



Development

Permission for a 10 year permission for a solar farm on a site of approx. 32.72 hectares consisting of the following: up to 150,000 sq.m of solar photovoltaic panels on ground mounted steel frames, electrical substation with electrical control building and associated compound with palisade fence. Inverter/Transformer stations, underground power and communication cables and ducts, boundary security fencing, upgrade internal access tracks, new internal access tracks and associated drainage infrastructure, upgrade and use of existing access to the public road south-east of Westland Grove Crossroads, a passing bay on the public road to the north of site entrance and south of Westland Grove Crossroads; CCTV cameras and all associated site services and works.

Location

Gardamus Great, Mayglass, Co. Wexford.

Planning Authority	Wexford County Council.
Planning Authority Reg. Ref.	20181768.
Applicants	Harmony Solar Mayglass Limited.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	First Party V. Conditions No. 2, 6 & 13.
Appellants	Harmony Solar Mayglass Limited
Observers	None.
Inspector	Dáire McDevitt.

1.0 Site Location and Description

- 1.1.** The proposed development site is located in the rural townland of Gardamus Great c. 2.5km north of Mayglass in Co. Wexford. The surrounding area is primarily agricultural interspersed with individual farmsteads and one-off rural housing with several houses along the road to the west.
- 1.2.** The site itself has a stated site area of c.32.7 hectares, consists of nine agricultural fields of varying shapes and sizes in a relatively flat landscape and some undulations. The main body of the site is set back from the public road with the northern portion bounding the public road. Field boundaries at present consist of hedgerows and trees.

2.0 Proposed Development

- 2.1.** The proposed development consists of the construction of a solar farm within a total site area of up to 32.7 hectares and includes for the following:
- Solar PV arrays covering a ground area of c. 150,000sq.m of solar photovoltaic (PV) panels on ground mounted steel frames.
 - Installation of up to 10 no. inverter/transformer stations.
 - Construction of 1 no. on-site c. 70sq.m electrical substation (38kv) with associated customer switch room and control room.
 - C. 3,000m of perimeter fencing, including mammal access gaps.
 - Provision and construction of c.3,000m of new internal tracks and associated drainage infrastructure.
 - Provision of 1 no. passing area on the side of public road.
 - Access via a new entrance on the local road with an agricultural gate incorporated into the entrance. The new access track will contain 1 no. passing area on the side of the access track.
 - Underground power and communications cabling and ducts.
 - Installation of CCTV cameras.
 - Preparation of screening and ecology/biodiversity enhancement areas

The proposal has sought a 10-year permission.

Ancillary works comprise of:

- A c. 2,500sq.m temporary site compound area for storage purposes during construction phase.
- Temporary drainage infrastructure for the construction phase.
- Biodiversity enhancement in the form of on-going management of existing internal and perimeter hedgerows and grassland management.

The application documentation also sets out that connection to the national grid is intended to be provided on site at a substation which will be built to ESB networks (ESBN) design specifications. Power generated by the Solar Photovoltaic Systems (SPVS) will be exported via a buried grid connection cable connecting to either the onsite substation at the permitted solar farm at Dennistown or directly to Wexford substation. In line with Enduring Connection Policy (ECP) developed by the Commissions for Regulation of Utilities (CRU), application for connections to the national grid can only be made after electricity generators have received planning permission and as part of the grid application process, ESBN will determine which nodes to connect with. And, therefore, no possible to be definitive about the precise connection node (ESBN/Eirgrid Substation) until the connection offer is made.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 22nd of February, 2019 the Planning Authority issued a notification of a decision to grant permission subject to **17** conditions. The conditions under appeal are

No. 2

This development shall be completed within 5 years of the grant of permission unless otherwise granted by An Bord Pleanála or granted by extension of duration under section 42 of the Planning and Development Act 2000 (as amended).

Reason: In the interest of clarity.

No. 6

Prior to the commencement of development, the developer shall lodge with the Planning Authority a cash deposit of €114,520.00 to secure the provision and satisfactory completion and maintenance until decommissioned and returned to agricultural use, coupled with an agreement empowering the Local Authority to apply such security or part thereof to the to the satisfactory completion or maintenance of any part of the development. The form and amount of security shall be agreed between the Planning Authority and the developer, or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: Top ensure the satisfactory completion and maintenance of the development.

No. 13

Prior to the commencement of works on site, the applicant shall obtain planning permission for connection of the solar farm to the national grid.

Reason: In the interest of clarity and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

Planners Report (15th February 2019) formed the basis for the planning authority's decision to grant permission and included the recommendation to include the conditions which are the subject of this appeal.

