



An
Bord
Pleanála

Inspector's Report ABP-302475-18

Development	Ten year permission for a solar farm on a site of approximately 152.8 hectares
Location	Raheenduff, Haresmead, Rosspile, Coolcliffe, Horetown North, Clongeen, Co Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20180837
Applicant(s)	Highfield Solar Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First & Third Party
Appellant(s)	<ol style="list-style-type: none">1) Highfield Solar Limited2) Joe Huder & Others3) Foulksmills Tidy town4) The Community First Action Group
Observer(s)	<ol style="list-style-type: none">1) Peter Sweetman & Associates2) Ronan & Helen O'Mahony & Others

Date of Site Inspection

20th March 2019

Inspector

Mary Crowley

Contents

1.0 Site Location and Description.....	5
2.0 Proposed Development.....	6
3.0 Planning Authority Decision	9
3.1. Decision.....	9
3.3. Planning Authority Reports.....	10
3.6. Prescribed Bodies.....	11
3.7. Third Party Observations.....	11
4.0 Planning History.....	13
5.0 Policy Context.....	14
5.1. International Guidelines.....	14
5.2. National Guidelines.....	14
5.3. Regional Planning Guidelines	17
5.5. Development Plan.....	18
5.8. Natural Heritage Designations.....	23
6.0 The Appeal.....	23
6.1. Grounds of Appeal.....	23
6.7. Applicant Response.....	32
6.9. Planning Authority Response	34
7.0 Observations.....	35
7.1. Further Responses (Additional Comments).....	35
8.0 Assessment.....	37
9.0 Principle / Policy Considerations.....	39
10.0 Refusal Reason No 1 – Nature & Scale of Development.....	40
11.0 Refusal Reason No 2 – Renewable Energy Strategy.....	47

12.0	Refusal Reason No 3 – Visual Impact	49
13.0	Refusal Reason No 4 – Lack of Strategic Guidance	52
14.0	Refusal Reason No 5 – Undesirable Precedent	53
15.0	Refusal Reason No 6 – Insufficient Information	54
16.0	Environmental Impact Assessment Screening	54
17.0	Other Issues	55
18.0	Appropriate Assessment Screening	60
19.0	Summary & Conclusion	78
20.0	Recommendation	80
21.0	Reasons and Considerations	80
22.0	Conditions	82

1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 152.8 hectares is located near the village of Foulksmills in County Wexford and lies within the townlands of Coolcliffe, Rosspile, Haresmead, Raheenduff and Horetown North. The site is made up of 8 distinct, well contained land parcels which are in turn made up of 28 individual agricultural fields and an area of forestry plantation. The land is primarily agricultural with both gently sloping and relatively level topographies between 10m and 30m ordnance datum (OD). The existing land use is arable, pasture and broadleaved forestry plantation. Hedgerows and field drainage predominantly separate individual fields and buildings.
- 1.2. The River Corock runs adjacent to the site in a north-south direction, as does the Mulmontry Stream, which also runs adjacent to the eastern boundary of the site. These merge into a single watercourse which continues between the southern areas of the development. The Bannow Bay SAC and pNHA are located along the Corock River Basin which runs between two land parcels at the south of the site.
- 1.3. The site is close to several small villages along with numerous one-off rural dwellings. The village of Foulkesmill is located approximately 0.4 km from the nearest site boundary, with proposed array areas situated to the north-east, east and south of the village. The site is also located approximately 1.2 km north-east of Clongeen, 5 km west of Taghmon, 3 km north of the district town of Wellingtonbridge and 3 km south-east of the village of Newbawn.
- 1.4. The site is served by a network of local roads, surrounded by regional roads which connect the settlements of Newbawn, Wellingtonbridge and Taghmon. The nearest primary route is the N25 New Ross to Wexford, approximately 4 km to the north. The R736 passes to the west of the site in a north-south direction from the N25 at Ballinaboola, meeting the R733 at Wellingtonbridge to the south. The R738 connects the R733 with Taghmon to the east of the site.
- 1.5. A 110kV overhead electrical transmission line traverses the proposed development site, running along a north-east/south-west axis.
- 1.6. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

2.1. The development will consist of a ten year permission for a solar farm on a site of approximately 152.8 hectares. Details of the site layout and associated works and structures are provided in planning application drawings submitted as part of this application. These include plans, sections, elevations and details of the proposed development which comprises the following:

- A solar farm covering an area up to 128 hectares on ground mounted steel frames within a site area of approximately 152.8 hectares.
- Installation of up to 74 no. inverter/transformer stations.
- Installation of up to 40 no. battery storage units.
- Installation of up to 7 no. storage containers.
- Upgrade of 170m of existing farm track.
- Construction of approximately 8,300 metres of internal service track ways and associated drainage infrastructure.
- Underground internal site power and communications cabling to facilitate the operation and control of the proposed Solar PV System (SPVS).
- Construction of perimeter security fencing (approximately 20 kilometres), including mammal access and installation of access gates.
- Installation of CCTV cameras.
- Preparation of screening and ecology/biodiversity enhancement areas indicated on drawings made up of new hedgerow/tree screening belts, enhancement of existing hedgerows and enhanced arable meadow planting.
- Clearance of up to 9.7 hectares of existing unmanaged woodland in the northern end of the site.
- Associated ancillary works.

2.2. Associated ancillary works include:

- Temporary site construction compounds.
- Temporary drainage infrastructure for the construction phase.
- Biodiversity enhancement in the form of on-going management of existing internal and perimeter hedgerows and grass land management.

2.3. The overall development has been broken up into a series of eight distinct array areas shown below.

No.	Array	Area (Ha)
1	Raheenduff North	10.4
2	Raheenduff South	16.0
3	Foulkesmill West	20.7
4	Foulkesmill South	5.9
5	Poldoon	20.3
6	Rosspile	44.8
7	Coolcliffe North	19.9
8	Coolcliffe South	14.8
	Total	152.8

2.4. The development is designed around a central main array of “Rosspile” which is located in the west of the site. The main temporary construction compound, site offices and point of connection to the grid will be located here. A series of satellite arrays of varying sizes are located to the east and north of the main array and will be connected by a number of underground electrical cables. Each of the arrays will be served by a separate site entrance from the public road network and temporary site construction compound.

2.5. In terms of boundary treatment, all existing external hedgerows shall be maintained. These are typically dense, relatively unmanaged hedgerows in good condition with trees throughout. A 2m high meshed deer fence consisting of timber post and wire construction is proposed inside the perimeter hedgerows for each array. Mammal access points are proposed along the entire perimeter of each security fence. CCTV cameras will be placed at selected locations along this security fencing. All CCTV

cameras will be oriented in towards the solar site so as not to encroach on the privacy of neighbouring property.

2.6. The applicant also requests that the development be granted planning permission for an operational period of 30 years.

2.7. The application was accompanied by the following:

- Planning & Environmental Report (Planning Policy, Need for the Development & Consultation; Key Characteristics of Proposed Development; EIA Screening; Hydrology & Water Quality; Biodiversity; Roads, Traffic & Transportations; Population and Human Health, Cultural Heritage, Landscape & Visual and Glint & Glare). The Appendices includes inter alia Glint & Glare Study Report, Landscape & Visual Impact Assessment Report, Archaeological Assessment Report, Biodiversity Report, Landowner Consent and an Outline Construction and Environmental Management Plan (OCEMP).
- AA Screening Report
- Natura Impact Assessment
- ESBN 110kv Ducting Specifications

2.8. From the on-site substation, the power will be exported to the national grid via a buried grid connection cable to the overhead 110kV transmission line which passes through the site. The development will be connected to the grid via a new 110kV substation consisting of a 110kV TSO substation and IPP compound. A pre-application consultation process with An Bord Pleanála to determine whether or not the substation was deemed Strategic Infrastructure Development (SID) was carried out. A portion of the on-site substation, specifically the 110kV infrastructure, although considered in all environmental studies submitted, does not form part of this application. A SID application was submitted to the Board on 11th October 2018 from Highfield Solar Limited Eirgrid PLC for the development of an electrical substation and associated 110kV and MV infrastructure required to connect ground-mounted solar PV generation to the electricity transmission and all associated ancillary site development works at Rosspile, Clongeen, Co. Wexford. This appeal is being considered concurrently with this SID application. An Bord Pleanála reference 302731 refers.

3.0 Planning Authority Decision

3.1. Decision

3.2. Wexford County Council issued a notification of decision to refuse permission on 10th August 2018 for the following 6 reasons:

- 1) *It is considered that a development of this nature and scale due to its character and location on a fragmented holding of 152 ha, would militate against the preservation of the landscape, cultural heritage resources, the amenities of residential property and agricultural land use patterns. The Planning Authority is not satisfied that the proposed development would not seriously injure the amenities of the area or of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 2) *It is considered that the proposed development which would occupy highly productive agricultural lands would undermine the agricultural sector in the area and would by itself and the precedent it would set be contrary to the provisions of the Wexford County Development Plan 2013– 2019 and would be premature pending the adoption of a Renewable Energy Strategy for County Wexford and thus be contrary to the proper planning and sustainable development of the area.*
- 3) *Due to its scale and notwithstanding the mitigation measures proposed, the proposal would alter significantly the prevailing land use in the area which is agriculture and would represent an incongruous and dominant feature in the rural landscape. The Planning Authority is not satisfied that the proposed development is capable of being fully assimilated into the landscape, and that it would not adversely affect the visual amenities of the rural area and its setting which is an area where agricultural activity predominates.*
- 4) *The proposed development would involve the use of an extensive area of agricultural lands (c.152ha) for a substantial scale of solar power in a single project. There is a lack of guidance at national, regional and local level in relation to the appropriate location, scale and distribution of proposals for solar*

arrays of this size and scale. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

5) The proposed development would set an undesirable precedent for other similar scaled developments which would be themselves and cumulatively be harmful to the amenities of the area and be contrary to the proper planning and development of the area.

6) Insufficient information has been submitted with the application to enable the Planning Authority to determine the impact of the biodiversity and ecology on the area of the proposed development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.3. Planning Authority Reports

3.3.1. Planning Reports

3.4. The Case Planner set out the following conclusions in their report:

- The size and scale cannot be easily assimilated into the landscape. Screening and mitigation would be of limited effect.
- The scale of the scheme is exacerbated by the fact that the site is split into 8 distinct portions. It is haphazard in its layout increasing its impact on the landscape.
- The scheme is not compatible with the development polices relating to agricultural activity and would undermine the strength of agricultures in the area.
- No consideration of alternative sites where the impact to biodiversity would be significantly less.
- Would set an undesirable precedent for other similar scaled developments
- Clear policy direction required

3.5. Recommended that permission be refused for 6 no reasons. The notification of decision to refuse permission issued by Wexford County Council reflects this recommendation.

3.5.1. Other Technical Reports

- **Chief Fire Officer (CFO)** – Fire Safety Certificate is required. Requested that access to the site shall have suitable provision of firefighting purposes and shall be agreed with the Fire Authority prior to construction.

3.6. Prescribed Bodies

- **Transport Infrastructure Ireland (TII)** – No observations
- **Irish Aviation Authority (IAA)** – In the event of planning permission being granted, the applicant should be conditioned to implementing appropriate mitigation measures, if upon installation, the development poses an unacceptable risk to the safety of aviation activities
- **Department of Culture, Heritage and the Gaeltacht** – Geophysical survey and archaeological testing to be carried out in the areas identified in the Archaeological Assessment Report and in additional areas identified in the report and submitted as further information.
- **Department of Agriculture, Food and the Marine** – A felling license is required if the proposed development involves the felling or removal of any trees.

3.7. Third Party Observations

3.7.1. There are 79 no observations recorded on the planning file (Appendix A refers). The issues raised may be summarised as follows:

- Proximity to houses
- Fire hazard
- Impact on weather on solar panels (collapse or blown away)
- Specifications of solar panel components required
- Community gain of €180,000 questioned and needs to be bedded down
- Proposal contradicts Development Plan objectives (L04, ED17 etc)
- Working hours (7am to 6pm 6 days a week) too invasive
- Traffic impact on local road network
- Negative visual impact

- Impact to River Corock SAC and Bannow Bay SPA
- Reflection from glare and panels
- Lack of public consultation
- Health concerns
- Devaluation of houses and lands
- Industrial scale development is inappropriate in a rural area
- 10 year planning term is too long. Life of 30 years also too long
- Loss of good fertile agricultural land
- Inadequate screening proposals
- National policy required
- Rural depopulation
- Reference is made to O’Grianna vs An Bord Pleanála (project splitting) as there is no substation in place
- Inaccurate photomontage images
- Potential for water contamination, pollution and flooding
- Negative impact on tourism and the village of Foulksmills
- Interference with airfield in Taghman Fly
- Deterioration in water quality entering Bannow Bay and impacting existing oyster farm.
- Concerns regarding removal and dismantling of the solar farm
- Presence of Japanese Knotweed will be agitated
- Shipping containers are not suitable in the rural environment
- Decrease in job opportunities in the area
- Impact on historical and archaeological sites
- Impact to Corn Mill at Foulksmills a Protected Structure RPS No WCC0871, Raheenduff, Horetown (ED) NIAH No 15704023
- Orientation of CCTV
- Queried who is responsible for overseeing the project

4.0 Planning History

4.1. There is no evidence of any previous planning application or subsequent appeal on this site provided with the appeal file. However as set out previously this Solar Array will be served by a substation for which permission is sought directly from An Bord Pleanála pursuant to the provisions of Section 182B of the Planning and Development Act 2000 as the substation constitutes Strategic Infrastructure Development (SID). This SID case may be summarised as follows:

- **ABP-302731-18** - Highfield Solar Limited seeks permission from An Bord Pleanála for an electrical substation and associated 110kV and MV infrastructure required to connect ground-mounted solar PV generation to the electricity transmission and all associated ancillary site development works at Rosspile, Clongeen, Co. Wexford. This substation constitutes Strategic Infrastructure Development (SID). This SID application is being considered concurrently with this appeal.

4.2. A previous decision by the Board that is relevant to this scheme, may be summarised as follows:

- **ABP-301321-18 (PL26.247217) (Reg Ref 2016 0690)** – Wexford County Council refused a 10 year permission for a solar PV development on a site of 89.46 ha at Ballyminaun Big, Grahormick, Hilltown, Jonastown, Newhouse, Garryhask, Gibboghstown, Crosstown, Killinick and Tomhaggard a site 3km south of Killinick, Co Wexford for three reasons summarised as follows:
 - 1) The overall scale, siting and elevated nature the proposed development fails to have regard to its setting in the landscape and therefore would have an adverse effect on the visual amenity of the area.
 - 2) It was not demonstrated that glint and glare would not have a negative impact on users of the regional roads (R739 and R736).
 - 3) Inadequate information submitted in relation to environmental impacts on water quality and wintering water fowl arising from the grid connection proposals.

The decision was appealed by the applicants, Highfield Solar Limited. The Board refused permission on 2nd February 2017 for one reason relating to a lack of guidance at national, regional and local level in relation to the appropriate location,

scale and distribution of future proposals for solar power. **The Boards Decision was subsequently quashed by Order of the High Court**, New Case Number ABP-301321-18 and the case remitted to the Board. The Board granted permission on the 11th January 2019 subject to 11 Conditions.

5.0 Policy Context

5.1. International Guidelines

5.1.1. There is a range of UK Guidance. The main guidance notes are **Planning Practice Guidance for Renewables and Low Carbon Energy (DCLG 2013)** and **Planning Guidance for the development of large scale ground mounted Solar PV systems (BRE 2013)**. Both refer to the desirability of preserving good agricultural lands and set out issues and mitigations. The BRE Guidance provides advisory information on planning application considerations including construction and operational works, landscape / visual impact, ecology, historic environment, glint and glare and duration of the planning permission. The document also provides guidance on the information which should be provided within a Landscape and Visual Impact Assessment. The document also provides guidance on EIA Screening procedures.

5.2. National Guidelines

5.2.1. National Planning Framework 2040

- A key element of Ireland 2040 is to support and strengthen more environmentally focused planning at local level. The Framework states that *the future planning and development of our communities at local level will be refocused to tackle Ireland's higher than average carbon-intensity per capita and enable a national transition to a competitive low carbon, climate resilient and environmentally sustainable economy by 2050, through harnessing our country's prodigious renewable energy potential.*
- **National Strategic Outcome 8** states that it is an objective to *deliver 40% of our electricity needs from renewable sources by 2020 with a strategic aim to increase renewable deployment in line with EU targets and national policy objectives out to*

2030 and beyond. It is expected that this increase in renewable deployment will lead to a greater diversity of renewable technologies in the mix.

- **National Policy Objective 55** seeks to *promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050.*

5.2.2. **National Development Plan 2018 – 2027**

- Published in tandem with the National Planning Framework recognises that in order to ensure the integrity of the state in achieving renewable energy resilience, a fundamental shift is required to shape the ways in which energy is produced.

