing the location for new development based on avoidance, reduction and mitigation of flood risk; and

- Incorporate flood risk assessment into the process of making decisions on planning applications and planning appeals.
- Carry out a site-specific flood risk assessment, as appropriate, and comply with the terms and conditions of any grant of planning permission with regard to the minimisation of flood risk.

The core objective of the Guidelines is to avoid inappropriate development in areas at risk of flooding.

- 5.2.6. The guidelines in requiring assessment of flood risk sets out a methodology in chapter 3 to examine proposals through a series of stages including where identified the need for a justification test where identifiable risks are outlined. Chapter 5 indicates guidance in relation to development management of applications for development.

### 5.3. Development Plan

- 5.3.1. The current operative plan is the Kilkenny City and Environs Plan 2014-2020.

- 5.3.2. The site is zoned Industrial/ Technology Park.

- 5.3.3. 3.4.5.9 of the plan in relation to Industrial/ Technology Park outlines the objective of the zoning *“to provide for industry and information technology-related industrial and office development and ancillary services. The purpose is to encourage mainly services type employment on a campus environment”*.

Permitted Uses include industrial premises and office based industry, car parks, crèches, local convenience shop, Automated teller machines, open spaces, warehouses, third level education and research and uses open for consideration include recreational use/buildings, public service installations and conference facilities, restaurant and waste transfer stations.

- 5.3.4. Section 3.4.5.14 refers to Transitional Areas and it is indicated that *“while the zoning objectives indicate the different uses permitted in each zone, it is important to avoid abrupt transitions in scale and use at the boundary of adjoining land use zones. In these areas, it is necessary that developments are designed in a manner which would not be detrimental to the amenities of the more environmentally sensitive zone. For instance, in zones abutting residential areas particular attention must be*

*paid to the uses, scale, density and appearance of development proposals and to landscaping and screening proposals in order to protect the amenities of these residential areas”.*

5.3.5. Chapter 11 refers to development management standards.

## **6.0 The Appeal**

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

6.1.1. The appellants in a submission refer to:

- The proposed development is in front of their home and property.
- The site is in the Nore valley in close proximity to the River Nore SAC and SPA.
- The proposal uses lithium batteries and is relatively new concept which has yet to be fully proven in a sensitive area.
- The plant poses a considerable fire and explosion hazard. Reference in this regard issues raised in a publication which refers to risks to firefighters.
- The plant does not fit into any type of development in the current development plan.
- The site is contaminated by hydrocarbons and exposing and excavating the site could cause a runoff of pollutants.
- No NIS was submitted or AA completed and the decision of the planning authority is therefore invalid.
- The planning authority accepted a revised AA screening report as a substitute to NIS.
- The issue of alternative sites is not addressed.
- There are outstanding issues in relation to noise which are not addressed.
- There are deficiencies in ecological surveys and reference is made to bats and kingfisher species in particular.

- There are questions in relation to the justification of the development in particular relating to meeting national targets by 2020 in relation to energy.

## 6.2. Planning Authority Response

The planning authority in a submission dated the 25<sup>th</sup> of June 2018 indicate that they have no further comments.

## 6.3. First Party Response

The applicant in a response dated the 9<sup>th</sup> of July 2018 refers to:

- The BESS will contribute to meeting energy targets in relation to renewable energy by facilitating storage and release of energy.
- The proposal does not require consideration of alternatives as it is not a project subject to EIAR.
- The site is within the zoning industry/technology park.
- The development is compatible with the zoning.
- The development will not have a significant impact on the landscape.
- The site was the subject of investigation in relation to soil contamination in previous applications on the site and no contamination was found.
- Contamination of groundwater was established but it is not below the watertable or it is proposed to abstract water from the site.
- Sediment containment measures will be undertaken to prevent runoff to nearby watercourses.
- A site and facility wide fire safety risk assessment will be completed prior to the commencement of development.
- Fire prevention measures are proposed and firewater retention measures are to be installed in accordance with best practice.
- Noise is addressed to prevention measures and mitigation measures which will be reviewed in accordance with ongoing monitoring. Predicted noise levels will not exceed EPA guidance.