Note from Director of Services (20th February 2018). I am taking the reference to 2018 as an error as this report postdates the Area Planner's report dated 15th February 2019).

'Report noted and I have no objection. However the applicant specifically requested a 10 year permission which is recommended now to be limited to five. The rationale for that should be outlined in the planners report in case of appeal. (note- I have no issue with what is proposed).'

Supplementary Report from Senior Planner (21st February 2018) I am taking the reference to 2018 as an error as this report postdates the Area Planner's report dated 15th February 2019).

' I refer to the comments of the Director of Services regarding the recommendation prepared by the Senior Executive Planner. The applicant has requested a 10 year permission in the title of the application. This is not a temporary permission but relates to the 10 year build period.

In citing a previous An Bord Pleanála decision, wind farm and development management guidance the applicants have stated financial and grid connection issues for the request.

I do not consider that the additional timeframe is necessary. There is no current national guidance and new Ministerial Guidance could result in a difference determination on this site. Extending the duration period would take the permission beyond the life of the next County Development Plan 2019-2025 and the development could be contrary to the new more restrictive policies. I do not consider the physical works require any significant engineering and do not consider that the issue would result in delays. If emerging policy continues to support the proposal the application, if permitted, is likely to be approved for an extension of duration under section 42(a) for an additional 5 year period.

3.2.1. Other Technical Reports:

The Planners report refers to comments by the Chief Fire Officer relating to the requirements for Fire Safety Certificate in respect of the proposed development. No report on file.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

The Planning Authority noted two submissions at application stage. The main issues raised are summarised as follows:

- Inadequate public consultation.

- Portions of the site are prone to flooding.
- Local road network is substandard for the HGV traffic associated with the construction phase.
- No national guidance on solar farms.
- Visual impacts.
- Loss of high quality agricultural land.
- No justification for the need for a solar farm.
- Concerns regard the end of life use of the materials used in the solar farm.
- Devaluation of properties in the vicinity.
- Glare from panels.

4.0 Relevant Planning History

On Site:

None.

Sites in the Vicinity:

PA Reference No. 20160690 (ABP Ref. No. PL.27.247217 and following a Judicial Review **ABP Ref. No. 301321-18**) refers the grant of permission for a solar farm (c. 89.46 hectares) at Ballyminuan Big, Grahormick, Hilltown, Jonastown, New house, Garryhask, Gibboghstown, Crosstown, Killinick and Tomhaggard.

Conditions of note included:

- No. 2 The period during which the development hereby permitted may be carried out shall be 10 years form 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.

- No. 4 This permission shall not be construed as any form of consent or agreement to a connection to the national grid or to the routing or nature of any such connection.

Reason: In the interest of clarity.

No. 10 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.

Other recent applications in the county include:

PA Ref. No. 20180055 (ABP Ref. No. 301329-19) refers to a 2019 grant of permission for a solar farm and ancillaries (c.24 hectares) at Tomasallagh, Tinnacross, Co. Wexford.

PA Ref. No. 20171275 / ABP Ref. No. 300427-17 refers to a 2017 grant of permission for development consisting of: A 10 year permission for the construction of a solar PV energy development and ancillaries (c. 36 Ha) at Tomsallagh, Ferns, Co. Wexford.

Recent An Bord Pleanála decisions relating to solar energy developments include **ABP 300267** (Carrigalong, Tramore, Co. Waterford) and **303013** (Ballinrea, Carrigaline, Co. Cork) which included the standard conditions noted above under ABP 301321-18.

5.0 Policy & Context

5.1. National and Regional Policy:

5.1.1. Project Ireland 2040: National Planning Framework:

Chapter 3: Effective Regional Development:

Section 3.4: Southern Region:

Key future planning and development and place-making policy priorities for this Region are set out.

Chapter 9: Realising Our Sustainable Future:

National Policy Objective 55:

- 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.

Chapter 10: Implementing the National Planning Framework:

Section 10.3: *Public Capital Investment – The National Development Plan and National Strategic Outcomes:*

National Strategic Outcome 8: Transition to Sustainable Energy:

- New energy systems and transmission grids will be necessary for a more distributed, more renewables focused energy generation system, harnessing both the considerable on-shore and off-shore potential from energy sources such as wind, wave and solar and connecting the richest sources of that energy. State-owned commercial enterprises are significant players in the energy market, which is subject to an EU regulatory framework. Promotion of renewable energy is supported by policy in the form of a public service obligation levy.
- The diversification of our energy production systems away from fossil fuels and towards green energy such as wind, wave, solar and biomass, together with smart energy systems and the conversion of the built environment into both generator/consumer of energy and the electrification of transport fleets will require the progressive and strategic development of a different form of energy grid.
- The development of onshore and offshore renewable energy is critically dependent on the development of enabling infrastructure including grid facilities to bring the energy ashore and connect to major sources of energy demand. We also need to ensure more geographically focused renewables investment to minimise the amount of additional grid

investment required, for example through co-location of renewables and grid connections.