5.2.3. **The Government White Paper entitled ‘Ireland’s Transition to a Low Carbon Energy Future 2015 – 2030’, published in December 2015**

- The White Paper is a complete energy policy update, which sets out a framework to guide policy between now and 2030. The vision of the White Paper is to achieve a low carbon energy system that targets greenhouse gas (GHG) emissions from the energy sector that will be reduced by between 80% and 95%, compared to 1990 levels, by 2050, and will fall to zero or below by 2100. However, it does not supersede the NREAP (National Renewable Energy Action Plan), which set out Ireland’s approach to achieving its (legally binding) targets, with a target of 40% of electricity consumption to be from renewable sources by 2020.
- Paragraph 137 of the White Paper states *‘solar photovoltaic (PV) technology is rapidly becoming cost competitive for electricity generation, not only compared with other renewables but also compared with conventional forms of generation. The deployment of solar in Ireland has the potential to increase energy security, contribute to our renewable energy targets, and support economic growth and jobs. Solar also brings a number of benefits like relatively quick construction and a range of deployment options, including solar thermal for heat and solar PV for electricity. It can be deployed in roof-mounted or ground-mounted installations. In this way, it can empower Irish citizens and communities to take control of the production and consumption of energy. Solar technology is one of the technologies being considered in the context of the*

new support scheme for renewable electricity generation which will be available in 2016.

- The White Paper also sought to publish a Renewable Electricity Policy and Development Framework (with a spatial dimension) to underpin the proper planning and development of larger scale renewable electricity generation development on land. It is envisaged that such a plan will give guidance to those seeking development consent and to planning authorities in relation to larger-scale onshore renewable electricity projects.

5.2.4. **National Climate Change Strategy 2007-2012**

5.2.5. Under the Kyoto Protocol and as part of its contribution to the overall EU target, Ireland agreed to a target limiting its greenhouse gas emissions to 13% above 1990 levels over the period 2008-2012. The National Climate Change Strategy 2007-2012 sets out a range of measures, building on those already in place under the first National Climate Change Strategy (2000), to ensure Ireland reaches its target under the Kyoto Protocol. The Strategy provides a framework for action to reduce Ireland's greenhouse gas emissions in the areas of energy, transport, housing, industry, agriculture and waste as well as cross-sectoral actions. Local authorities are key agents for change at the local level in achieving target reductions.

5.2.6. **Strategy for Renewable Energy: 2012-2020 - Department of Communications, Energy and Natural Resources (DCENR) (2012)**

- The Government's overriding energy policy objective is to ensure competitive, secure and sustainable energy for the economy and for society.
- The development of renewable energy is central to overall energy policy in Ireland. Renewable energy reduces dependence on fossil fuels, improves security of supply, and reduces greenhouse gas emissions creating environmental benefits while delivering green jobs to the economy, thus contributing to national competitiveness and the jobs and growth agenda.
- Climate change, energy security and competitiveness are inter-related challenges that will be addressed through the transforming of Ireland's economy from one based on a predominantly import based fossil fuel dependence to a more indigenous low carbon economy based around energy efficiency, renewable energy and smart networks.

- The Government's overarching strategic objective is to make renewable energy an increasingly significant component of Ireland's energy supply by 2020, so that at a minimum we achieve our legally binding 2020 target in the most cost efficient manner for consumers.

5.2.7. **National Renewable Energy Action Plan (NREAP)**

5.2.8. The EU Renewables Directive 2009/28/EC promotes the use of energy from renewable sources and set the EU's 20% renewable energy target by 2020. Ireland was set a renewable energy target of 16% target by 2020. The National Renewable Energy Action Plan sets out the Government's strategic approach and concrete measures to deliver this target which includes:

- 40% of electricity consumption from renewable sources by 2020.
- 10% electric vehicles by 2020
- 12% of renewable heat by 2020

5.2.9. The Government is also looking beyond 2020 in terms of the significant opportunities to develop Ireland's abundant offshore renewable energy resources, including offshore wind, wave and tidal energy.

5.2.10. **Draft Methodology for Local Authority Renewable Energy Strategies (Sustainable Energy Authority of Ireland, 2011)**

5.2.11. There is a growing trend and need to prepare strategies for the co-ordinated development of renewable energy sources. These strategies will allow Local Authorities to maximise the renewable energy resource and potential of its area and assist in the transition to a low carbon economy. The Sustainable Energy Authority of Ireland (SEAI) has produced draft methodology guidelines for Local Authorities when preparing Renewable Energy Strategies.

5.3. **Regional Planning Guidelines**

5.4. **Regional Planning Guidelines for the South East Region 2010 – 2022**

- The South-East Regional Authority actively and strongly supports the sourcing and generation of energy from within the South-East. Energy from renewable sources is an essential part of this sustainable development strategy

- It is a Strategic Goal to support *the development and improvement of key economic infrastructure, such as energy generation and transmission networks, including renewable energies and telecommunications, all of which are essential for the continued development of the region* (A9)
- It is a Strategic Goal to develop *the Green Economy in rural areas; actively promoting the exploitation of wind energy and other forms of renewable energy as valuable regional assets in appropriate locations* (D5)
- *It is an objective of the Regional Authority that local authorities, the private sector, energy production and supply companies are encouraged to formulate sustainable energy policies and practices which seek to inter alia maximise the use of renewable energy technologies and assist the development of indigenous sustainable energy enterprises* (PPO 6.3)

5.5. Development Plan

5.5.1. The operative plan for the area is the **Wexford County Development Plan 2013-2019**. The Plan seeks to protect, mitigate and adapt to the impacts of climate change by inter alia:

- Protecting people, vulnerable infrastructure and the environment from the impacts of climate change
- Raising awareness of the predicted impacts of climate change
- Providing objectives for the sustainable development of renewable energy sources

5.5.2. The Plan promotes the development of renewable energy and the integration of a sustainable settlement strategy and transportation strategy. This will allow for a reduction in the amount of fossil fuels used which is one of the main contributors to greenhouse gases in Ireland.

5.5.3. **Paragraph 5.3** states that *the Plan supports the development of sustainable renewable energy sources for its role in reducing fossil fuel dependency and greenhouse gas emissions and facilitating the transition to a low carbon economy. The Wexford County Development Board document Positioning Wexford for the Upturn-Towards Sustainable Growth and Development focuses on ‘Greening Wexford’. The*

starting point is the transition to a low carbon economy which is an attractor for inward investment and an enabler for indigenous industry. A low carbon economy is focused on clean, low carbon technologies and promotes the development of sustainable renewable energy sources

5.5.4. **Chapter 5 Climate Change** sets out the following objectives:

- **Objective CC04** - *To minimise greenhouse gas emissions in order to contribute to a reduction and avoidance of human induced climate change in accordance with the Kyoto agreement. The Council supports and is committed to the National Climate Change Strategy and in general to facilitating measures which seek to reduce emissions of greenhouse gases.*
- **Objective CC05** - *To prepare a Renewable Energy Strategy for County Wexford during the lifetime of the Plan, which will build on and support the Wind Energy Strategy 2013-2019, any Climate Change Strategy prepared for the county and the National Renewable Energy Action Plan (Department of Communications, Energy and Natural Resources, 2010).*
- **Objective CC09** - *To promote and encourage new developments to mitigate against, and adapt to, where possible the impacts of climate change through the location, layout and design of the development.*

5.5.5. **Paragraph 6.4.4 Renewable Energies, Energy Crops and Sustainable Construction** states that *Wexford is ideally positioned to capitalise on its assets in terms of hydro, solar, tidal and wind energy. It is further stated that the Council recognises that a range of opportunities exist in renewable energies and energy crop production for farmers, energy producers and businesses. The provision of renewable energy solutions will help attract business to County Wexford as it provides a cheaper, cleaner solution that reduces the carbon footprint and will assist the transition to a low-carbon economy.*

5.5.6. **Chapter 11 Energy** sets out the following objectives:

- **Objective EN01** - *To facilitate the achievement of a secure and efficient energy supply and storage for County Wexford.*

- **Objective EN02** - *To promote County Wexford as a low carbon county by 2019 as a means of attracting inward investment and to facilitate the development of energy sources which will achieve low carbon outputs.*
- **Objective EN04** - *To facilitate the provision of and improvements to energy networks in principle, provided that it can be demonstrated that:*
 - *The development is required in order to facilitate the provision or retention of significant economic or social infrastructure*
 - *The route proposed has been identified with due consideration for social, environmental and cultural impacts*
 - *The design is such that will achieve least environmental impact consistent with not incurring excessive cost*
 - *Where impacts are inevitable mitigation features have been included*
 - *Proposals for energy infrastructure should be assessed in accordance with the requirements of Article 6 of the Habitats Directive.*
- **Objective EN07-** *To encourage and favourably consider proposals for renewable energy developments and ancillary facilities in order to meet national, regional and county renewable energy targets and to facilitate a reduction in CO2 emissions and the promotion of a low carbon economy, subject to compliance with development management standards in Chapter 18 and compliance with Article 6 of the Habitats Directive.*
- **Objective EN08** - *To support and assist Wexford County Development Board in implementing the measures contained in Positioning Wexford for the Upturn: Towards Sustainable Growth and Development (Wexford County Development Board, 2010) in relation to developing a sustainable energy supply and promoting County Wexford as a ‘Green County.’*
- **Objective EN10** - *To prepare a Renewable Energy Strategy for County Wexford during the lifetime of the Plan which will build on and support the Wind Energy Strategy 2013-2019, any Climate Change Strategy prepared for the County and the National Renewable Energy Action Plan (Department of Communications, Energy and Natural Resources, 2010).*

5.5.7. **Paragraph 11.3** states that the *Council will encourage the development of renewable energy resources and the maximisation of electricity production from renewable sources.*

5.5.8. **Chapter 14 Heritage** characterises the appeal site as “**Lowland**”, an area, which is deemed to have a higher capacity to absorb developments. Paragraph 14.4.2 Landscape Character Assessment states *that the Lowland area generally comprises gently undulating lands and relates to extensive areas of the county. This landscape has characteristics which provide it with a higher capacity to absorb development without causing significant visual intrusion. The landscape is characterised by higher population levels and more intensive agriculture. It is punctuated by many of the county’s hills and ridges, the more sensitive of which have been defined as Landscapes of Greater Sensitivity.*

5.5.9. **Chapter 14 Heritage** sets out the following objectives:

- **Objective L04** - *To require all developments to be appropriate in scale and sited, designed and landscaped having regard to their setting in the landscape so as to ensure that any potential adverse visual impacts are minimised.*
- **Objective L09** - *To require developments to be sited, designed and landscaped in manner which has regard to the site specific characteristics of the natural and built landscape, for example, developments should be sited, designed and landscaped to minimise loss of natural features such as mature trees and hedging and built features.*

5.6. In relation to Archaeology Heritage Chapter 14 sets out the following:

- **Objective AH01** - *To conserve and protect archaeological sites, monuments (including their settings), underwater archaeology and objects within the jurisdiction of Wexford County Council including those listed on the Record of Monuments and Places, the Register of Historic Monuments or newly discovered sub-surface archaeological remains.*
- **Objective AH03** - *To fully consider the protection of archaeological heritage when undertaking, approving or authorising development. In considering such protection the Council will have regard to the advice and recommendations of the National Monuments Service and the principles set out in Framework and*

Principles for the Protection of the Archaeological Heritage (Department of Arts, Heritage, Gaeltacht and the Islands, 1999).

- **Objective AH04** - *To require an archaeological assessment for development that may, due to its size, location or nature, have a significant effect upon archaeological heritage and to take appropriate measures to safeguard this archaeological heritage. In all such cases the Planning Authority shall consult with the National Monuments Service in the Department of Arts, Heritage and the Gaeltacht.*
- **Objective AH05** - *To promote a presumption in favour of preservation in-situ of archaeological remains and settings when dealing with proposals for development that would impact upon archaeological sites and/or features. Where preservation in-situ is not possible the Council will consider preservation by record in appropriate circumstances.*
- **Objective AH06** - *To protect historic and archaeological landscapes, including battlefields, and promote access to such sites provided that this does not threaten the feature.*

5.7. In relation to Built Heritage Chapter 14 sets out the following:

- **Objective PS01** - *To protect the architectural heritage of County Wexford and to include structures considered to be of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest in the Record of Protected Structures.*
- **Objective PS02** - *To protect the curtilage of Protected Structures or proposed Protected Structures from any works which would cause loss of, or damage to, the special character of the structure and loss of or damage to, any structures of heritage value within the curtilage or attendant grounds of the structure*
- **Objective PS11** - *To ensure that elements of the architectural heritage of the county, such as historic gardens, stone walls, ditches and street furniture that make a positive contribution to the built heritage, are retained.*

5.7.1. **Draft Wexford County Development Plan 2019-2025**

5.7.2. The draft plan was not available as of date of completion of this report. However the Chief Executive's Report on the Pre-draft Consultations is available to view on the

Council website. It is stated that the Council is committed to the development of a Renewable Energy Strategy, to include solar farms. Section 4 Chief Executive Recommended Policies states that there will be a specific policy in the Development Plan to *prepare a Renewable Energy Strategy that will include policies and objectives for all forms of renewable energy including solar and wind.*

5.8. Natural Heritage Designations

5.9. The site is not located within a designated Natura 2000 site. There are 10 no European sites within 15km of the appeal site as follows:

Special Area of Conservation

- Bannow Bay SAC (000697)
- Ballyteige Burrow SAC (000696)
- Hook Head SAC (000764)
- Slaney River Valley SAC (000781)
- Saltee Islands SAC (000707)
- River Barrow & River Nore SAC (002162)

Special Protection Areas

- Bannow Bay SPA (004033)
- Ballyteige Burrow SPA (004020)
- Keeragh Islands SPA (004118)
- Wexford Harbour & Slobbs SPA (004076)

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. First Party Appeal

6.1.2. The first party appeal against the notification of decision to refuse permission for 6 no reasons was prepared and submitted by the applicant, Highfield Solar and may be summarised as follows:

- 6.1.3. **Pre-Planning & Assessment** - However, the Applicant notes that the reasons for refusal and the Planning Authority's position on these matters seem to have been extant at the time of the pre-planning meeting and yet none of them were mentioned as 'red flag items' or matters of significant concern at this stage. The Applicant is therefore not satisfied that a consistent approach leading to a fair and reasonable assessment of the application has been employed through the process. Further, the Applicant does not believe the Planning Report has followed through on the stated Objective EN07 of the CDP.
- 6.1.4. **Refusal Reason No 1** – The appeal against this reason is broken down under the following headings:
- 6.1.5. **Landscape** - Given the nature of the proposed solar farm infrastructure and the Boards previous grants of permission (247942 & 248028 refers), it is apparent that landscapes, whatever their characterisation or vulnerability weighting, may generally have suitable capacity to accommodate solar farm developments. It follows that landscapes of lower sensitivity/vulnerability weightings would have a capacity to accommodate developments of the scale proposed.
- 6.1.6. Section 3.4.2 of the Planning and Environmental Report prepared by Fehily Timoney and Company includes extracts of the Wexford Landscape Character Assessment (Volume 8 of the CDP) which incorporates a detailed Landscape Character Assessment (LCA) dividing the country into four broad Landscape Character Units (LCUs) and a series of seven areas identified as 'Landscapes of Greater Sensitivity'. Section 3.4.2 includes that *the proposed site is located within the LCU of 'Lowlands' and is not located adjacent to, or visible from any of the Landscapes of Greater Sensitivity*. The Lowlands are considered by the Landscape Character Assessment to *"have a higher capacity to absorb development without causing significant visual intrusion"*; and *"the CDP of the LCA does not designate scenic routes, scenic landscapes or protected views/vistas on lands adjacent to the proposed development"*. Further the landscape of the site is also acknowledged within the Planning Report as *"generally flat and gently undulating"*.
- 6.1.7. A significantly resourced and detailed *Landscape and Visual Impact Assessment (LVIA)* by MacroWorks Limited was also submitted with the planning application. This includes representative view sheds and photomontages from various locations

adjacent to and proximate to proposed infrastructure. The Appellant also notes the individual assessments mapped within the submitted *Glint and Glare Assessment*.

- 6.1.8. The design approach for this proposed development provides a number of solar PV panel clusters with a single connection to the national grid. This minimises the environmental impact when compared with the alternative which is multiple smaller projects all with individual grid connection points to disparate locations on the electricity grid within the area.
- 6.1.9. In addition to the favourable landscape classification and site topography and regarding the limited height of the proposed solar panel racks (maximum 3.2m) the Applicant notes that the proposed design has (in the main) included for mature hedgerow lined host fields in order to significantly limit any perceived impacts from the development. Rather than exacerbate the impact, the dispersed nature of the host fields and their considered selection assists in their overall screening.
- 6.1.10. The LVIA states that the proposed development should be read “*as simply an alternative and relatively low-lying land use pattern (i.e.no taller than a mature maize crop) that is contained within the existing field matrix. The exceptional degree of mature trees and hedgerows situated within 500m of the Application Site will also help limit the influence of the proposed development on the perceived character of the surrounding landscape*”. Following all of the above mitigation measures, this solar farm will be largely screened by hedgerow vegetation within the site
- 6.1.11. **Cultural Heritage Resources** - In accordance with the requirements of the pre-planning consultation stage a detailed assessment has been carried out by Archaeology and Cultural Heritage Consultants (John Cronin and Associates). This was included in Appendix 4 of the Planning and Environmental Report that was submitted with the original application.
- 6.1.12. The Appellant has been cognisant of the Planner’s Report and the separate submission on the planning file of the Department of Culture, Heritage and the Gaeltacht. It is noted that the Department did not raise concerns with regard to the built heritage assessment, level of detail submitted with the application or conclusions reached within the application in this regard. However, the “*Protected Structure*” section of the Planning Report suggests further investigation is required as “*there is no detailed assessment undertaken in relation to the impact of buildings of*

architectural heritage interest'. A request for further information was not received from the local authority.