- Kingfishers were studied in the 2012 survey. There will be no impact on kingfishers given the distance of the site from the nearest nest and no noise issues arise.
- No issues are identified in relation bats arising from the proposed development.
- A revised screening for AA was submitted which addressed hydrological links between the site and the Natura sites which arise from surface water discharges to the surface water collection system on the IDA site. No potential for adverse effects are identified. Mitigation measure pre proposed in relation to fun off and possible entry of hydrocarbons into the surface water system.

## 7.0 Assessment

7.1. The main issues which arise in relation to the appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.

7.2. EIA

7.2.1. I note that reference is made to the issue of EIA in the grounds of appeal. The nature of the proposed development is not I consider a project subject to EIAR with reference to provisions stated in the Planning and Development Regulations 2001 as amended

7.3. Principle of development.

7.3.1. The site is within an area zoned Industrial/ Technology Park in the current operative plan which is the Kilkenny City and Environs Plan 2014-2020.

7.3.2. The objective of the zoning “*to provide for industry and information technology-related industrial and office development and ancillary services. The purpose is to encourage mainly services type employment on a campus environment*”.

7.3.3. The zoning permits a wide range of uses including industrial premises and office based industry. The site is part of a gated industrial area within an internal road network and the overall site is laid out in a number of defined clusters.

- 7.3.4. In relation to the development as proposed it is an energy related technology process. I note the reference in the grounds of appeal that the plant does not fit into any type of development in the current development plan but I consider that it could be regarded as an industrial type process and therefore complies with the zoning and would not therefore I consider be a non-conforming use. It is within an industrial park and although it is on the boundary it is accessed from the internal road network of the industrial park and not the public road (Sion Road) to the south. It adjoins a waste transfer station which is within the industrial park and also the waste water treatment plant for Kilkenny which is independently accessed from Sion Road. I would note that there are residential properties on Sion Road but the proposed development is within an existing defined industrial park which does not access onto Sion Road.
- 7.3.5. I would also note the planning history of the site where permission has been granted by the Board for a 100 MW open cycle Gas Turbine Plant and that the most recent permission ABP Ref. No PL.10. 242247 / P.A. Ref. 12/472 which was granted by the Board on the 13<sup>th</sup> of December 2013 and is still current. The site therefore has a history of permitted energy related development.
- 7.3.6. In relation to the broader issue of energy, the stated policies at EU and national level in relation to energy generation in particular for renewable energy and for the need for increased technologies in relation energy efficiencies requires a technological response that permits energy produced in periods of low demand to be stored to be used during periods of higher energy demands. This is particular important in relation to renewable energy sources such as wind where the level of energy produced is variable and weather dependent and optimum energy generation may not equate to optimum energy demand.
- 7.3.7. The increasing use of battery storage technology is increasingly recognised in policy documents and frameworks as addressing the balancing of energy generation and energy efficiency with surplus energy generated from renewable energy transferred to battery storage and released for consumption at peak demand periods when renewable energy is not in a position to accommodate the required demand. It also addresses issues in relation to security of supply. In this way the overall output from renewable energy can be increased and replace current energy generated from fossil fuels and assist in meeting targets to 2050.

7.3.8. I am therefore satisfied the current proposal complies with the zoning and overall energy policy and the use of the site for purpose proposed is therefore acceptable.

#### 7.4. Design and Layout.

7.4.1. The proposed development is on a site L-shaped in configuration. The northern section provides access from the internal IDA road to the main section of the site where the structures associated with the development are located. The southern area provides for a main BESS building 82 metres in length, and 44 metres in width with an overall height of 8 metres and has a stated floor area of 3,768m<sup>2</sup>. The building is typical modern frame industrial building with a shallow pitched A roof. The building is located toward the northern section of this part of the site and is centrally located in relation to the western and eastern boundary. Other structures on the site include 2 no. 905m<sup>3</sup> firewater storage tanks located to the west of the BESS building with a height of 7.7 metres; a 100 kV substation and control building with a stated height of 5.2 metres located to the south of the BESS building; an underground surface water attenuation tank with a capacity of 803m<sup>3</sup> located to the south of the BESS building, to the east of the substation and west of the underground firewater retention tank and an underground firewater retention tank with a capacity of 1030m<sup>3</sup> located east of the attenuation tank and the eastern boundary.

7.4.2. In relation to design and layout the proposed development is acceptable for this site.

7.4.3. In relation to access as indicated there is an access road from the site to the IDA business park and an internal circulation road around the BESS building which also provides access to the substation. There is provision for 8 no parking spaces located adjoining the eastern boundary.