5.1.2 The Government White Paper ‘Ireland’s Transition to a Low Carbon Energy Future 2015 – 2030’:

The White Paper sets out a framework to guide energy policy between now and 2030. It includes an objective to ‘*accelerate the development and diversification of renewable energy generation*’ and increase the country’s output of electricity from renewable sources. It states that this will be achieved through a number of means including wind, solar PV and ocean energy.

Section 137: 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.

5.1.3 Regional Planning Guidelines for the South-East Region, 2010-2022:

Chapter 6: Communications / Energy / Regional Climate Change Strategy:

Section 6.2: Energy:

PPO 6.3: 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:

- Ensure security of energy supply in order to support economic and social development;

- Source energy at a price that does not adversely affect competitiveness;
- Develop variable and alternative sources of energy generation;
- Maximise the use of renewable energy technologies;
- Promote a culture of energy conservation by all users;
- Assist the development of indigenous sustainable energy enterprises;
- Support and promote sustainable indigenous Bio-energy industries including the Bio-ethanol industry.

5.2 Wexford County Development Plan, 2013-2019:

Chapter 5: Climate Change:

Section 5.3: *Adapting to Climate Change:*

Objective CC01: To have regard to the National Climate Change Strategy 2007-2012 and any updated version of this document published during the lifetime of the Plan

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).

Chapter 11: Energy:

Section 11.3.5: Solar Power:

Objective EN18: To promote the use of solar technologies in new and existing dwellings, offices, commercial and industrial buildings, subject to compliance with normal planning and environmental criteria and the development management standards contained in Chapter 18.

Chapter 14: Heritage:

Section 14.2: Natural Heritage

Section 14.4: Landscape:

Section 14.4.2: Landscape Character Assessment:

Landscape Character Units:

The number of landscape character units has been reduced by combining units with similar physical characteristics and sensitivity to development. There are now four landscape character units:

2. Lowlands:

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.

Section 14.4.3: Landscape Management:

Objective L01: To have regard to the Landscape Character Assessment and associated map contained in Volume 3, the Landscape and Landscape Assessment-Guidelines for Planning Authorities (2000) Draft and any updated versions of these guidelines published during the lifetime of the Plan, when assessing planning applications for development

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.

Chapter 18: Development Management Standards

5.3 Natural Heritage Designations

The following Natura 2000 sites are located within 15km of the application site:

- Saltee Islands SPA (site code 004002) c.12.5km to the southwest.
- Saltee Islands SAC (site code 000707) c.8km to the southwest.
- Lady's Island Lake SPA (site code 004009) c.10.5km to the southeast.
- Lady's Island Lake SAC (site code 000704) c.10km to the southeast.
- The Raven SPA (site code 004019) c.11km to the northeast.
- Raven Point Nature Reserve SAC (site code 000710) c. 13.5km to the northeast.
- Ballyteige Burrow SPA (site code 004020) c.9km to the southwest.
- Ballyteige Burrow SAC (site code 000696) c.8km to the southwest.
- Bannow Bay SPA (site code 004033) c.14.8km to the west.
- Bannow Bay SAC (site code 000697) c.14.2km to the west.
- Wexford Harbour and Slobs SPA (site code 004076) c.6km to the east.
- Tacumshin lake SPA (site code 004092) c.6km to the southeast.
- Tacumshin lake SAC (site code 000709) c.5.8km to the southeast.
- Slaney River Valley SAC (site code 000781) c. 8km to the north.
- Carnsore Point SAC (site code 002269) c. 13.5km to the southeast.

- Long Bank SAC (site code 002161) c. 14.2km to the east.
- Keeragh Islands SPA (site code 004118). c.14.9km to the southwest.

5.4 Environmental Impact Assessment (Screening):

The construction of a solar PV array does not involve a class of development which is prescribed for the purposes of Section 176 of the Planning and Development Act, 2000, as amended, as set out in Parts 1 & 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended. Accordingly, there is no requirement for the applicant to submit an Environmental Impact Assessment Report in this instance.

6.0 The Appeal

First party appeal against 3 conditions attached to the planning authority's recommended schedule of conditions.

No. 2

This development shall be completed within 5 years of the grant of permission unless otherwise granted by An Bord Pleanála or granted by extension of duration under section 42 of the Planning and Development Act 2000 (as amended).