- 6.1.13. A further submission from John Cronin and Associates is attached reiterating the rationale and conclusions reached in relation to built heritage. The applicant is committed to increasing the level of detail available by way of additional studies should it be deemed necessary.
- 6.1.14. **Residential Amenity** – In addition, to the LVIA submission, a detailed assessment on the glint and glare aspects of the proposal on all identified receptors proximate to the site. A detailed *Glint and Glare Assessment* by (MarcoWorks Limited) was submitted with the planning application. The report notes that any impacts will be mitigated by the existing and proposed screening indicated for the development site, together with the proposed distances between panels and potential receptors. With regard to residential amenities the Planning Report does not dispute the findings of the Glint and Glare Assessment.
- 6.1.15. The Applicant further notes that the nearest visible panel to a residential property in the vicinity is approximately 45m. Using this as an appropriate setback distance has been informed from a number of sources, including precedence taken from previous Board decision (Ref. PL26.244351) relating to a solar PV energy development at Coolroe, Tintern, County Wexford, whereby, in that instance and with that developments particulars *“the proposed setback of 22m from the boundaries of residential properties is an appropriate balance between the competing interests of the appeal parties, in my opinion”*.
- 6.1.16. **Agricultural Land Use Patterns** - The Applicant has commissioned a *“Land Use Impact Report”*, prepared by Curtin Agricultural Consultants. It complies with the Food Wise 2025 by providing the potential to increase organic food production and increase biodiversity and increase in sequestration of carbon into soils (where for example clover is employed within the seed mix).
- 6.1.17. The Applicant notes that according to updated analysis, the combined total of all ground mounted solar developments currently granted, live or at appeal stage constitute approximately 0.10% of the area of land available for agriculture in Ireland. The Appellant confirms that the existing development area will remain productive and contribute to agricultural targets. There are also multiple potential parallel uses for the

development area which can also contribute to agricultural and other targets, in addition to the potential parallel use for sheep based enterprises.

- 6.1.18. **Refusal Reason No 2** - The progress status or applicability of the Renewable Energy Strategy was not raised by Wexford County Council at pre-planning stage (minutes attached in Annex III). The Chief Executive's Opinion in the Wexford County Council May 2017 report set out in various responses to submissions made suggest that it is not the intention to prepare a Renewable Energy Strategy as part of the existing 2013-2019 Plan. The Applicant also notes the history relating to ABP Ref. File PL26.247217 and the annulment of the Decision on that file which included perceived grounds of prematurity. Furthermore, the Applicant also notes the recent decision of the High Court in *Element Power Limited vs An Bord Pleanála* relating to prematurity pending adoption of proposed plans, or those mooted for some stage in the future.
- 6.1.19. While the Reason for Refusal states that the lands are highly productive, the proposed solar farm does not preclude agricultural practices from taking place within and surrounding the solar farm. The Board will need to balance the supportive agricultural policies within the County Development Plan against national energy policy and the supportive Renewable Energy policies contained in regional planning guidelines and the County Development Plan.
- 6.1.20. **Refusal Reason No 3** – The Applicant submits that “*incongruous and dominant*” is not an accurate summation of the proposal when compared with the detailed particulars of the original submission; specifically the Landscape and Visual Impact Assessment and Glint and Glare Assessment. It is also not consistent with the views arrived at by the Board for solar farm developments of significant scale in areas of higher landscape sensitivity than the subject site.
- 6.1.21. **Refusal Reason No 4** - The Applicant submits that a lack of guidance is not a valid reason for refusal of planning permission and is in stark contrast with the overwhelming policy support and the position repeatedly put forward by successive Ministers for Housing, Planning, Community and Local Government as to the robustness of the existing planning code in relation to assessing developments such as the proposed development. There already exists sufficient guidance for the determination of planning applications for solar farms.

6.1.22. **Refusal Reason No 5** - This Reason for Refusal fails to acknowledge the technical limitations of the existing 110kV infrastructure intersecting the site, which runs east-west through the southern part of County Wexford, linking the nodal substations of Great Island and Wexford. As it stands available grid capacity to facilitate additional generation will ultimately limit the extent of similarly scaled developments that can be constructed for the medium to long term. Indeed, the cumulative total of local grants for permission total approximately 2,081 acres in County Meath, whereas the cumulative total of local grants in County Wexford total approximately 885 acres (this does not include additional grants provided following First Party appeals). As Wexford is the area with the highest available solar resource in Ireland, the above approach and Reason for Refusal would appear to not fully acknowledge, or harness, the County's renewable energy potential.

6.1.23. **Refusal Reason No 6** – In terms of ecology relating to Natura 2000 sites and species, the proposed development has provided sufficient information. The Reasons for Refusal suggest, on the one hand, that the proposed development is not sufficient agriculturally intensive, (Reason 1-4). Directly opposing this, Reason for Refusal 6 implies that a proposed development involving a much greater level of biodiversity would be preferred. The Appellant finds it hard to reconcile these reasons for refusal particularly in the context of the multiple benefits of the proposed development in each of these cases. The Appellant has commissioned a response specific to Reason for Refusal 6 from the authors of the Biodiversity Report, Fehily Timoney and Company (Annex VII refers).

6.1.24. **Community Benefit and Community Ownership** - Where the proposed application is successful the Community Benefit Fund resulting from the proposed site will be circa €180,000 per annum, to be administered and used locally. This will be in addition to the commercial rates payable by the proposed development.

6.1.25. **Grid Connection Status** - The Appellant has a signed grid connection agreement with EirGrid on the 21st May, 2018 which will allow the proposed development to connect to the Wexford – Great Island 110kV line that traverses the site.

6.1.26. The appeal was accompanied by inter alia the following:

- Land Use Impact Report
- Report from Fehily Timoney

- Archaeology Report prepared by John Cronin & Associates
- Landscape Impact Report
- AA Screening Report and Updated Natura Impact Statement prepared by Fehily Timoney & Company
- Copy of minutes of the pre-planning meeting, letter from DAA and letter from Oisín & Karla O'Connell (local farming family),

6.2. **Third Party Appeal x 3**

6.3. There are 3 no third party appeals against the notification of decision to refuse permission from (1) Joe Huder & Others, (2) Foulksmills Tidy Town and (3) The Community First Action Group that may be summarised as follows:

6.4. **Joe Huder & Others**

- The refusal was not robust enough and does not go far enough in assessing the project in its entirety.
- Reference is made to O'Grianna vs An Bord Pleanála, project splitting and that there is no evidence that the grid connection is in place. Submitted that the EIS does not assess the connection to the grid, substation and solar farm in its entirety.
- The 40 battery storage units have not been adequately assessed and that their proximity to residential dwellings is of great concern.
- The assessment of the impact on the environment is not strong enough e.g the woodland area of Raheenduff and invasive species.
- No public notification has been given of the intention to include lands at Polldoon in the proposed application.
- A new site layout may (Revision A May 18/05/2018) was included with the proposal but the old map is used throughout the application e.g maps for glint and glare and individual house and road use.
- Length of the planning terms a 10 years is adversely long. The lifespan of 30 years is inappropriately long. There is no detail in the planning application as to who is responsible for the safe removal and disposal of the solar farm at the end of its lifespan.

- No specification or certification of approval of the solar panels or battery storage units or their contents. Health concerns raised.
- Negative impact on property values
- A large scale industrial development such as that proposed contradicts the aims of the Wexford County Development Plan.
- Inadequate details of when the screening will be planted is provided.
- Proposed working hours during the construction phase will present a significant burden and invasion to people living in the area.
- Given the large scale industrial nature of the proposal there are no assurances it will not be extended in the future. A 5km exclusion zone around the area required.
- Do not agree that the level of glint and glare in the report is acceptable. One house has 650 mins over 103 days. The mitigation measures only reduce the number of minutes to 616 minutes. This is the same for other properties. If this was a flat site further mitigation would entirely remove the glint and glare in minutes.

6.5. Foulksmills Tidy Town

- The refusal was not strong enough.
- Reference is made to PL26.247886 (Ballyhoge) where *having regard to the absence of any current national, regional or local spatial strategy or land use planning guidance*, permission was refused for a 82ha solar farm.
- The SAC of the River Corock leads into the SPA of Bannow Bay which is the only area in the country with protected Perennial Glaswort. Concern is raised that the creation of a microclimate may affect the temperature and bio diversity of the River Corock with a downstream impact on the Bannow Bay.
- Rural depopulation
- Due to the topography of the site the rear of some of the solar panels will be in view.
- Loss of good fertile agricultural lands.

- No details provided indicating that the fire services have the appropriate training and resources for extinguishing fires at solar farms and battery units.
- The community contribution should be a detailed payment schedule clearly outlining what monies are paid to what community activities and at what points.
- The Government should ensure that solar-specific policy, legislation and planning guidelines are put in place to ensure best practise and a strategic, plan-led approach to this new industry in Ireland. Until this is in place there should be a moratorium on the granting of planning permission.
- The visual impact will be quite severe due to the elevated nature of the lands. The exposed and elevated nature of the site will represent an unacceptably dominant visual feature which will detract from and injure the visual amenity of this rural area and take form the character of the area.
- Impact of weather on the solar panels
- The application does not adequately address plans for the upkeep and repair of roads that will be impacted in the construction phase.
- Fan cooling is required for each battery storage unit. This is likely to give rise to noise pollution which will travel along the river valley.
- The application does not include a Certification of Competencies for the companies who provided the supporting reports.

6.6. **The Community First Action Group c/o Peer Sweetman & Associates**

- The assessment of this application and the decision for refusal fall short of what is required by the law and in particular the judgements of the CJEU where it states that it is not possible to make a finding of that “*no reasonable scientific doubt remains as to the absence of such effects*” where the mitigation measures are not fully described. Reference is made to the use of the word “should” in describing mitigation measures e.g “*concrete delivery vehicles should be precluded from washing out at or in the environs of the site*”.
- It is submitted that the mitigation measures are not yet designed making it impossible for An Bord Pleanála to come to a decision that the mitigation measures proposed will permit a finding of no reasonable scientific doubt remains as to the absence of such effects.

- It is further noted that the NIS states that “*there shall be no in-stream works without consultation and agreement with IFI*”. It is submitted that the IFI is not permitted in law to amend a Natural Impact Statement post decision.
- With regard to the grid connection it is submitted that it is impossible for An Bord Pleanála to make a finding of no reasonable scientific doubt remains as to the absence of such effects when the definition of the project is incomplete.
- With reference to Refusal Reason No 6 (insufficient information) it is submitted that the reasons therein are at odds with the AA conclusions. Further reference to “outlined” mitigation measures in the Case Planners AA conclusion is contrary to the judgements of the CJEU.

6.7. Applicant Response

6.7.1. The first party, Highfield Solar Limited in their response of 8th October 2018 to the third appeal x3 set out the following as summarised:

6.7.2. The Community First Action Group c/o Peer Sweetman & Associates

- Detailed mitigation measures were originally provided in the submitted NIS. As the appellant has questioned the description of some of those mitigation measures an updated NIS is provided which further clarifies the mitigation measures proposed. The NIS also includes within the definition of the project the proposed works relating to the grid connection.

6.8. Joe Huder & Others & Foulksmills Tidy Town

- Relevant EIA screening is included in Section 5 of the Planning & Environmental Report. The submitted NIS includes within its assessment both the generation asset infrastructure and the grid connection infrastructure. The proposed project is listed on the publicly available EirGrid list of Contracted Generators.
- Section 5.2 of the Planning and Environmental Report includes proposal with regard to Fire Safety.
- With regard to invasive species the applicant acknowledges concerns raised. The concerns relating to negative impacts that “cannot be precluded” should be read in the context presented in the NIS i.e. “*in the absence of mitigation*”

measures". Mitigation measures relating to this item are included from page 85 of the NIS.

- All areas within the submitted site layout have been included within the Glint and Glare Assessment. The results assume that the sun is always shining and at full intensity. They do not count for climate and inherent weather patterns that occur across the island of Ireland. Weather and more precisely cloud cover will account for a substantial reduction in all figures quoted in the report.
- The analysis for the first floor of the house referenced by the appellant (H88) suggests that the impact would be for a period averaging 6 minutes per day.
- Underground cabling has been routed to minimise the impact on public roads. Applicant's expectation that a roads bond will be included as a planning condition should permission be granted.
- The Planning and Environmental Report outlines the rationale behind the request for a 10 year permission.
- There is no evidence to suggest that proximity to solar farms impacts on property values.
- The applicant is committed to limiting any perceived impact on all householders in close proximity to the proposed development and are committed to establishing landscaping measures one growing season in advance of construction works to assist in alleviating any concerns.
- The Planning Authority is best placed to confirm appropriate working hours by way of condition.
- The applicant is responsible for the safe removal and disposal of the proposed solar farm infrastructure and the Planning and Environmental Report sets out procedures for the decommissioning of same.
- Visibility in relation to the rear of the solar panels has been modelled within the Glint and Glare Assessment originally submitted with the application. It has also been included for in the modelling undertaken as part of the landscape and Visual Impact Assessment provided.
- Proposed community benefit description is not "*aspirational or misleading*". The Renewable Electricity Support Scheme has clarified the quantum required for participating projects and this is detailed in the first party appeal.

- The table arrays are appropriate for wind and snow loadings in their detailed design structural design. As the panels are solid state, there is no potential for “panels leaking” or for “chemicals leaching into the ground”.
- Noise Impact Assessment has been included within Section 9.3 of the Planning and Environmental Report submitted.
- A Statement of Authority from Fehily Timoney & Company, John Cronin and Con Curtin is attached.

6.9. Planning Authority Response

6.10. Wexford County Council in their response to the appeal set out the following as summarised:

- 1) The submission by the applicant places economic viability as the main driver in their decision to located 152 ha in this rural area.
- 2) The applicants submission diminishes the impacts on residential amenity and limits these impacts to glint and glare and does not consider the issues raised in the 80 submission received form the local residents in the area.
- 3) To assess the impact of such a large project purely in terms of the landscape designation is to ignore the visual impacts on the ground, the character of the area and how much a significant development would alter the agricultural nature of the landscape.
- 4) The Planning Authority consider that the development proposed by reason of its size, scale and nature is not compatible with the development polices relating to agricultural activity and that it would set a precedent, which when considered on a cumulative basis could undermine the strength of agriculture in the area.
- 5) In addition, due to the nature, size and scale of the proposal a grant of permission in the absence of a clear policy direction, pending the adoption of a local, regional or national strategy for siting and scale of such facilities would not be in accordance with the proper planning and development of the area.
- 6) The proposed solar array has the potential to have an overwhelming negative impact on the landscape and the residential amenity of local residents.

7.0 Observations

- **Peter Sweetman & Associates** - In making its decision the Board must take into consideration (1) the Advocate General's Opinion in Case C-461/17, (2) the Judgement of the CJEU in Case C-323/17 and (3) the Judgement of the CJEU in Case C-164/17
- **Ronan & Helen O'Mahony & Others** – Concern is raised with regard to the exceptionally large scale and nature of the development, severe visual impact; dispersed nature of the scheme, loss of good fertile agricultural land, absence of regulations, policies or planning guidelines governing the construction of solar farms in Ireland, rural depopulation, impact of severe storm conditions on the solar panels, inadequate landscaping, glint and glare, impact on the Bannow Bay SAC and SPA, regulation of battery components and construction and long term medical effects from exposure to electromagnetic fields.

7.1. Further Responses (Additional Comments)

7.2. **Foulksmills Tidy Towns** – Agree with the content of the appeals submitted by Joe Hudner & Others and the Community First Action Group. In relation to the first party appeal the following additional comments are submitted:

- The proposed development will not adapt to this landscape. The patchwork nature of the fields will be diminished.
- The parallel agricultural uses that were put forward with the application are “aspirational”
- Additional clarification should not form part of the proposal as they were not presented at time of submission of the application to Wexford County Council

7.3. **Joe Hudner & Others** - Agree with the content of the appeals submitted by Foulksmills Tidy Towns and the Community First Action Group. In relation to the first party appeal the following additional comments are submitted:

- There is no planning permission in place for the substation
- This is about planning not about whether a project is economically viable

- It would feel like residents would be living within a solar farm as there would be continuous intermittently visibility of the solar arrays in both directions over a large area
- Landscape measures will not alleviate legitimate concerns
- Native hedgerows grow to approx. 1.5 – 2.5 meters whereas the height of the racks can be up to 3.2 meters.

7.4. Wexford County Council (19th November 2018)

- Submitted that the Community First Action Group has mixed up the AA process with Biodiversity.
- The proposed development will have a negative impact on the biodiversity of the site through the removal of woodlands which provide a habitat for many species which will be lost if the development proceeds. These woodlands do not form part of the Natura 2000 network so there is no conflict in the conclusions of the AA and the findings of loss of biodiversity as per the planners report.
- The planning authority concurs with the submission that there is no clarity relating to the consequences for agriculture and the food industry, which is considered a national priority under Harvest 2020.
- The application submission diminishes the impacts on residential amenity and fails to consider the impacts of the quality of life of the local residents in the area.