7.4.4. In the context of the site and overall area I would have no objections to the design which is appropriate to an industrial area and I would have no objections to the traffic arrangements internally within the site and to the IDA service road.

#### 7.5. Visual impact.

7.5.1. The site is set back from IDA internal roadway and is adjacent to Sion Road which forms the southern boundary of the site. The development provides for a 3-metre-high palisade perimeter security fence coupled with perimeter landscaping which includes a landscaped 2-metre-high berm which in the further information submitted



was revised with particular reference to potential impacts on sightline visibility on existing accesses onto Sion Road.

- 7.5.2. As part of the information submitted with the application a Landscape and Visual Impact Assessment was submitted as Chapter 7 of the Planning and Environmental Considerations Report. The assessment examined the development in relation to sensitivity of the receiving landscape and magnitude of impact including designations in or proximate to the site and from a number of viewpoints in the area outlined in figure 7 of the report.
- 7.5.3. In terms of visual impact, I would agree with the overall conclusions of the report in indicating that the main impact will be along Sion Road and in relation to this particular area given the level of existing screening and mature planting in the area I do not consider with the provision of supplementary screening and landscaping as proposed in the details submitted I do not consider that an adverse visual impact arises given the general scale and height of the buildings on the site given the set back of these buildings from Sion Road.
- 7.5.4. I note the submission of the Department of Culture, Heritage and the Gaeltacht Nature Conservation in a S131 response to the Board which indicated and outlined recommendations that planting on the site be native trees and shrubs and non-native species referred to in the landscape master plan be replaced by native species; that the removal of hedgerows should only occur outside of the designated bird nesting season between the 1<sup>st</sup> of September and the 28<sup>th</sup> of February and for the provision of suitable mammal passes along the perimeter fencing. These matters can be addressed by condition.
- 7.6. Water services.
- 7.6.1. Water supply is from the public mains water supply. There is provision for the storage of water on the site for fire protection but the process on the site does not involve an ongoing use of process related water demand. I have no issue in relation to water supply.
- 7.6.2. Foul drainage generated on the site will be discharge to a treatment plant on the site which will be discharged to a tank for subsequent collection and disposal off site by a licenced contractor. The system provides for an alarm to prevent the tank

overflowing and the tank is sized to meet anticipated loading in accordance with EPA guidance. I would have no objection to the proposals as submitted.

- 7.6.3. In relation to surface water the primary concern arising would be in relation to flows off the site to fluvial channels in particular the River Nore to the south and its tributary the Pockocke River to the west which are part of Natura sites, the River Nore and River Barrow SAC site code 002162 and the River Nore SPA site code 004233.

Chapter 6 Planning and Environmental Considerations Report refers to potential impact on soils, geology and hydrogeology and assesses the current conditions on the site and vulnerability of groundwater and also impact on groundwater wells in the area. Potential impacts during the construction and operational phases are outlined and the application of mitigation measures to address potential impacts.

The proposals as submitted provide for the collection of waste water from all surfaces and to discharge water to the existing IDA system. The surface water will be attenuated to mimic a greenfield water flow and attenuation storage tanks are proposed to regulate flows from the site. In addition, silt traps and oil and petrol interceptors are proposed to remove materials and hydrocarbons prior to entering the surface water collector system. The system proposed is similar to the requirements as set out in the proposals as permitted for the Gas Turbine Plant. I would have no objections to the proposals and details submitted.

## 7.7. Noise

- 7.7.1. Chapter 4 of the Planning and Environmental Considerations Report refers to noise. The report identifies predicted the anticipated sources of noise during the construction and operational phases and predicts noise generation with reference to sensitive receptors. The process involves the use of plant which will generate noise internally within the BESS building. The report also indicates mitigation measures to ameliorate noise including use of silencers on plant and the construction of a berm on the southern boundary.

- 7.7.2. Based on the modelling the levels of noise will not exceed EPA noise limits and I would have no objections to the details as submitted.