7.5. Joe Hudner & Others (21st November 2018)

- Project splitting. What happens the substation if the solar farm is refused and vice versa
- The recommendation of the CFO is not based on practical experience. On site simulation drill involving all emergency services should be carried out bi-annually
- Calling an array within the proposal the name of a townland that is not part of the proposal is confusing particularly given the disperse nature of the proposal
- That the cabling has been routed to minimise the impact on public roads does not negate the dispersed nature of the proposed solar farm and the extensive underground cabling required.

7.6. Foulksmills Tidy Towns (21st November 2018)

- It is unacceptable to state that “*in practise it is expected that the night-time noise level will be met*”.

8.0 Assessment

- 8.1. This is an application for a 10 year permission for a solar farm on a site of approximately 152.8 hectares consisting of solar photovoltaic panels on ground mounted steel frames; electrical control building and associated compound; inverter/ transformer stations; battery storage units and associated hard standings; storage containers for spare parts; underground power and communication cables and ducts; boundary security fencing; upgraded internal access tracks; new internal access tracks and associated drainage infrastructure; CCTV cameras and all associated site services and works. The proposed site will have an export capacity of approx. 85 megawatts of electricity.
- 8.2. Wexford County Council issued a notification of decision to refuse permission on 10th August 2018 for ng 6 reasons as set out in Section 3.1 above and discussed in further detail below. The decision was appealed by the first party, Highfield Solar Limited and 3 no third parties (1) Joe Huder & Others, (2) Foulksmills Tidy Town and (3) The Community First Action Group.
- 8.3. As discussed previously this solar farm and associated infrastructure will connect to the grid by means of a substation and associated infrastructure that is the subject of a separate application to the Board. Site drawings submitted with the Solar Farm indicate the proposed location for an on-site substation and associated compound to facilitate the proposed grid connection. Following a pre-application consultation with An Bord Pleanála, it was indicated to the Applicant by the Board that a portion of the substation constitutes Strategic Infrastructure Development (SID). Therefore, under Section 182A of the Planning and Development Act 2000, all 110kV infrastructure, and was deemed a SID and is subject to a separate application process and does not form part of the development for which permission is sought under this appeal. This separate SID application was made directly to An Bord Pleanála (ABP-302731-18 refers).

- 8.4. I agree with Wexford County Council that the development of the solar farm and the substation infrastructure are linked and should not be determined in isolation. Accordingly the solar farm appeal is being considered concurrently with this SID application as there is no justification provided to develop the substation other than to connect the solar farm to the electricity transmission network. It is further noted that the AA Stage 1 Screening Report and NIS accompanying this Solar Farm planning application together with the NIS submitted with the first party response to the third party appeal includes within its assessment both the generation asset infrastructure and the grid connection infrastructure.
- 8.5. For clarity the proposed solar farm development will hereafter be referred to as the “**Solar Farm**”, the 110kV substation and associated infrastructure subject of the SID application will hereafter be referred to as “**SID Works**” (ABP-302731-18 refers) and the entire development in combination (i.e. the SID Works and the Solar Farm) will hereafter be referred to as the “**Overall Development**”.
- 8.6. It is important to note that the potential impacts of the Overall Development were included as part of the Planning & Environmental Report and Natura Impact Assessment carried out for the SID works. Together with the Planning & Environmental Report, AA Stage 1 Screening Report, Natura Impact Assessment submitted with the Solar Farm planning application and the NIS submitted with the first party response to the appeal, I am satisfied that the Board has the necessary information before them to allow for a cumulative assessment of impacts for the Overall Development. I am also satisfied that taken together with my site inspection that there is adequate information available on both files to consider the two proposals concurrently and to enable the Board to determine the impact of the schemes on the biodiversity and ecology of the area.
- 8.7. Having regard to the information presented by the parties to the appeal and in the course of the planning application and to my site inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:
- Principle / Policy Considerations
 - Refusal Reason No 1 – Nature & Scale of Development
 - Refusal Reason No 2 – Renewable Energy Strategy

- Refusal Reason No 3 – Visual Impact
- Refusal Reason No 4 – Lack of Strategic Guidance
- Refusal Reason No 5 – Undesirable Precedent
- Refusal Reason No 6 – Insufficient Information
- Environmental Impact Assessment Screening
- Other Issues
- Appropriate Assessment

9.0 Principle / Policy Considerations

- 9.1. The need to urgently and strenuously combat climate change is consistent with the identified need for additional renewable energy development and is supported by national and local policy objectives. The National Spatial Strategy, National Renewable Energy Action Plan (NREAP), Regional Planning Guidelines and the current Wexford County Development Plan are considered to be supportive of the development of renewable energy technology particularly in the context of reducing the carbon emission of the country and meeting renewable energy production targets. The national objective, contained in NREAP, of achieving 40% of electricity generation from renewable sources by 2020 forms part of the national strategy for meeting our legally binding targets in this respect. Thus the contribution of renewable energy projects, such as that proposed, to achieving the transition to a low carbon future is well established. Solar power is also acknowledged as being capable of being delivered relatively quickly and efficiently without the need for large scale transmission grid infrastructure.
- 9.2. The proposed development is therefore supported by national, regional and local policies in terms of renewable energy. Accordingly, I consider the proposal to be acceptable in principle and that it would contribute to the diversity of sources of energy supply and hence the security of supply. Having regard to the nature and scale of the proposed development I consider it reasonable and appropriate to specify a period of permission in excess of 5 years namely 10 years.

10.0 Refusal Reason No 1 – Nature & Scale of Development

10.1. Wexford County Council in their first reason for refusal considered that a development of this nature and scale due to its character and location on a fragmented holding of 152 ha, would militate against the preservation of the landscape, cultural heritage resources, the amenities of residential property, agricultural land use patterns and would seriously injure the amenities of the area and property in the vicinity. I propose to deal with this reason for refusal under the following headings:

10.2. Landscape

10.3. The site with a total stated area of 152.8ha is made up of c 40 separate fields currently under agricultural use and forestry. The scheme comprises the following structures:

- 1) Solar panel arrays located on racks with a maximum width of 5.9m and minimum 1.5m space between racks giving an approximate ground coverage of 80% on 108ha with 86.4ha covered by panels. The minimum height is 0.7m and the maximum height is 3.2m.
- 2) One grid connection substation site comprising approx. 0.38ha (separate
- 3) Inverter / transformer substations approx. 74 in number occupying 0.27ha
- 4) Permanent maintenance roads approx. 8.5km at 4 metres wide covering 3.41ha
- 5) Underground cables approx. 17.5km of 1 metre wide trenching will be excavated to accommodate underground cable causing disturbance to 1.75ha
- 6) 20 Battery storage modules occupying 0.06ha
- 7) Battery array compound occupying 0.2ha

10.4. The proposed development represents the introduction of a new and relatively unfamiliar form of built development into this rural setting. The installation of solar panels requires relatively unobtrusive and low impact construction methods. The solar arrays are mounted on racks which are fixed to the ground with piles that have a minimal footprint (less than 1% of the development area) and are easily removable during the decommissioning phase. While alterations to the type and intensity of farm practises at the development site are required during the operational phase, the proposed development is largely reversible and does not involve the permanent loss of the lands from intensive agricultural activity.

- 10.5. It is further stated that all landscape impacts resulting from the proposed development will be considerably softened by the proposed mitigation measures set out in the Planning and Environmental Report. There will however be clear impacts on landscape character due to the introduction of a new and relatively intense form of built development within this landscape. However the solar panels are not a tall or bulky form of development. The development will adhere to the existing undulating landform and field patterns.
- 10.6. Further the Irish rural landscape is generally represented by patchwork of relatively small fields broken up by hedgerows of various quality that have not been subject to the consolidation of fields to the same extent that can be observed in other jurisdictions. This is a distinctly positive feature for developments such as solar arrays to be able to adapt to such a landscape while respecting the existing character and adapting to the existing field systems and hedgerows.
- 10.7. It is noted that the LVIA concluded that in terms of landscape impacts the proposed development is considered to have a minimal impact as it is for the most part consolidated within the existing hedgerow network and will not require significant excavation works to construct the solar panels or internal service tracks. The most notable physical landscape impacts relate to the construction of two combined compounds at Rosspile and the removal of a section of mixed species woodland at the northern end of the Raheenduff North array.
- 10.8. While the proposed development may modify the “landscape fabric” of the area, I agree for the most part with the applicant that it does not markedly affect the landscape patterns and will not unduly contrast with the areas prevailing rural landscape character. I do not consider the scheme to have such a negative impact on the landscape character of the area as to warrant a refusal of permission.
- 10.9. **Cultural Heritage**
- 10.10. While not specifically detailed in the reason for refusal I propose to deal with cultural heritage under the following two headings; archaeological and built heritage.
- 10.11. **Archaeological Heritage** - I refer to the Planning & Environmental Report and appendices that includes an Archaeological Assessment Report that accompanied the planning application together with the Archaeology Report prepared by John Cronin & Associates and submitted with the first party appeal.

10.12. The site comprises c 40 separate fields with 39 recorded archaeological sites within the c1km wide study area. It is stated that there are two recorded archaeological monuments located within the boundary of the development area; a levelled Moated site (WX040-095) and a levelled Ringfort (WX040-087). It is stated that the recorded locations of both archaeological sites will be left within an undeveloped area and protective buffer zones will be maintained around their recorded locations during the construction phase. It is further stated that there are three levelled Ringforts located in the proximity of the proposed development site, but that no recorded elements of any of these monuments extend into the site boundary.

10.13. The Department of Culture, Heritage and the Gaeltacht (DCHG) in their submission to Wexford County Council, noted the scale and extent of the proposed development and the potential impacts on the archaeological heritage of the area and therefore requested that a geophysical survey and archaeological testing be carried out in the areas identified in the Archaeological Assessment Report and in additional areas identified in their submission and submitted as further information.

10.14. The DCHG state that the proposed development is within the confines of a number of monuments recorded in the Archaeological Survey of Ireland namely:

- WX040-095 Moated Site
- WX040-087 Ringfort
- WX040-068 Battlefield
- WX040-013 Ringfort
- WX040-014 Ringfort
- WX040-081 Ringfort

10.15. The DCHG further noted that the proposed exclusion zone around WX040-095 (Moated Site) may require further revision and possible extension pending the results of geophysical survey and archaeological testing in this area. Additional geophysical surveys and archaeological testing was also recommended around WX040-083 (Burnt Mound), WX040-084 (Burnt Mound), WX041-066 (Burnt Mound) and WX040-080 (Ringfort). The DCHG state that *if significant archaeological remains are found, refusal might still be recommended, and / or further monitoring, excavation or revision of site layout required.*

- 10.16. The applicant in their appeal state that in light of the DCHGs recommendations that the application will commence a phased programme of archaeological impact assessment to allow for the identification of areas that would warrant further targeted archaeological testing. It is also submitted that the applicant had been advised that a phased programme of archaeological impact assessment would be most likely stipulated as a requirements of any grant of planning permission as per the National Monuments Services Guidance. It is stated that the applicant will initiate such an assessment in parallel with the first party appeal. However to date no such information has been made available with the appeal file.
- 10.17. Archaeological monuments identified above should be avoided. In my view the layout of the proposed development is such that it appears to obviate any significant impact on the expected archaeology on site. Further it is clear that the applicant is willing to commence a phased programme of archaeological impact assessment to allow for the identification of areas that would warrant further targeted archaeological testing. Having regard to the information provided I am satisfied that it is acceptable in this instance to deal with areas of unclear archaeological potential by way of condition of grant of planning permission requiring geo-physical survey and / or testing followed by avoidance or appropriate mitigation.
- 10.18. Overall I am satisfied that subject to a suitably worded condition there is no objection to the proposed scheme.
- 10.19. **Built Heritage** – The proposed development will result in the retention of existing field and townland boundaries within the proposed development areas. There are no recorded or protected architectural heritage sites identified within the proposed development areas and no likely significant adverse visual impacts have been identified from a survey of Protected Structures within the surrounding landscape. At an early stage the applicant initiated a screening process whereby a zone of theoretical visibility map was produced, which allowed the exclusion of a substantial portion of cultural heritage sites on the basis of no potential for visibility. In addition many of the archaeological sites that fell within the ZTV had little or no above ground expression and these monuments were also excluded. Further screening based on the obstruction of potential visibility by vegetation and built structures resulted in the exclusion of a further nine monuments. A visual impact assessment was carried out on a total of seven cultural heritage sites comprising one archaeological monument

and 6 protected structures (all in private ownership) within the vicinity of the proposed development. The sites reviewed and summary of findings are summarised as follows (refer to Figure 9 in the Archaeological Assessment Report, Appendix 4 of the Planning and Environmental Report for the location of these sites relative to the appeal site):

- Castle (WX041-015 Archaeological Monument) (Slevoy) – This tower house is situated in a level pasture field with mature trees to the north and west. The structure survives to the second floor with a doorway in the northwest facing wall. It is located c930m to the east of the proposed development at its closest point and several tree lines, hedgerows and a built up public road stand between the solar farm and the monument. There is no inter-visibility between the monument and the proposed development.
- Horetown House – Country House (RPS WCC0683) (Horetown) – Currently in use as a wedding venue, Horetown House is set within its own land c90m to the east of the public road and faces towards the south. The House is located c850m to the east of the proposed development at its closest point. Several tree lines, hedgerows and a public road between the proposed solar farm and this protected structure remove inter-visibility.
- Raheenduff House – Country House (RPS WCC1279) (Raheenduff (Shelmaliere West By)) – Raheenduff House (and walled garden) is set within its own gardens and surrounded by mature trees to the north and east. The house faces towards the southeast. The proposed development is closest at c60m to the northwest. An east to west track and a tall line of mature trees/hedges to the rear of the house screen the inter-visibility between the house and proposed development area.
- Mill Complex at Foulkesmill (consisting of three heritage sites: Mill (RSP WCC0971), Millers House (RPS WCC1278) and Farm House (RPS WCC1277) – (Raheenduff (Shelmaliere West By)) – This complex of buildings is set between a public road at the east and the Corock River and a mill race to the west. The mill site is to the east of Foulkesmill Village, on a moderate west facing slope. The mill and millers house both face towards the south, while the Dalton Cottage farm house faces to the west. The closest portion of the proposed development to the mill is c 400m to the east and solar panels

will also be located c500m to the south and north. The large mill building shelters the millers houses, which is situated to the north east. Thick stands of mature trees are located to the north east and south of all of these structures and these, together with the topography of the site, completely obscure views to the proposed development site.

- Farm House (RPS WCC1293) (Haresmead) – This house is set on the road side to the south, on land falling moderately to the east and faces towards the north. At its closest point the proposed development site is located c350m from the farm house. Several tree lines and hedgerows as well as a built up public road stand between solar farm and protected structure. The east facing slope to the west obscures views of the development site to the west. A field proposed to contain solar panels is located c800m to the rear of the house (south) and is intermittently visible from the road by the house. This view is broken by a number of mature tree and hedge lines.

10.20. Having regard to the foregoing together with my site inspection I am satisfied that the proposed development will not infringe on the visual amenity or the architectural heritage of any of these structures.

10.21. Residential Amenities

10.22. Matters pertaining to visual impact are discussed in Section 12.0 below. While not specifically stated in the reason for refusal glint and glare may be considered to have an impact on residential amenities. In this regard I refer to Section 12 of the Planning & Environmental Report Glint & Glare (G&GA) and the Glint & Glare Study Report (Appendix 2 refers).

10.23. The analysis results set out the times of day and days of the year that glint and glare effects could theoretically be experienced at residential and road receptors within the Study Area. Receptors (house and road points) situated to the west of the solar array can only be affected by morning reflectance, when the sun is rising in the east. Receptors situated to the east of the site can only be affected by evening reflectance, when the sun is setting in the west. In cases where the calculated total minutes per day for a dwelling receptor is less than 5 minutes, the magnitude of impact is deemed to be negligible and has been assigned accordingly.

10.24. In terms of residential development the assessment determined that following the establishment of the proposed mitigation planting, just 15 of 31 potentially affected dwellings will be affected by residual glare impacts. Out of these 15 dwellings it is predicted that one property will have a low residential impact while the remaining 14 dwellings will experience very low residential impacts.

10.25. In terms of road receptors road points have been positioned along all the potentially affected roads within the study area. The analysis identifies that glint and glare is theoretically possible along a section of the R736 regional road to the west of the site and along a number of other local roads in the vicinity of the proposed development.

10.26. It is stated that the figures for the maximum minutes per day relate to the time window that a section of road can potentially experience reflectance and that in the case of road users these effects will only last the period of time it takes to travel along the affected section, and therefore will be significantly less than the maximum periods outlined. A detailed assessment of each road point was undertaken with consideration of the screening provided by existing vegetation. The assessment determined that the magnitude of impact on roads points range between low and none. It is submitted that once the mitigation planting becomes established it will provide additional screening to all affected Road Points and will reduce the magnitude of impacts to none in all instances.

10.27. In terms of aviation receptors it is determined that there is no potential for hazard glare effects at the nearby aviation receptors.

10.28. From the analysis and discussions contained in the G&GA it is not considered that there will be any significant nuisance effects from glint and glare at dwellings surrounding this proposed solar farm. Furthermore, it is not considered that there will be any significant nuisance or hazard effects generated from glint and glare along surrounding roads or aviation receptors as a result of the proposed solar farm. I agree with the applicant's conclusions that the proposed development is unlikely to result in glint and glare which would adversely affect residential amenities of road users which would give rise to a traffic hazard.

10.29. Agricultural Land Use Patterns

10.30. Please also refer to Section 11.4 through to 11.7 of this report. The applicant submits that within the 152.8ha site boundary the current land use comprises of:

- 46.2ha of grassland (30.5%)
- 92.2ha of tillage (60.5%)
- 9.7ha of woodland / forestry and 4.4ha of scrub (9%)

10.31. Much of the grassland is non-permanent leys in tillage rotation. It is submitted that during the operational phase of the development the proposed solar panel development on 152.8 ha of agricultural land represents a “significant adverse” impact on the affected land parcels at the site of the development, it represents a “slight-moderate adverse” impact at a local level and a “not significant” impact at a Regional Level (152.8 ha = 0.04% of the agricultural area of County Wexford). The post-operational phase land use impact at a local level and regional level is “not significant” because 97% of the land can be reinstated to its original use.

10.32. While the existing intensive agricultural production levels will reduce as a result of this proposed development, various alternative agricultural enterprise can be maintained on the land. It is submitted that wild grass species will be allowed to re-colonise areas of the site not covered by infrastructure or designated for other specific biodiversity enhancements. Small animals such as sheep will graze the site at low densities or rotational mowing will be carried out in spring and summer when grazing will be avoided to favour early or late flowering species. It is stated that low density grazing provides cost effective maintenance of grassland and increases the sites conservation value.

10.33. It cannot be disputed that the proposed solar farm will result in a significant change in the land use patterns of the site. However I do not consider that the nature of the overall scheme, together with its stated lifespan would be so detrimental as to warrant a refusal based on land use patterns alone.

10.34. Having regard to the foregoing assessment in relation to landscape, cultural heritage, residential amenities and agricultural land use patterns it is recommended that refusal reason No 1 is set aside.

11.0 Refusal Reason No 2 – Renewable Energy Strategy

11.1. Wexford County Council in its second reason for refusal considered that the proposed development would undermine the agricultural sector in the area and would be premature pending the adoption of a Renewable Energy Strategy for County Wexford.

- 11.2. The Wexford County Development Plan 2013-2019, has no strategy or guidance in relation to larger solar panel developments but does have objectives that support solar energy development as well as having an overriding strategy to encourage the provision of renewable energy sources. I note that it is an objective of the Development Plan (EN10) to prepare a Renewable Energy Strategy for County Wexford during the lifetime of the plan however no such strategy is currently in place.
- 11.3. Wexford County Council have full discretion to produce and adopt policy documents in response to targeted planning issues in the county. The commitment to preparing a Renewable Energy Strategy has existed since the formal adoption of the current Wexford County Development Plan in February 2013. Notwithstanding the commitment made to prepare such a strategy under Objective EN10 during the “lifetime of the current plan” a considerable amount of time has passed in the intervening and no such strategy has been advanced. The non-production of such a document is not a matter for the applicant and in no way precludes the making and determining of applications for renewable energy projects.
- 11.4. Implicit in the second reason for refusal is that the *development would undermine the agricultural sector*. Again this is similar to the Boards refusal reason in February 2017 in relation to ABP-301321-18 ((PL26.247217) (Reg Ref 20160690) refers) where reference was made to the potential impacts on agricultural land use patterns.
- 11.5. The site is located within an area which is predominantly in use as operational farms engaged in productive agriculture, in the midst of a landscape that is characterised by high quality agriculture. The topography is generally flat to gently undulating and the fields are of a reasonable size and well drained. Most of the site is currently in productive agricultural use.
- 11.6. There is no formal land classification system for planning purposes in Ireland. While there is large ratio of land take to energy output the proposal would allow for continued agricultural use with lands still accessible for vegetation growth during the operational phase. The land around the and underneath the panels would continue in agricultural use, for grazing of sheep establishing a dual use that would represent an efficient use of agricultural land.
- 11.7. Having regard to the foregoing I agree with the applicant that there is no reasonable planning basis to refuse this application on the grounds of loss of agricultural lands or

of prematurity pending the adoption of such guidelines or the preparation of a renewable energy strategy for the area.

11.8. It is recommended that Refusal Reason No 4 is set aside.

12.0 Refusal Reason No 3 – Visual Impact

12.1. Wexford County Council in their third reason for refusal stated that due to its scale and notwithstanding the mitigation measures proposed, the proposal would represent an incongruous and dominant feature in the rural landscape and that they are not satisfied that the proposed development is capable of being fully assimilated into the landscape.

12.2. Chapter 14 Heritage of the Wexford Development Plan characterises the appeal site as “Lowland”, an area, which is deemed to have a *higher capacity to absorb developments*. Neither the previous Wexford County Development Plan (2007-2013) nor the present Wexford County Development Plan (2013-2019) includes a list of designated scenic routes or views, although it should be noted that hills and ridges designated as “landscapes of greater sensitivity” such as “Carrigbyrne Hill” and “Tinnacarrick” to the north of the site, are noted for their “views across the surrounding landscape”.

12.3. The potential for a solar farm development to alter the character of the landscape is a material consideration. Given that the solar panels and ancillary structures do not represent significant bulk and follow the ground plane, visual impacts will result almost entirely from visual “intrusion” rather than visual “obtrusion” (the blocking of a view). Landscape and Visual Impacts were considered at application stage: the Landscape and Visual Impact Assessment (LVIA) prepared by Macroworks refers. In the interests of a comprehensive appraisal, a 5km radius study area was used. This 5km study area equates to a 5km distance from the outer site boundary of each of the 8 no proposed array designations i.e. every location within 5km of any of the arrays is within the study area.

12.4. The predominant land use within the study area is that of agricultural farmland made up of large sized tillage or medium sized pastoral fields bound by mature tree lined hedgerows which are generally cut / maintained. Tall deciduous woodland is peppered throughout the area, working in with the mature hedgerows to provide a degree of visual absorption for the landscape. Some isolated blocks of coniferous

forest plantation are also located throughout the study area, particularly on more elevated ground. In addition deciduous groves and linear stretches of riparian woodland abound several smaller watercourses within the study area. It is submitted that combined with the rolling topography, such mature and pervasive vegetation affirm the aforementioned visual absorption in existence as designated in the Development Plan.

- 12.5. In addition there is a dense network of local roads criss crossing the study area. The most prominent centre of population within the study area is the village of Wellingtonbridge, which is situated 3km south of the Coolcliffe South array. Foulkesmill is the most central village within the study area, and is within 700m of the Raheenduff South, Foulkesmill West, Foulkesmill South and Poldoon arrays. In addition Clongeen village is located c1.2km west of the Rosspile array; Whitecross village is located c1.7km from Coolcliffe South array and Newbawn Village is located c3.3km northwest of Raheenduff North. Aside from these villages there are no other centres of population within the study area. As documented in the assessment and noted on day of site inspection there is a moderately high degree of linear clusters of dwellings and farmsteads occur within the study are, most notably in its eastern and western extremes. Furthermore there is a legacy of demesne landscapes within the study area. These include Horetown House, Rosegarland Estate and Carrigby House.
- 12.6. The proposed development was assessed across 17 viewpoints from a wide range of angles, elevations and distances within the study area and just outside (in the case of VP13). Of the 17 viewpoints assessed, the highest pre mitigation visual impact significance is considered to be “substantial-moderate” which occurs at VP7. This is primarily due to the absence of innate screening of the closely viewed solar panels when viewed from this field entrance; elsewhere along this road, roadside vegetation will serve that role. It is stated that once the proposed native hedgerow screening has established along the site boundary, this visual impact drops dramatically to “slight” as only partial longer distance views of solar arrays across the valley remain.
- 12.7. The viewpoint with the next highest visual impact significance is VP5 (moderate), where relatively open view of the central arrays of the development are afforded at modest distances. Due to the view of the solar arrays on opposing slopes, proposed mitigation planting will only result in a minor reduction in the visible panel area once established. It is submitted that the consolidated hedgerows will help to simplify the

view of the rows of panels and assimilate the development within the prevailing field pattern and that the significance of impact is deemed to reduce to moderate – slight post mitigation establishment.

- 12.8. As with VP7, there is relatively clear and close views of the nearest solar arrays from VP8 which is considered to experience a “moderate – slight” significance of impact prior to mitigation screen planting establishment. It is submitted that the proposed mitigation will substantially reduce the view of these panels once established and the residual impact is deemed to drop of “slight-imperceptible”.
- 12.9. All remaining 14 viewpoints register visual impact significance of either “slight” or “imperceptible” for both pre and post mitigation analysis. Seven viewpoints recorded pre and post mitigation visual impact significance of “imperceptible”.
- 12.10. Mitigation and Restoration measures are set out in the LVIA. It is submitted that the main mitigation by avoidance measure employed in this instance is the siting of the proposed solar farm in a robust and well-contained rural area that avails and capitalises upon both terrain and vegetation screening such that the scheme will not be prominent within the surrounding landscape. The proposed perimeter deer fence will be set inside peripheral hedgerows which are the site boundaries. The areas temporarily affected by the construction process will be re-seeded on construction completion with agricultural grassland species. Where feasible, ancillary structures will be coloured olive green, or muted shades to help blend them in with the surrounding countryside. In addition to retaining the existing hedgerows within and around the application site, it is also proposed to bolster existing perimeter hedgerows with under and inter planting. Where not already exceeded by existing vegetation, it is intended to manage hedgerows at around 3-4 meters in height as a balance between screening effectiveness and avoiding loss of energy from yield from the perimeter solar panels due to shading. It is submitted that the consolidated 3-4m high hedgerows will help reduce the potential for visual impacts within the surrounding area.
- 12.11. The LVIA concluded that in terms of visual impacts the potential of the proposed development to generate visual impacts is surprisingly contained within the shallow and strongly vegetated basin in which the site is located. It is further stated that the high degree of visual absorption means that the proposed arrays are never visible all

at once and that in most instances where visibility of the scheme is afforded, only the nearest one or two arrays are likely to be visible.

12.12. Having reviewed the submissions and inspected the site and surrounding areas I would generally agree that this is a robust and well-contained rural area albeit over c 40 separate fields. The maximum height of the solar panel tables shall not exceed 3.2m above ground and hedgerows will be managed at a minimum height of 3 – 4 m. This is a balance between screening effectiveness and avoiding loss of energy yield from the perimeter solar panels due to shading. The site is screened significantly by landform from a number of vantage points, with a limited number of direct inward views. On balance I am satisfied that all relevant visual receptors within the immediate area of the site or directly facing the site have been assessed as part of the LVIA and that a comprehensive landscape and visual impact assessment has been carried out by the applicant.

12.13. Overall I agree that the visual and landscape impacts are unlikely to arise subject to mitigation measures proposed which include retention, enhancement and reinforcement of a number of existing hedges and replacement of hedges where they have been removed to facilitate the development.

12.14. It is recommended that refusal reason no 3 is set aside.

13.0 Refusal Reason No 4 – Lack of Strategic Guidance

13.1. Wexford County Council in their fourth reason for refusal stated that there is a lack of guidance at national, regional and local level in relation to the appropriate location, scale and distribution of proposals for solar arrays of this size and scale.

13.2. The wording of this reason is similar to the An Bord Pleanála decision to refuse a 10 year permission for a solar PV development on a site of 89.46 hectares at Ballyminaun Big, Grahormick, Hilltown, Jonastown, Newhouse, Garryhask, Gibboghstown, Crosstown, Killinick and Tomhaggard a site 3km south of Killinick, Co Wexford (ABP-301321-18 (PL26.247217) (Reg Ref 20160690) refers). In this case the Board refused permission in February 2017 *as there is a lack of guidance at national, regional and local level in relation to the appropriate location, scale and distribution of future proposals for solar power.*

13.3. However the Boards Decision was subsequently quashed by Order of the High Court and the case was remitted to the Board. The Board subsequently granted permission on the 11th January 2019 subject to 11 Conditions. It is therefore accepted that the absence of national guidelines does not preclude the assessment and granting of planning permission for such proposals. While such guidelines would assist in the assessment of such schemes it remains that there is no statutory requirement to refuse permission where no national guidelines exist. This appeal is therefore assessed against the relevant national, regional and local policy which are supportive of development of renewable energy and where it is clear that the proposal for a solar PV energy farm is supported by European, national and local planning policy.

13.4. It is recommended that Refusal Reason No 4 is set aside.

14.0 Refusal Reason No 5 – Undesirable Precedent

14.1. Wexford County Council in their fifth reason for refusal stated that the development would set an undesirable precedent for other similar scaled developments which would be themselves and cumulatively be harmful to the amenities of the area.

14.2. Each planning scheme is considered de novo. That is to say that the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines, any revised details accompanying appeal submissions and any relevant planning history relating to the application. In this case matters of principle, planning policy, visual impact, landscape impact, cultural heritage and residential impact have all been considered in the assessment and where it was concluded, thus far, that the proposed solar farm now before the Board is acceptable. I do not consider that to permit this development would set an undesirable precedent that would be harmful to the amenities of the area.

14.3. It is recommended that Refusal Reason No 5 is set aside.

15.0 Refusal Reason No 6 – Insufficient Information

- 15.1. Wexford County Council in their sixth reason for refusal states that insufficient information has been submitted with the application to enable the Planning Authority to determine the impact of the biodiversity and ecology on the area of the proposed development.
- 15.2. As set out in Section 2.0 above the planning application was accompanied by the following inter alia:
- Planning & Environmental Report that included a section on Biodiversity;
 - AA Screening Report
 - Natura Impact Assessment
- 15.3. In addition the first party appeal was accompanied by inter alia an AA Screening Report and Updated Natura Impact Statement together with a response specific to Reason for Refusal 6 from the authors of the Biodiversity Report, Fehily Timoney and Company (Annex VII refers).
- 15.4. Overall I am satisfied that taken together with my site inspection that there is adequate information available on the file to consider the proposal and to enable the Board to determine the impact of the schemes on the biodiversity and ecology of the area.
- 15.5. It is recommended that Refusal Reason No 6 is set aside.

16.0 Environmental Impact Assessment Screening

- 16.1. Under the Planning and Development Regulations 2001 (as amended), current government and EU guidance, the Planning Authority must screen the proposed development for Environmental Impact Assessment (EIA) and decide if the planning application for the proposed development does or does not require the preparation of an Environmental Impact Assessment Report (EIAR).
- 16.2. The current requirements for EIA are outlined in Part X of the Planning and Development Act, 2000, as amended and Part 10 of the Planning and Development Regulation 2001, as amended. The prescribed classes of development and thresholds that trigger a mandatory EIS are set out in Schedule 5 of the Planning and Development Regulations 2001, as amended.

- 16.3. The proposed development does not fall into a class of development contained in Schedule 5, Parts 1 or 2 and therefore the requirements for an EIA can be screened out. Class 15 of the Schedule 5 states that EIA can be required in the case of subthreshold development that would be likely to have significant effects on the environment having regard to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended).
- 16.4. In considering the criteria for determining whether a development would or would not be likely to have significant effects on the environment, I consider that having regard to the characteristics of the proposed development and the location of the development and the characteristics of potential impacts there is no real likelihood of significant effects on the environment arising from the proposed development. Accordingly I am satisfied that the proposed development would not be likely to have significant effects on the environment such that an Environmental Impact Assessment is required.

17.0 Other Issues

17.1. Biodiversity

- 17.2. I refer to the Biodiversity Report submitted with the application together with the applicant's response to the appeal and associated submissions. Mitigation measures are set out in Section 7.5 of the Biodiversity Report. The majority of the proposed solar farm is located within working farms with regular periods of human activity associated with ongoing agricultural land management.
- 17.3. Ecological surveys including a habitat survey and protected species surveys were carried out across a larger study area to inform the site layout and planning boundary. Habitats were appraised and evaluated according to their occurrence as protected habitats under Annex I of the EU Habitats Directive and for their capacity to support rare, threatened and endangered species.
- 17.4. There are no habitats within the study area that conform to those listed under Annex 1 of the EU Habitats Directive. Similarly none of the habitats identified within the site were evaluated as being of county, national or international importance. The habitats within the site boundary area associated with agricultural land with monoculture of flora species of low biodiversity value namely arable crops, improved agricultural

grassland and tilled land. These habitat types account for a combined total of 130.14ha of the site.