## 7.8. Fire

- 7.8.1. The issue of fire risk is raised in the grounds of appeal and there is reference to issues of fire risk arising in existing plants in the USA.
- 7.8.2. In the response to the grounds of appeal the applicant indicates that a site and facility wide fire safety risk assessment will be completed prior to the commencement of development; fire prevention measures are proposed and firewater retention measures are to be installed in accordance with best practice.
- 7.8.3. The submitted details include 2 no. 905m<sup>3</sup> firewater storage tanks located to the west of the BESS building and an underground firewater retention tank with a capacity of 1030m<sup>3</sup> as proposed to be located on the site.
- 7.8.4. The issue of fire is addressed under separate statutory provisions but I would note that the reports of the fire and rescue service report dated the 25<sup>th</sup> of January 2018 indicates no objection subject to conditions.
- 7.9. Flooding
- 7.9.1. The applicants carried out a flood risk assessment which is included as appendix C of the Planning and Environmental Considerations Report.
- 7.9.2. The methodology applied is in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities as published in November 2009 and adopts a sequential approach to flood risk management in assessing the location of the new development. The presence and relative close proximity of the Pocke River is assessed in the evaluation of flood risk for the proposed site which records indicate no history of flooding. Risks from fluvial flows and surface water runoff are assessed and the risks are determined as low based on assessment of 1 in 100 year and 1 in 1,000 year storm events in relation to the appeal site.
- 7.9.3. I would note as already referred to the disposal of surface water arising from the site is to the IDA drainage system and provides for attenuation to mimic greenfield conditions.
- 7.9.4. Based on the information submitted I do not consider that issues of flood risk arise.
- 7.10. Heritage/Ecology
- 7.10.1. Ecology is considered in chapter 5 of the Planning and Environmental Considerations Report and an Appropriate Screening Report is submitted as appendix D of Planning and Environmental Considerations Report.

- 7.10.2. The site is not within a designated Natura site.
- 7.10.3. The site itself was the subject of survey in relation to habitats which are identified in figure 6. Mammal and avian surveys were also carried out. No protected plant species were identified on the site or any protected animal species.
- 7.10.4. There is nothing to indicated that the construction of the proposed development will impact in relation to matters of nature conservation interest.
- 7.10.5. In relation to built heritage which is addressed in chapter 8 of the Planning and Environmental Considerations Report there is no material of archaeological interest identified but a condition requiring monitoring of the removal of material during groundworks should be included in any grant of planning permission.

## **8.0 Appropriate Assessment**

### **8.1. Appropriate Assessment - Screening.**

- 8.1.1. An Appropriate Screening Report is submitted as appendix D of Planning and Environmental Considerations Report.
- 8.1.2. The site is not within a designated site. The nearest sites are the River Barrow and River Nore SAC site code 002162 in relation to a tributary of the River Nore the Pocke River approximately 140 metres to the west of the appeal site and the River Nore SPA site code 004232 where the main channel of the River Nore is approximately 230 metres south of the appeal site.
- 8.2. The River Barrow and River Nore SAC covers a vast area consisting of the freshwater stretches of the Barrow and Nore River catchments as far upstream as the Slieve Bloom Mountains, and it also includes the tidal reaches of both rivers. The qualifying interests include terrestrial and aquatic habitats and species. The River Nore SPA is also a large linear designated site following the course of the channel of the river and main tributaries.
  - 8.2.1. In relation to potential link in the context of Source-Pathway-Receptor between the appeal site and the SAC and SPA site, the appeal site would be within the overall drainage catchment of the River Nore.
- 8.3. With regard to the SAC site in relation to impact on water quality, it is not immediately proximate to a watercourse and there is no identifiable surface link to a

watercourse within the catchment. Water discharge on the working area of the site during the operational phase is to an existing surface water drainage system with attenuation measures integrated into the discharge from the site.

- 8.3.1. In relation the construction phase and operational phase, measures are indicated to prevent accidental spillage from oils/ hydrocarbons to groundwater, for discharge to the drainage system and there are also provisions for the control of dust in particular during the construction phase of the development.
- 8.3.2. Water discharge impacts (direct or indirect) of the project alone and in combination with other projects I consider can be reasonably ruled out on the basis of objective scientific information.
- 8.3.3. In relation to other impacts the screening report considers species of qualifying interest and otters along the Pockocke River were identified as a species which could be impacted by the development and the potential impact was identified as noise impact arising from the proposed development. The report concludes that given the distance of the river from the site to the river and the actual identified levels of noise likely to be generated in both the construction and operational phases impact on the species was identified as unlikely in relation to adverse disturbance of the species. No other species or habitat was identified as likely to be impacted.
- 8.3.4. Noise impacts (direct or indirect) of the project alone and in combination with other projects I consider be reasonably ruled out on the basis of objective scientific information.
- 8.4. In relation to Nore SPA site code 004232 where the main channel of the River Nore the species of interest identified is the kingfisher species and the SPA supports this species in high numbers. A study of the area identifies the absence of the species within 500 metres of the appeal site. The impacts from the development has not identified an impact to the species or to potential nesting sites of the species.
  - 8.4.1. Impacts (direct or indirect) of the project alone and in combination with other projects I consider be reasonably ruled out on the basis of objective scientific information.
  - 8.4.2. There is I consider no evidence to suggest any connectivity between the appeal site and the SAC and the SPA.