- 17.5. The interior of the area of mixed broadleaved woodlands within the Raheenduff North subsite, measuring approximately 9.7ha is proposed to be clear felled to facilitate installation of solar panels and associated infrastructure. This subsite covers an area of mixed broadleaved woodland made up of relatively young (30-40 year old) trees. The woodland has a history of disturbance and replantation from the 18th century through to the lands commission, Forest Service and the current owners. The woodland which has developed since Sitka planting, felling and birch clearance is dense due to the similar age and size of the trees and because natural thinning has not yet occurred on large scale.
- 17.6. While the woodland is semi natural in character the fact that it was clear felled and not re-planted a number of times that continuity of cover was interrupted, making conditions unfavourable for plant species specialising in ancient and long established woodland habitats. Areas of mature estate woodland are not within the development footprint.
- 17.7. The potential impact to rivers and stream has been minimised by the design of the construction methodology which has utilised existing crossings and unidirectional drilling under watercourses to avoid the requirement for instream works. Other semi natural habitats have been actively avoided and there shall be no loss of these habitat types.
- 17.8. Thirty nine badger setts were located within, adjacent to, and in the vicinity of the proposed development site; 5 of these will be lost within the development footprint. A derogation licence application has been submitted to the NPWS. Thirteen setts lying in close proximity to the development will be required to be temporarily blocked during construction. The remaining 21 setts which are spread out throughout the study area will be left open at all times, ensuring that ample number of alternative setts to those blocked and those lost within the development footprint remain available during the construction phase and afterwards. Badger activity, sett particulars and mitigation measures are detailed in the relevant derogation license application. The availability of alternative setts means that the risk of displacement and dispersal of badgers to neighbouring areas is extremely low. In addition works will be staggered across the

site, so disturbance will be localised. The entire development will not be under construction at any one time. A maximum of two subsites area envisaged to be under construction simultaneously. In the event that a badger sett is encountered at any point it is stated that the NPWS will be informed and the NRA Guidelines for the Treatment of Badgers Prior to the Construction of National Road Schemes will be followed. Since disturbance in the vicinity of main setts will be minimised through buffering, and since the period of exclusion and disturbance within and in the vicinity of the proposed development will extend to two years a maximum, and since alternative setts and suitable habitat is available within the vicinity, the potential impact to Badgers is considered to be short term and moderate.

- 17.9. Red squirrel was recorded within the woodland partially covered by the Raheenduff North subsite. Within and adjacent to the proposed development site, old estate woodlands, conifer plantations and riparian woodland are present. The retention of mature treelines along the southern border of the Raheenduff North subsite, as well as the surrounding hedgerow network will provide connectivity between the Raheenduff North woodland and this area, allowing red squirrel to continue to commute between woodlands. As such a long term, moderate impact is predicted for this species. The required mitigation measures for mammals and birds together limits the period for vegetation clearance to the months of September – January inclusive. It is stated that September is likely to be the optimal month in which to carry out felling operations in this area.
- 17.10. Potential habitat for bat roosts was limited within the site. The building within the Foulksmills subsite was examined and determined to have no potential as a roost. No other buildings are present within the proposed development site. Coolcliffe House has potential as a bat roost however this lies outside the proposed development site. A preconstruction bat survey shall be carried out within the site prior to construction to reconfirm the findings of pre-planning surveys.
- 17.11. It is submitted that the proposed development seeks to enhance biodiversity where opportunities present themselves. The following enhancement measures are proposed inter alia:

- Nineteen “biodiversity areas” will be created within the solar farm site boundary (with a total area of approx.5.5ha) which is the equivalent of approx. 3.6% of the site area.
- Planting of 3.49ha of wildflower meadows with cereal crops incorporated to provide nectar of pollinators and act as seedbanks for the remainder of open areas within the site
- Installation of 10 no insect hotels
- Planting of 1.2ha of woodland with native broadleaved species
- Retention of existing area of wet grassland / marsh within the site boundary
- Installation of 46 no at boxes, 47 no bird boxes and 1 no pine marten box

17.12. With regard to the remainder of the site the implementation of the proposed mitigation measures outlined in Section 7.5 of the Biodiversity Report and ecological enhancement measures detailed in Section 7.6 of the same report the potential impact of the proposed development on the habitats, flora and fauna in the local area is considered to be imperceptible – slight. The implementation of the site enhancement measures for ecology and repair and enhancement of existing hedgerows shall add to the ecological value of the study area locally, contributing to a positive residual impact.

17.13. **Traffic Impact**

17.14. The construction of the proposed solar farm will lead to additional construction traffic, including HGVs, during the construction phase. The construction programme will take place over 12 months. It is expected that the negative impact construction related traffic will have on the local road network will be “temporary” to “short term” in duration and “slight” to “moderate” in significance unless properly mitigated against through adequate construction stage planning and implementation measures outlined in the Planning & Environmental Report. By adopting these mitigation measure and through the implementation of an adequately designed Traffic Management Plan, it is envisaged that the negative impact construction related traffic will have on the local road network will be “temporary” to “short term” in duration, and “slight” in significance. The residual impact on the N25 is expected to be negligible.

17.15. Having regard to the information available with the application I am satisfied that the negative impact on traffic and amenity as a result of the construction and decommissioning phase of this scheme would be temporary in nature and matters of

particular concern such as construction traffic management and decommissioning can be dealt with by condition.

17.16. Development Contribution - Wexford County Council has adopted a Development Contribution scheme; Wexford County Council Planning Authority Area Development Contribution Scheme 2018, under Section 48 of the Planning and Development Act 2000 (as amended). I have considered the sections entitled “Exemptions” and “Incentives (Discounting / Credit)”. The proposed development does not fall under the exemptions / incentives listed in this scheme. Accordingly, it is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

17.17. Legal Matters – I note the appellants submission that in making its decision the Board must take into consideration (1) the Advocate General’s Opinion in Case C-461/17 (Brian Holohan and others v An Bord Pleanála), (2) the Judgement of the CJEU in Case C-323/17 (People over wind and Peter Sweetman v Coillte Teoranta) and (3) the Judgement of the CJEU in Case C-164/17 (Edel Grace and Peter Sweetman v An Bord Pleanála). The Board will be aware of these judgements which addressed specific matters regarding Environmental Impact Assessment and Appropriate Assessment. The appellant did not indicate any specific areas of concern in relation to conclusions reached in the AA Screening (Stage 1) or Natura Impact Statement (Stage 2). In this current case, I am satisfied that regard has been had to the relevant matters raised in the judgements in the assessment at Section 18.0 below. I also note the reference to O’Grianna v An Bord Pleanála in terms of cumulative environmental impacts and project splitting. This relates to EIA cases only and is not therefore relevant to this Case.

17.18. NIS – The applicant in their response to the third party appeal submitted an updated NIS in order to further clarify the mitigation measures proposed. This was cross circulated to relevant parties. However one of the appellants raises concerns that it is not possible to make a finding of that “no reasonable scientific doubt remains as to the absence of such effects” where the mitigation measures are not fully described. Reference is made to the use of the word “should” in describing mitigation measures e.g “concrete delivery vehicles should be precluded from washing out at or in the environs of the site”. I have reviewed both NISs and associated reports together with

other documentation submitted with the application and appeal. I am satisfied that there is sufficient clarity in the documentation available with the application. I am satisfied that no significant adverse effects will arise from the proposed development individually or in combination with other plans and projects.

18.0 **Appropriate Assessment**

18.1. **Stage 1 Screening for Appropriate Assessment**

18.2. The application included an AA Stage 1 Screening Report and a Natura Impact Assessment *to evaluate the potential impacts(s) of the proposed Rosspile Solar Farm on the European Sites located within 15km radius*. The applicant's response to the third party appeal(s) also included an "updated" NIS which *further clarifies the mitigation measures proposed*. Both NISs include within the definition of the project the proposed works relating to the grid connection.

18.3. The Solar Farm is not located within a designated Natura 2000 site. However there are 10 no European sites within 15km of the Solar Farm site as follows:

18.4. **Special Areas of Conservation**

- **Bannow Bay SAC** (000697) – The conservation objective is *to maintain or restore the favorable conservation condition of the Annex I Habitat(s) and / or Annex II Species for which the SAC has been selected*. This is a relatively large estuarine site, approximately 14km long. Most of the estuary has been designated an SPA under the EU Birds Directive because of its significant bird interest, particularly during the winter. Important breeding populations found within the site include species listed on Annex I of the EU Birds Directive (Little Tern and Kingfisher). Otter and Common Seal occur within the site. This SAC is adjacent to Rosspile, Coolcliffe North & South subsites but not within the boundary of the SAC. The proposed cable route is to be installed via directional drilling under the marsh / swamp habitats and river Corock which lie within the SAC. The entry and exit points of this cable are outside the SAC boundary.
- **Ballyteige Burrow SAC** (000696) – The conservation objective is *to maintain or restore the favorable conservation condition of the Annex I Habitat(s) and / or Annex II Species for which the SAC has been selected*. This coastal site

extends eastwards and northwards from the village of Kilmore Quay and is designated for habitats and / or species listed on Annex I / II of the EU Habitats Directive. Ballyteige is recognised as one of the most impressive shingle based dune systems in the country, and is site host to a range of rare plant species including Wild Asparagus and Lesser Centaury. The coastal site is of major ecological value for its range of good quality coastal habitats. The site is a stated distance of 8.4km from the Solar Farm.

- **Hook Head SAC** (000764) – The conservation objective is *to maintain or restore the favorable conservation condition of the Annex I Habitat(s) and / or Annex II Species for which the SAC has been selected.* The area of conservation interest at Hook Head comprises marine sub tidal reefs to the south and east of the Hook Head Peninsula and also sea cliffs from Hook Head to Baginbun and Ingard Point. The site adjoins the estuary mouth of Bannow Bay. The site is of conservation importance for its sub tidal reef and shallow bay communities and their diversity of species as well as the vegetated sea cliffs. These habitats are listed under the EU Habitats Directive. The rocky coastline is also important for a number of breeding birds, two of which are listed on Annex I of the EU Birds Directive. The site is a stated distance of 10.1km from the Solar Farm.
- **Slaney River Valley SAC** (000781) – The conservation objective is *to maintain or restore the favorable conservation condition of the Annex I Habitats(s) and / or Annex II Species for which the SAC has been selected.* The site comprises the freshwater stretches of the River Slaney as far as the Wicklow Mountains, a number of tributaries, the estuary at Ferrycarrig and Wexford Harbour. The site supports populations of several species listed on Annex II of the EU Habitats Directive including Sea Lamprey, River Lamprey and Brook Lamprey, Otter, Salmon, small numbers of Freshwater Pearl Mussel and in the tidal stretches, Twaite Shad. The site is also of high ornithological importance and supports many of the mammal species occurring in Ireland. Those which are listed in the Irish Red Data Book include Pine Marten, Badger, Irish Hare and Daubentons Bat. Common Frog another Red Data Book species also occurs within the site. The site is a stated distance of 13.1km from the Solar Farm.

- **Saltee Islands SAC** (000707) – The conservation objective is *to maintain or restore the favorable conservation condition of the Annex I Habitat(s) and / or Annex II Species for which the SAC has been selected*. This site comprises the Saltee Islands and a large area of the surrounding areas. The site is of high conservation importance for the occurrence of several habitats which are listed on Annex I of the EU Habitats Directive, of which the reefs are of exceptional quality and diversity. The site is of international importance for breeding seabirds and has two species which are listed on Annex I of the EU Birds Directive. In addition the site has a breeding population of Grey Swan an Annex II species on the EU Habitats Directive. The site is a stated distance of 14.2km of the Solar Farm.

- **River Barrow & River Nore SAC** (002162) – The conservation objective is *to maintain or restore the favorable conservation condition of the Annex I Habitat(s) and / or Annex II Species for which the SAC has been selected*. This site consists 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 elements and estuary as far downstream as Creadun Head in Waterford. Seventeen Red Data Book plant species including Killarney Fern has been recorded within the site, most in the recent past. The site is important for the presence of a number of EU Habitats Directive Annex II animal species including Freshwater Pearl Mussel, White-clawed Crayfish, Salmon, Twaite Shad, three lamprey species (Sea Lamprey, Brook Lamprey and River Lamprey, the tiny whorl snail and otter). This is the only site in the world for the hard water form of the Freshwater Pearl Mussel and one of only a handful of spawning grounds in the country for Twaite Shad. The site also supports many other important animal species, including the Irish Red Data Book listed species Daubenton's Bat, Badger, Irish Hare and Common Frog. A number of rare invertebrates also occur within the site, and it is of ornithological importance for a number of EU Birds Directive Annex I species. The site is a stated distance of 13.2km from the Solar Farm.

18.5. Special Protection Areas

- **Bannow Bay SPA** (004033) – The conservation objective is *to maintain or restore the favorable conservation condition of the Bird Species, Assemblages*

and Wetland Habitats listed as Special Conservation Interests for the SPA. This is a large, sheltered, estuarine system with a narrow outlet to the sea. The site is a Special Protection Area under the EU Birds Directive of Special Conservation Interest (SCI). This enclosed estuarine system supports internationally important populations of light bellied Brent Goode and Black-tailed Godwit as well as nationally important populations of a further 11 species (Shelduck, Pintail, Oystercatcher, Golden Plover, Grey Plover, Lapwing, Knot, Dunlin, Bar-tailed Godwit, Curlew and Redshank). Two of the species that occur, Golden Plover and Bar-tailed Godwit are listed on Annex I of the EU Birds Directive. Bannow Bay is a Ramsar Convention site and part of the Bannow Bay Spa is a Wildfowl Sanctuary. The site is a stated distance of 3.2km from the Solar Farm.

- **Ballyteige Burrow SPA (004020)** – The conservation objective is *to maintain or restore the favorable conservation condition of the Bird Species, Assemblages and Wetland Habitats listed as Special Conservation Interests for the SPA.* The estuarine habitats provide feeding and roosting areas for the waterfowl's species though a lot of the birds also feed on the intensively managed lands of the adjacent polders. Cullenstown Strand has a small colony of breeding Little Tern though nesting may not occur in every year. The site is designated under the EU Birds Directive for the following species; Light-bellied Brent Goose, Shelduck, Golden Plover, Grey Plover, Lapwing, Black-tailed Godwit and Bar-tailed Godwit. The site is a stated distance of 8.4km from the Solar Farm.
- **Keeragh Islands SPA (004118)** – The conservation objective is *to maintain or restore the favorable conservation condition of the Bird Species listed as Special Conservation Interests for the SPA.* The islands are two low-lying islets located just over 1km offshore from the south Wexford coastline. The islands have a nationally important breeding colony of Cormorant which is considered to be one of the largest in the country. Cormorant is the sole conservation interest for which the site is designated. The site is a stated distance of 9.8km from the Solar Farm.
- **Wexford Harbour & Slobs SPA (004076)** – The conservation objective is *to maintain or restore the favorable conservation condition of the Bird Species,*

Assemblages and Wetland Habitats listed as Special Conservation Interests for the SPA. The site is designated under the EU Birds Directive for the following species; Little Grebe, Great Crested Grebe, Cormorant, Grey Heron, Bewicks Swan, Whooper Swan, Greenland White-fronted Goode, Light Bellied Brent Goose, Shelduck, Widgeon, Teal, Mallard, Pintail, Scaup, Goldeneye, Red Breasted Merganser, Hen Harrier, Coot, Oystercatcher, Golden Plover, Grey Plover, Lapwing, Knot, Sanderling, Dunlin, Black Tailed Godwit, Bar Tailed Godwit, Curlew, Redshank, Black Headed Gull, Lesser Black Backed Gull and Little Tern. The site is also of special conservation interest for holding an assemblage of over 20,000 wintering water birds. The EU Birds Directive pays particular attention for wetlands and as these form part of this SPA, the site and its associated water birds are of special conservation interest for Wetlands & Water birds. The site is a stated distance of 13.2km from the Solar Farm.

- 18.6. As stated previously all of the proposed works take place outside the SACs and SPAs and therefore there are no direct effects on the integrity of these European Sites. The Corock River, which runs into Bannow Bay approximately 5.6km downstream of the proposed solar farm, runs in close proximity to the border of the Poldoon and Rosspile subsites, before turning south, where it runs between the Rosspile subsite to the west and Coolcliffe North and South subsites to the east. The Mulmontry River flows in a northeast – southeast direction parallel to the Coolcliffe North subsite for a short distance before joining the Corock River. The Bannow Bay SAC in this area covers a section of the Corock and Mulmontry Rivers and their associated floodplains. While the Bannow Bay SAC is bordered on both sides by subsites (Rosspile to the west, Coolcliffe North & South to the east) the solar farm will not result in the direct loss of any habitat within the SAC. The proposed cable route is to be installed via directional drilling under the marsh / swamp habitats and river Corock which lie within the Bannow Bay SAC. However the entry and exit points of this cable are outside the SAC boundary. Since the entire proposed development is outside the European Sites but within the catchment area of these sites there is potential for significant indirect effects on the sites arising from contaminant in surface water.
- 18.7. Ballyteigue Burrow SAC, Slaney River Valley SAC, Saltee Islands SAC and River Barrow & River Nore SAC are not hydrologically linked to the proposed solar farm.

Ballyteigue Burrow SAC (8.4km southwest) is designated solely for habitats occurring within its boundaries. Slaney River Valley SAC, River Barrow & River Nore SAC and Saltee Islands SAC are designated for habitats and species occurring within their boundaries as well as mobile species, however, due to the distances involved (13-14km) and the lack of hydrological connections, mobile species residing within these European Sites are deemed unlikely to use the proposed development site and its surrounds. In the case of Saltee Islands SAC there are no suitable habitats in the locality of the proposed development for the mobile species in question; Grey Seals.