8.4.3. In conclusion, therefore, having regard to the scale, nature and operation of the development, the absence of defined connectivity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 9.0 Recommendation

9.1. In view of the above assessment permission for the proposed development is recommended.

## 10.0 Reasons and Considerations

10.1. Having regard to;

- the provisions of the current Kilkenny City and Environs Development Plan 2014-2020; the zoning of the site as “Industrial/ Technology Park”;
- EU and National Policy in relation to energy, in particular the development of increased use of renewable energy into the future at national level;
- the requirement in EU and National policy to develop technologies for greater and improved efficiency in the production, storage and consumption of energy;
- the nature and pattern of uses in the vicinity;
- the nature, scale and design of the proposed development and
- the availability in the area of infrastructure,

it is considered that subject to it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening.

The Board considered the nature, scale and location of the proposed development, the documentation and further information on file, the submissions made, the context of the site, its planning and development history, the hydrological distance to the River Barrow and River Nore Special Area of Conservation (Site Code 002162) and the River Nore SPA (site code 0042), the poor potential for connectivity to the European Sites, and the report of the Inspector. The Board undertook an Appropriate Assessment screening exercise, and concluded that the proposed development would not be likely to have significant effects on any European Sites, either by itself or in combination with other plans or projects.

## 11.0 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 11<sup>th</sup> of December 2017 and the 16<sup>th</sup> of April 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 interests of clarity

- 2 All environmental measures set out in the Planning and Environmental Considerations Report and associated documentation submitted by the applicant shall be implemented in full, except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of protection of the environment.

- 3 Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour of the dwellings shall be blue-black, black, dark brown or dark grey in colour only.

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

- 4 The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

- 5 Within three months of the date of this order the developer shall submit to and agree in writing with the planning authority, a proposal for an environmental management system in respect of the proposed development, incorporating provisions for the water, noise, and air monitoring measures required under the conditions of this permission generally, and for the following: -

(a) monitoring of ground and surface water quality,

(b), monitoring of noise levels

(c) a complaints management procedure,

(d) details of the site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility,

(e) a method statement for the ongoing monitoring of groundwater wells and

(f) associated procedures for reporting to the planning authority.

**Reason:** In the interests of orderly development and of the amenities of the area.

- 6 The berm and boundary works along the Sion Road boundary shall be carried out in accordance with the revised details submitted to the planning authority on the 16<sup>th</sup> of April 2018 and shall provide for the sightline and visibility splay indicated. All planting that be carried out as part of the overall landscaping plan agreed for the site in relation to species to be planted.

**Reason:** In the interests of amenity and public safety

- 7 All service cables associated with the proposed development (such as



electrical and telecommunications) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

- 8 The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

(i) the nature and location of archaeological material on the site, and

(ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

- 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 interest of public health

- 10 Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.

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

- 11 The surface water drainage system shall be constructed in accordance with the details submitted and shall provide for an attenuation system as outlined which shall be installed and with provision for ongoing maintenance in accordance with the detailed requirements of the planning authority.

**Reason:** In the interest of orderly development and to ensure the proper and satisfactory servicing of the development

- 12 A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of storage, separation and collection of the waste shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

**Reason:** To provide for the appropriateness management of waste and in particular recyclable materials in the interests of protecting the environment.

- 13 Site development and building works shall be carried out only between the hours of 0800 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.

- 14 Construction waste shall be managed in accordance with a construction waste management plan, which shall be submitted to, and agreed in writing

with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management

- 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.

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Derek Daly  
Planning Inspector

21<sup>st</sup> August 2018