18.8. The Bannow Bay SAC extends southwards as far as the mouth of Bannow Bay. Bannow Bay SPA is located c3.2km to the south of the proposed development (straight line) and is hydrologically connected by the Corock River which flows into Bannow Bay. Hook Head SAC begins at the mouth of Bannow Bay and extends south and westwards into the Celtic sea. Bannow Bay SPA and Hook Head SAC require assessment due to the fact that they respectively overlap and lie adjacent to Bannow Bay SAC and as such the conservation interests of the European sites must be considered in conjunction. However with regard to Hook Head SAC and having regard to the large distance and tidal estuary separating them, and the fact that the receiving waters of Hook Head SAC are marine waters the linkage is remote in the extreme. As such Hook Head SAC is not hydrologically connected to the proposed development site and is designated solely for terrestrial and tidal habitats occurring within its boundaries. Therefore no potential impacts to this European site are envisaged.

18.9. Taking these factors into consideration, together with an examination of the Appropriate Assessment Stage 1 Screening Report and the Natura Impact Assessment submitted with the application and the appeal, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separating distances and functional relationship between the proposed works and the European Site, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, the potential impacts to the following 5 no European sites:

- Ballyteige Burrow SAC (000696)
- Hook Head SAC (00764)
- Slaney River Valley SAC (000781)

- Saltee Islands SAC (000707) and
- River Barrow & River Nore SAC (002162)

are excluded from further consideration.

18.10. The AA Screening report addressed the remaining 5 no European Sites:

- Bannow Bay SAC (000697)
- Bannow Bay SPA (004033)
- Ballyteige Burrow SPA (004020)
- Keeragh Islands SPA (004118)
- Wexford Harbour & Slobs SPA (004076)

and having regard to the qualifying interests for which these sites were designated it was concluded that significant effects on water quality, spread of invasive species and the use of adjacent lands as feeding and roosting areas for Wetlands and Water Birds could not be ruled out and that the submission of an NIS and carrying out of an AA was necessary in this instance.

18.11. Therefore on the basis of the information provided with the application I recommend that it cannot be concluded that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Bannow Bay SAC (000697), Bannow Bay SPA (004033), Ballyteige Burrow SPA (004020), Keeragh Islands SPA (004118) and Wexford Harbour & Slobs SPA (004076) and that submission of an NIS and carrying out of an Appropriate Assessment is necessary.

18.12. Stage 2 Appropriate Assessment

18.13. The conservation Objectives and Qualifying Interests including any relevant attributes and targets for the relevant 5 no sites are set out below:

Natura 2000 Site & Conservation Objective	Qualifying Interest
Bannow Bay SAC (000697)	Estuaries Mudflats and sandflats not covered by seawater at low tide

<p><i>To maintain or restore the favourable conservation condition of the Annex I Habitat(s) and / or Annex II Species for which the SAC has been selected</i></p>	<p>Annual vegetation of drift lines Perennial vegetation of stony banks <i>Salicornia</i> and other annuals colonizing mud and sand Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) Mediterranean salt meadows (<i>Juncetalia maritimi</i>) Mediterranean and thermo-Atlantic halophilous scrubs (<i>Sarcocornetea fruticosi</i>) Embryonic shifting dunes Shifting dunes along the shoreline with <i>Ammophila arenaria</i> ('white dunes') Fixed coastal dunes with herbaceous vegetation ('grey dunes')</p>
<p>Bannow Bay SPA (004033)</p> <p><i>To maintain or restore the favorable conservation condition of the Bird Species, Assemblages and Wetland Habitats listed as Special Conservation Interests for the SPA</i></p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) Shelduck (<i>Tadorna tadorna</i>) Pintail (<i>Anas acuta</i>) Oystercatcher (<i>Haematopus ostralegus</i>) Golden Plover (<i>Pluvialis apricaria</i>) Grey Plover (<i>Pluvialis squatarola</i>) Lapwing (<i>Vanellus vanellus</i>) Knot (<i>Calidris canutus</i>) Dunlin (<i>Calidris alpina</i>) Black-tailed Godwit (<i>Limosa limosa</i>) Bar-tailed Godwit (<i>Limosa lapponica</i>) Curlew (<i>Numenius arquata</i>) Redshank (<i>Tringa totanus</i>) Wetland and Waterbirds</p>
<p>Ballyteige Burrow SPA (004020)</p>	<p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) Shelduck (<i>Tadorna tadorna</i>) Golden Plover (<i>Pluvialis apricaria</i>)</p>

<p><i>To to maintain or restore the favorable conservation condition of the Bird Species, Assemblages and Wetland Habitats listed as Special Conservation Interests for the SPA</i></p>	<p>Grey Plover (<i>Pluvialis squatarola</i>) Lapwing (<i>Vanellus vanellus</i>) Black-tailed Godwit (<i>Limosa limosa</i>) Bar-tailed Godwit (<i>Limosa lapponica</i>) Wetland and Waterbirds</p>
<p>Keeragh Islands SPA (004118)</p> <p><i>To maintain or restore the favorable conservation condition of the Bird Species listed as Special Conservation Interests for the SPA.</i></p>	<p>Cormorant (<i>Phalacrocorax carbo</i>)</p>
<p>Wexford Harbour & Slobbs SPA (004076)</p> <p><i>To maintain or restore the favorable conservation condition of the Bird Species, Assemblages and Wetland Habitats listed as Special Conservation Interests for the SPA.</i></p>	<p>Little Grebe (<i>Tachybaptus ruficollis</i>) Great Crested Grebe (<i>Podiceps cristatus</i>) Cormorant (<i>Phalacrocorax carbo</i>) Grey Heron (<i>Ardea cinerea</i>) Bewick's Swan (<i>Cygnus columbianus bewickii</i>) Whooper Swan (<i>Cygnus cygnus</i>) Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) Shelduck (<i>Tadorna tadorna</i>) Wigeon (<i>Anas penelope</i>) Teal (<i>Anas crecca</i>) Mallard (<i>Anas platyrhynchos</i>)</p>

	Pintail (<i>Anas acuta</i>) Scaup (<i>Aythya marila</i>) Goldeneye (<i>Bucephala clangula</i>) Red-breasted Merganser (<i>Mergus serrator</i>) Hen Harrier (<i>Circus cyaneus</i>) Coot (<i>Fulica atra</i>) Oystercatcher (<i>Haematopus ostralegus</i>) Golden Plover (<i>Pluvialis apricaria</i>) Grey Plover (<i>Pluvialis squatarola</i>) Lapwing (<i>Vanellus vanellus</i>) Knot (<i>Calidris canutus</i>) Sanderling (<i>Calidris alba</i>) Dunlin (<i>Calidris alpina</i>) Black-tailed Godwit (<i>Limosa limosa</i>) Bar-tailed Godwit (<i>Limosa lapponica</i>) Curlew (<i>Numenius arquata</i>) Redshank (<i>Tringa totanus</i>) Black-headed Gull (<i>Chroicocephalus ridibundus</i>) Lesser Black-backed Gull (<i>Larus fuscus</i>) Little Tern (<i>Sterna albifrons</i>) Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) Wetland and Waterbirds
--	--

18.14. As discussed all of the proposed works take place outside the foregoing Natura 2000 sites and therefore there are no direct effects on the integrity of any of the European site. However since the entire proposed development is outside the SAC but within the catchment of the Bannow Bay SAC there is potential for significant indirect effects on the SAC arising from contaminants in surface water. Further this SAC overlaps with Bannow Bay SPA. The stream along the south eastern boundary of the site

connects to the designated Natura 2000 site. Therefore there is a surface water linkage between the proposed development site and Bannow Bay SAC and Bannow Bay SPA. Table 3-2 of the Natura Impact Statement submitted with the planning application and Table 3.3 of the Natura Impact Statement submitted with the first party response to the appeal provides an assessment of the potential impacts of the proposed project either alone or in combination with other plans or projects on Natura 2000 sites.

18.15. Potential impacts for each site are also set out in the following tables in both NISs:

- Table 4-3 Identification of Potentially Significant Impacts to Qualifying Features of Bannow Bay SAC
- Table 4-4 Identification of Potentially Significant Impacts to Qualifying Features of Bannow Bay SPA
- Table 4-5 Identification of Potentially Significant Impacts to Qualifying Features of Ballyteige Burrow SPA
- Table 4-6 Identification of Potentially Significant Impacts to Qualifying Features of Keeragh Islands SPA
- Table 4-7 Identification of Potentially Significant Impacts to Qualifying Features of Wexford Harbour & Slobs SPA

18.16. The key findings relevant to the Solar Farm are summarised as follows:

- Potential direct impacts due to proximity of Bannow Bay SAC and proposed installation of an underground cable beneath the SAC using horizontal directional drilling.
- Potential impacts on Bannow Bay SPA, Wexford Harbour & Slobs SPA, Ballyteigue SPA and / or Keeragh Islands SPA via disturbance and / or displacement of key species from feeding habitat as a result of the proposed development.
- Potential for solar panels and associated cabling to act as attractant and / or pose collision risks for birds including those for which Bannow Bay SPA is designated.
- Alteration or degradation of water quality within Bannow Bay SAC and / or Bannow Bay SPA in the absence of adequate mitigation measures resulting in the potential disturbance and / or displacement of species or habitats of

conservation interest via impacts on foraging habitat and alterations in plant assemblage composition.

- Potential introduction of invasive species into Bannow SPA and / or Bannow SPA in the absence of appropriate mitigation measures via transport of stem or rhizome material resulting in reductions in water quality caused by increase bank erosion, alterations in habitat assemblages and structures and / or alteration to wetland bird feeding / roosting habitats via invasive species.
- Potential for sedimentation or contamination (fuel, lubricants or cement) of the drainage ditches and watercourses within and adjacent to the proposed development site to have negative impacts on water quality to either the Bannow Bay SAC and / or Bannow Bay SPA.
- Potential for impacts arising from untreated wastewater discharges during the construction and operational phase to either the Bannow Bay SAC and / or Bannow Bay SPA in the absence of suitable measures exists.

18.17. The proposed internal underground cables connecting the Coolcliffe North / Rosspile, Rosspile / Poldoon and Poldoon / Foulksmills subsites must be considered to potentially constitute hydrological connections with Bannow SAC and Bannow Bay SPA since one will be installed under part of the River Corock where it is within the SAC, one under the Corock upstream of the SAC and one under a tributary of the Corock using Horizontal Directional Drilling (HDD). The use of HDD was chosen for two main reasons:

- 1) To eliminate the potential adverse impacts associated with trenching within public roads under a road opening license, which would require traffic management and potential temporary disruption to existing road users
- 2) To avoid the need for instream works and eliminate potential adverse impacts on the existing SAC around the River Corock

18.18. Horizontal Directional Drilling (HDD) will be employed at 5 no locations. I refer to the both NISs and Section 2.1 of the Planning & Environmental Report where it sets out the following measures:

- 1) **Connection between Rosspile and Coolcliffe** (river crossing) – The connection travels under the Rover Corock which is located within the Bannow Bay SAC. It is proposed to install ducts under the river to avoid any works within the protected

area by HDD. The operation will take place from one side of the river. It is expected to take a single day under one mobilisation. A detailed outline method statement with site specific mitigation measures is included in the CEMP. Mitigation measures to be implemented for this activity are detailed in Table 4-9 of both NISs.

- 2) Stated minimum environmental measures to be implemented on site include:
- A site specific drilling design, risk assessment and method statement shall be prepared by the contractor prior to the works
 - If drilling fluids are required a biodegradable fluid shall be used
 - HDD operations to be limited to daytime hours and conditions when low level of rainfall forecast
 - The depth of the bore shall be at least 3m below the bed of the watercourse
 - Visual inspection to take place at all times along the ore path of the alignment
 - A field responses plan to minimise loss of returns of drilling fluid and actions to restore returns shall be provided
 - Silt fences will be constructed around proposed work areas prior to commencement of works
 - No refuelling will take place within 50m of the watercourse or any sensitive habitats
 - Pre-construction surveys shall take place at drilling sites to flag any sensitive species occurring
 - A biological monitoring program to be implemented for the duration of the drilling operation
 - HDD operations will take place only between the months of April – September inclusive
- 3) **Connection between Rosspile and Poldoon** (road crossing) – The connection travels under the local road (L-3030-7) which is outside the SAC but is upstream of the SAC. It is proposed to install ducts under the river to avoid any in-stream works. The entry point will be within the filed bordering the River Corock on its western side, north of Hares Mead Bridge; the bore will travel under the riverbed and continue under the alder plantation on the eastern bank and emerge in the arable crop filed to the east of the plantation. Both entry and exist points lie outside

the floodplain and are greater than 10m from the Corock River and any drainage ditches. The operation will take place from the Poldoon array within the development field boundary and is expected to take a single day under one mobilisation. The process will follow the same methodology outlined for the connection between Rosspile and Coolcliffe described above. Following emergence of the duct east of the river, the remainder of the cable connection will be carried out by traditional trenching techniques within private lands entering the Foulksmills South Array. Measures to be implemented for this activity are detailed in Table 4-9 of both NISs.

- 4) **Connection between Poldoon and Foulksmills South** (river crossing) - The connection travels under the River Corock at a section that is located outside the SAC. It is proposed to install ducts under the river to avoid any in-stream works. The operation will take place from the Poldoon array within the development field boundary and is expected to take a single day under one mobilisation. The process will follow the same methodology outlined for the connection between Rosspile and Coolcliffe described above. Following emergence of the duct east of the river, the remainder of the cable connection will be carried out by traditional trenching techniques within private lands entering the Foulksmills South Array.
- 5) **Connection between Foulksmills South and Foulksmills West** (road crossing)
 - The connection travels under the local road (L-30334-8) which is outside the SAC. The process will be the same as for No 3 above.
- 6) **Connection between Foulksmills West and Raheenduff South** (road crossing)
 - The connection travels under the local road (L-3033-3) which is outside the SAC. The process will be the same as for No 3 above.

18.19. Methodologies and attendant measures are further detailed in both the project description and both NISs. Online method statements and attendant measures are also detailed in the Outline CEMP submitted as part of the application. Following appraisal of the soils, geology and hydrogeology in the existing environment it is concluded that the risk of overburden collapse due to HDD is considered negligible given the existing geological conditions and small diameter of the bore. However prior to commencement of works, an intrusive site investigation shall be carried out to establish ground conditions on site. The site investigation works shall include boreholes at the start and finish points of proposed HDD bore routes.

18.20. A wetland bird survey was carried out between November 2017 and March 2018 to determine whether or not wetland species use the intensively managed agricultural fields within the overall development boundary. Bird species recorded within the study are set out in Table 4-1 of both NISs. The survey results indicate that while all of the wetland species observed regularly use an area of the Corock floodplain in the vicinity of the proposed overall development, and occasionally occur along the river in other areas, their use of fields within the overall development site itself is rare. The fields within the overall development site are well drained and intensively managed for agriculture and as such they are of little value to wintering wetland bird species which favour the wetland habitats within the River Corock floodplain. Therefore it is considered that the proposed Solar Farm would not lead to any significant loss of potential feeding or roosting habitat for wetland bird species, including those which are of Special Conservation Interest (SCI) for the 4 no SPAs (Bannow Bay SPA, Ballyteigue Burrow SPA, Keeragh Islands SPA, and Wexford Harbour and Slobs SPA)) under consideration are designated.

18.21. With regard to the potential for solar panels and associated cabling to act as attractant and / or pose collision risks for it is submitted that as the PV panels do not closely resemble waterbodies (unlike CSP panels) they are unlikely to act as an attractant for birds. In terms of potential for collision submitted that the panels themselves are not considered to pose a risk since they do not project to a sufficient height (max 3.2m). No other infrastructure is considered likely to pose a potential collision risk.

18.22. In relation to waste water and invasive species the following design features are included:

- To avoid any risk of groundwater contamination resulting from the foul drainage for the site, portaloo's and / or containerised toilets and welfare units will be used to provide toilet facilities for site personnel. Sanitary waste will be removed from site via a licensed waste disposal contractor.
- In relation to invasive species to prevent spread a cordoned off 7m exclusion zone and warning signage will be put in place prior to construction activities in the vicinity and no excavation will be allowed to take place within this buffer zone. There will be yearly foliar application of glyphosate in autumn with ongoing monitoring to measure the effectiveness of this treatment. A permanent cordon and signage surrounding Rhododendron will be left in place

during the operational phase to prevent accidental spread during maintenance operations.

- Further a suitably qualified Ecological Clerks of Works will be appointed by the developer to ensure the effective operation and maintenance of drainage and other mitigation measures during the construction process.

18.23. In addition to the foregoing, further detailed environmental protection measures are set out in Table 4.9 of both NISs. Key design features in relation to water quality to be implemented prior to construction to reduce the potential habitat loss within the site and minimise the level of and risk of sediment runoff, pollutants or contaminants reaching Bannow Bay SAC and Bannow Bay SPA include inter alia, construction management procedures, material storage, silt fencing, capping of roads, provision of settlement ponds, fuel storage, design and installation of fuel tanks refuelling procedures as well as the following specific to the Solar Farm:

- No construction activities will take place within the River Corock floodplain, which lies outside the proposed development site boundary.
- All construction and in partial felling and excavation works will be avoided during periods of high precipitation.
- Excavation works facilitating the insertion of culverts at stream crossing points will be kept to a minimum and silt fences will be installed prior to works commencing.
- A buffer of 10m around natural watercourses shall be maintained. No excavation, storage or traffic shall be permitted within these buffer zones for the duration of works.
- Buffer zones, silt traps and stilling ponds will be put in place in advance as construction progresses across the site.
- The excavated subsoil material will be minimal but will be removed, either to a designated material storage area or stockpiled close to the excavation and used as backfill material or landscaping.
- Temporary material storage areas will be covered with impermeable sheeting and surrounded with silt fencing, which will be monitored to manage any potential loss of suspended solids to surface waters. Temporary material storage areas will be away from drainage ditches within the site.

- Where access tracks pass close to drainage ditches, silt fencing will be used to protect these features by reducing the concentration of suspended solids being conveyed in the surface water run-off. Silt traps will also be provided at outfalls from roadside swales to existing drains. Silt traps will be kept upstream of outfalls to allow a buffer zone to the outfall.
- A buffer of 5m along the south-eastern boundary of the substation compound between the compound and the adjacent drainage ditch running downhill towards the River Corock will be maintained; silt traps will be positioned to intercept any runoff from the compound and silt traps will also be installed within the drainage ditch downhill of the compound as an extra precaution.
- Roads will be capped as soon as practicably possible to cover exposed subsoil's and as such reduce the concentration of suspended solids being conveyed in the run-off into the drainage system. All tracks will be surfaced with clean well graded stone with the minimum of fines which will be imported to mitigate the conveyance of silt laden run-off in track drainage.
- Standing water in the excavation will contain an increased concentration of suspended solids as a result of the disturbance to the underlying soils. The excavation will be pumped into temporary settlement basins which will discharge to diffuse overland flow. The settlement ponds will be constructed in advance of any excavations.
- Cables will be installed in trenches adjacent to the site access roads, or laid within the access road line, where required. Trenches will be excavated during dry periods where possible in short sections and left open for minimal periods, to avoid acting as a conduit for surface water flows. Bunds will be constructed within the cable trench at regular intervals.
- Limited wet concrete operations are envisaged for this site for the proposed substation and battery array; the substation is adjacent to a drainage ditch which is hydrologically connected to the Corock River. The concrete wash out area will be located within the site compound. Concrete chutes will only be washed out on-site at designated washout areas. Drums shall be washed out off site. The concrete washout area shall be a minimum of 100m from drainage ditches / waterbodies and a bunded area lined with an impermeable material to prevent spillage or seepage.

- Surfaces will be planted/landscaped directly following completion of internal cabling works for each array area to cover exposed subsoil's and as such reduce the concentration of suspended solids being conveyed in the run off.

18.24. Design features to be implemented during the operational phase to reduce the risk of pollutants reaching Bannow Bay SAC and Bannow Bay SPA include inter alia:

- Oil spillage prevention measures incorporated during the operational phase. The incorporation of pollution preventative measures in the design of the solar farm e.g transformer bunds.
- A monitoring programme will be established to ensure the water quality is maintained.
- Within the main development visual inspection of drains and outfalls from interceptor drains will be performed during the construction period to ensure suspended solids are not entering the River Corock.
- An Ecological Clerk of Works will be appointed to ensure that the mitigation measures prescribed are adhered to.

18.25. A description of the in-combination effects are set out in Section 4.6 of both NISs and include Development Management Plans, Agriculture, Forestry and other developments including permitted solar farms in the wider area. It is considered, the impacts identified and the sensitivities of the ecological receptors for which the sites are designated, that there is no potential for synergistic interaction between the proposed works, and the activities identified, that would create any significant in combination impacts. Accordingly I am satisfied that no in-combination impacts arise.

18.26. I am satisfied that an examination of the potential impacts has been analysed and evaluated using the best scientific knowledge. Significant effects on Natura 2000 sites were identified. Where potential adverse effects were identified, key design features are prescribed to remove risks to the integrity of the European sites. I am satisfied based on the information available that if the key design features are undertaken, maintained and monitored as detailed in the NIS accompanying the planning application and the NIS submitted in response to the third party appeal, adverse effects on the integrity of Natura 2000 sites will be avoided.

18.27. Taking into consideration the extensive mitigation measures detailed in Table 4-9 of the NIS accompanying the planning application and the NIS submitted in response to

the third party appeal, based on best scientific evidence, there is no predicted in-combination impact on Bannow Bay SPA and Bannow Bay SAC. With the implementation of the mitigation measures the proposed development either alone or in combination with the other plans and projects will not adversely affect the relevant European Sites, having regard to the sites' conservation objectives.

18.28. I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Bannow Bay SAC (000697), Bannow Bay SPA (004033), Ballyteige Burrow SPA (004020), Keeragh Islands SPA (004118) and Wexford Harbour & Slobbs SPA (004076) or any other European site, in view of the site's Conservation Objectives.

18.29. As discussed previously this Solar Farm and associated infrastructure will connect to the national grid via the propose substation which is being considered concurrently; ABP-302731-18 refers. Both applications included an Appropriate Assessment Stage 1 Screening Report and a Natura Impact Assessment to evaluate the potential impacts(s) of the overall development (Solar Farm and SID Works) on the European Sites located within 15km radius. Key design features in relation to water quality and invasive species to be implemented prior to construction in both developments to reduce the potential habitat loss within the site and minimise the level of disturbance (e.g excavation, vegetation clearance, trampling etc) and risk of sediment runoff, pollutants or contaminants reaching Bannow Bay SAC and Bannow Bay SPA have been included.

19.0 Summary & Conclusion

19.1. In conclusion:

- The proposal accords with and will advance national, regional and local policies and objectives in terms of energy provision and security of supply and the advancement and development of the this area
- With regard to landscape and visual amenity the proposal does not traverse or abut landscapes designated as being of scenic importance and whilst the 2 no new 110kV steel lattice supports will have a visual impact albeit slight, it is also

considered that the carrying capacity of the receiving environment, which is considered robust, is more than sufficient to absorb the nature and scale of the proposal without significant adverse effect.

- The negative impact on traffic and amenity as a result of the construction and decommissioning phase of this scheme would be temporary in nature. The impact associated with operational traffic is considered negligible.
- The proposal would not impact on any known archaeological site and appropriate pretesting and monitoring should ensure against any adverse impacts.
- A detailed appraisal of ecology was undertaken as detailed in the Appropriate Assessment Screening Report and Natura Impact Statement submitted with the application. The proposal does not traverse, or is it adjacent to any site designated as being of ecological importance.
- It is concluded that based on the information available the proposed development either individually or in combination with other plans and projects would not be likely to have significant adverse effect on the integrity of any European site having regard to the conservation objectives of those sites
- Subject to the implementation of the best construction practises and methodologies as set out in the applicant's planning and environmental report I am satisfied that there will not be a likely significant adverse impacts on the receiving environment

19.2. Therefore having regard to the provisions of national and regional policy objectives in relation to renewable energy, the provisions of the Wexford County Development Plan 2013 – 2019, the nature and scale of the proposed development, the pattern of development in the vicinity, and the planning history of the area, including other permitted solar arrays, it is considered that, subject to compliance with the conditions set out below, the scale of development 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 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.

20.0 Recommendation

20.1. Having considered the contents of the application (as amended), the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the reasons and considerations set out below.

21.0 Reasons and Considerations

21.1. Having regard to:

- the nature, scale and extent of the proposed development,
- the decisions made in respect of an appropriate assessment,
- the national targets for renewable energy contribution of 40% gross electricity consumption by 2020
- national and local policy support for developing renewable energy, in particular the:-
 - Government's Strategy for Renewable Energy, 2012-2020,
 - National Planning Framework, 2018, and,
 - Objective EN07 of the Wexford County Development Plan, 2013-2019,
- the location of the proposed development within moderate grade agriculture land and within a Lowlands Landscape Character Unit as set out in the Development Plan,
- the distance to dwellings or other sensitive receptors from the proposed development
- the planning history of the immediate area including proximity and availability of the proposed grid connection to serve the proposed development (ABP-302731-18 refers)
- the submissions made in connection with the planning application and appeal
- the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European Sites.

The Board considered that the proposed development, subject to compliance with the conditions set out below, would:

- not have an unacceptable impact on the character of the landscape or on the cultural or archaeological heritage,
- not seriously injure the visual and residential amenities of the area,
- be acceptable in terms of public health, traffic safety and convenience,
- not have an unacceptable impact on the ecology,
- make a positive contribution to Ireland's requirements for renewable energy,
- be in accordance with:-
 - Government's Strategy for Renewable Energy, 2012-2020,
 - the National Planning Framework, 2018 and
 - Objective EN07 of the Wexford County Development Plan, 2013-2019.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

21.2. **Appropriate Assessment Stage 1**

21.3. The Board considered the Screening Report for Appropriate Assessment, the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European sites. The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site and considered the nature, scale and location of the proposed development, as well as the report of the Inspector.

21.4. The Board agreed with the screening report submitted with the application and with the screening exercise carried out by the Inspector. The Board concluded that, having regard to the qualifying interests for which the sites were designated and in the absence of a hydrological connection between the application site and the European Sites that Ballyteige Burrow SAC (000696), Hook Head SAC (000764), Slaney River Valley SAC (000781), Saltee Islands SAC (000707) and River Barrow & River Nore SAC (002162) could be screened out from the further consideration and that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effects on these European Sites or any other

European Sites in view of the sites conservation objectives and that a Stage 2 appropriate assessment is therefore not required in relation to these European Sites.

21.5. Appropriate Assessment Stage 2

21.6. The Board considered the Natura Impact Statement and all other relevant submission and carried out an appropriate assessment of the implications of the proposed development for Bannow Bay SAC (000697), Bannow Bay SPA (004033), Ballyteige Burrow SPA (004020), Keeragh Islands SPA (004118) and Wexford Harbour & Slob SPA (004076) in view of the sites conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

21.7. In completing the assessment, the Board considered the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, the mitigation measures which are included as part of the current proposal and the Conservation Objectives for this European Site. In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspectors report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the sites' Conservation Objectives.

21.8. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the Bannow Bay SAC (000697), Bannow Bay SPA (004033), Ballyteige Burrow SPA (004020), Keeragh Islands SPA (004118) and Wexford Harbour & Slob SPA (004076) or any other European Site in view of the sites Conservation Objectives.

22.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 8th January 2018, and by the further plans and particulars received by An Bord Pleanála, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the

planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

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

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

3. All of the environmental, construction and ecological mitigation measures set out in the Planning and Environmental Report including the Natura Impact Statement, and other particulars submitted with the application shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

4.
 - a) The permission shall be for a period of 25 years from the date of the commissioning of the solar array. The solar array and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.
 - b) Prior to commencement of development, a detailed restoration plan, including a timescale for its implementation, 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.
 - c) 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

5. a) No additional artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.
- b) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the road.
- a) Cables within the site shall be located underground.
- a) The inverter/transformer stations shall be dark green in colour. The external walls of the storage containers 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 clarity, and of visual and residential amenity

6. Before construction commences on site, details of the structures of the security fence showing provision for the movement of mammals at regular intervals along the perimeter of the site shall be submitted for prior approval to the Planning Authority. This shall be facilitated through the provision of mammal access gates designed generally in accordance with standard guidelines for provision of mammal access (NRA 2008).

Reason: To allow wildlife to continue to have access across the site, in the interest of biodiversity protection

7. Prior to the commencement of development, the developer shall submit a finalised Invasive Species Management Plan for the written agreement of the Planning Authority. This plan shall include updated details of invasive species surveys, the location of such species, and the proposed method of managing these species during the construction and operational phase of the development.

Reason: To ensure that the spread of invasive species is minimised.

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:

- a) the nature and location of archaeological material on the site, and
- b) 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. a) Existing field boundaries shall be retained, notwithstanding any exemptions available and new planting undertaken in accordance with the plans submitted to the planning authority with the application and by plans submitted to An Bord Pleanála

- b) All landscaping shall be planted to the written satisfaction of the planning authority prior to commencement of development. Any trees or hedgerow that are removed, die or become seriously damaged or diseased during the operative period of the solar farm as set out by this permission, shall be replaced within the next planting season by trees or hedging of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of biodiversity, the visual amenities of the area, and the residential amenities of property in the vicinity.

- 11. The applicant shall appoint a suitably qualified ecologist to monitor and ensure that all avoidance/mitigation measures relating to the protection of flora and fauna are carried out in accordance with best ecological practice and to liaise with consultants, the site contractor, the NPWS and Inland Fisheries Ireland. A report on the implementation of these measures shall be submitted to the planning authority and retained on file as a matter of public record.

Reason: To protect the environmental and natural heritage of the area.

- 12. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
 - a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse
 - b) location of areas for construction site offices and staff facilities
 - c) details of site security fencing and hoardings
 - d) details of on-site car parking facilities for site workers during the course of construction
 - e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,

- f) measures to obviate queuing of construction traffic on the adjoining road network,
- g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- h) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- i) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained; such bunds shall be roofed to exclude rainwater,
- j) off-site disposal of construction / demolition waste and details of how it is proposed to manage excavated soil
- k) details of on-site re-fuelling arrangements, including use of drip trays,
- l) details of how it is proposed to manage excavated soil,
- m) means to ensure that surface water run-off is controlled such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of environmental protection, amenities, public health and safety.

- 13. a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:
 - i. An LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. [The T value shall be one hour.]
 - ii. An LAeqT value of 45 dB(A) at any other time. [The T value shall be 15 minutes]. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

- b) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 “Assessment of Noise with respect of Community Response” as amended by ISO Recommendations R 1996 1, 2 or 3 “Description and Measurement of Environmental Noise” as applicable.

Reason: To protect the amenities of property in the vicinity of the site

- 14. All road surfaces, culverts, watercourses, verges and public lands shall be protected during construction and, in the case of any damage occurring, shall be reinstated to the satisfaction of the planning authority. Prior to commencement of development, a road condition survey shall be taken to provide a basis for reinstatement works. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to ensure a satisfactory standard of development.

- 15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site on cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure satisfactory reinstatement of the site

- 16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or Intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid

prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Mary Crowley

Senior Planning Inspector

26th June 2019

APPENDIX A

OBSERVERS TO WEXFORD COUNTY COUNCIL

- 1) Paula Doyle & Chris Livingstone
- 2) Daragh Earle & Amy Mythen
- 3) Josie & Patrick Kielty
- 4) Bernadette White
- 5) James & Geraldine Byrne
- 6) Bernie & Eugene McGee
- 7) Nicholas Fardy
- 8) James & Ann Marie O'Grady
- 9) Leanne O'Grady
- 10) Anne Sinnott
- 11) Sharon Hudner
- 12) Joe Hudner
- 13) Derick Mythan
- 14) Catherine Redmond
- 15) Bernie McGee, Secretary Community First Action Group (multiple signatories)
- 16) Ronan & Helen O'Mahony
- 17) Sinead Fortune
- 18) Emma Jordan
- 19) Declan Redmond
- 20) Anne Marie & Ray Foley
- 21) Paula Foster
- 22) Chris & Brighide Kerrigan
- 23) Ciara & Gary O'Grady
- 24) Marie & Billy Mythan
- 25) Maurice & Jackie Mythan
- 26) Brian Mythan

- 27) Aoife Mythan
- 28) Mark Dower
- 29) Tony Redmond
- 30) Dr RJ Fisher
- 31) Anne Marie Toomey, Foulksmills Tidy Towns
- 32) Marion Brady
- 33) Eugene, Fitzpatrick, Fitzpatrick's Oysters Ltd
- 34) Eileen Redmond
- 35) Brendan Redmond
- 36) Danny Redmond
- 37) Jack & Luiza Sane
- 38) Anne Farrell
- 39) Ken Foley
- 40) Austin Redmond
- 41) Caroline Carroll
- 42) Siobhan Kiely
- 43) Doreen Doherty
- 44) Eamonn O'Rourke
- 45) Tomas Ffrench, Special Bannow Bay Shellfish Ltd
- 46) Aiden Redmond
- 47) Mary Redmond
- 48) John Kehoe
- 49) Sharon Kehoe
- 50) James & Mary Fitzpatrick
- 51) Ann Allen
- 52) Roseanne Tyrrell
- 53) Chloe Byrne
- 54) Sandie Whelan
- 55) Niall Murray
- 56) Elma McDonald

- 57) Susan Byrne
- 58) Susie Bennett
- 59) Joanne McElroy
- 60) Conor O'Grady
- 61) Mark Davy
- 62) Stephen Nolan
- 63) Marie McCarthy
- 64) Edward Rowe
- 65) Richenda Sinnott
- 66) S Wallis
- 67) Peter Murphy & Caroline Foxe Murphy
- 68) MJ Donovan
- 69) MC Fletcher
- 70) Stella & Pat Fatine
- 71) Martin Power
- 72) Philip O'Grady
- 73) Alan & aine O'Grady
- 74) Mary Teresa Redmond
- 75) Elizabeth & albert O'Grady
- 76) Margaret Morrissey
- 77) Marcia Sinnott
- 78) Ian Crosby
- 79) Sheila Croghive