Reason: In the interest of clarity.

No. 6

Prior to the commencement of development, the developer shall lodge with the Planning Authority a cash deposit of €114,520.00 to secure the provision and satisfactory completion and maintenance until decommissioned and returned to agricultural use, coupled with an agreement empowering the Local Authority to apply such security or part thereof to the to the satisfactory completion or maintenance of any part of the development. The form and amount of security shall be agreed between the Planning Authority and the developer, or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: Top ensure the satisfactory completion and maintenance of the development.

No. 13

Prior to the commencement of works on site, the applicant shall obtain planning permission for connection of the solar farm to the national grid.

Reason: In the interest of clarity and the proper planning and sustainable development of the area.

6.1. Grounds of Appeal

6.1.1 Condition No. 2 (Duration of Permission)

- An application was submitted for a 10 year duration of permission. It is considered in the case of a solar energy generation project that the limitation of permission of 5 years to be a constraint that would likely undermine the viability of the project given the requirements necessary to be offered connection to the national electricity grid and the mechanisms proposed in the Renewable Electricity Support Scheme (RESS) for Ireland. A duration of 10 years is considered appropriate.
- Departmental guidance for windfarms refers to permissions for duration longer than 5 years to enable grid connections. While no guidance is available for solar energy requirements similar post permission requirements are in place.
- An Bord Pleanála have pursued an approach of attaching 10 year permission to solar farm development and cite *'having regard to the nature of the proposed development, the Board consider it reasonable and appropriate to specify a period of the permission in excess of five years'* as the reason. Reference has been made to An Bord Pleanála Ref. No. PL.26.301329, 300189, 248641, 248800, 300427, 248427 and 301321 as precedents
- Given the timeframe required to ensure the renewable project can engage in a grid offer process, the applicant respectfully requests that the Board considers

a 10 year permission for the project having regard to the nature of the development.

6.1.2 Condition No. 6 (Financial Bond)

- The applicant has no issue in principle in providing security to the planning authority for satisfactory completion and decommissioning of the solar farm. However, they consider that the condition requiring a 'cash' payment is overly restrictive and punitive to the developer. It is considered that the provision of a bond would adequately provide the planning authority with the necessary security without imposing a heavy financial burden to the project over its lifetime. It is respectfully requested that a bond be put in place as opposed to a cash deposit, in order to provide a secure form of insurance for the development.

6.1.3 Condition No. 13 (Grid Connection)

- Class 26 of Schedule 2 Part 1 of the Planning and Development Regulations sets out that as exempted development, planning permission is not necessarily required for the development of underground cables connecting renewable energy projects to the national grid.
- The applicant is of the view that condition no. 13 obstructs the applicant's statutory rights with respect to exempt development. The applicant is not requested that the Board determine whether the development is exempt or not, but instead to consider whether the developer should be allowed to avail of their statutory rights as set out in the Act.
- The following precedents for exempted development relating to the laying of underground cables for the purpose of connecting a solar farm to the national grid considered by Wexford Country Council in 2018:
 - **PA Ref. No. EXD00733** refers to a November 2018 determination regarding an interconnecting cable between a solar farm and a substation.

- **PA Ref. No. EXD00717** refers to a September 2018 determination regarding a medium voltage connection between the solar farm permitted under PA ref. No. 20170139 (ABP Ref. No. PL.26.248427) and the Wexford Substation.
- **PA Ref. No. EXD00704** refers to a June 2018 determination regarding a medium voltage connection between the solar farm permitted under PA ref. No. 20160595 and the Lodgewood ESB 220kv substation.
- **PA Ref. No. EXD00705** refers to a June 2018 determination regarding a medium voltage connection between the solar farm permitted under PA ref. No. 201605954 and the Lodgewood ESB 220kv substation.

The applicant has also reference **An Bord Pleanála Ref.**

No.PL.09.RL3113 (2014) which related to the erection of a temporary 110kv electricity transmission line by Eirgrid.

In the absence of reasoning and clarity in determination by the Planning Authority, the applicant considers condition no. 13 to be unwarranted and counter to the intention of statutory provision of the Planning and Development Act 2000 (as amended) and Planning and Development Regulations 2001 (as amended). The applicant respectfully requests that condition No. 13 be omitted from the planning consent.

6.2. Planning Authority's Response

None.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

Having regard to the nature and scale of the development and the specific issue arising, that being a first party appeal against Condition number 2 (duration of permission), condition 6 (cash deposit as security) and condition 13 (grid connection) of the Planning Authority decision, I am of the opinion that the determination of the application as if it had been made to the Board in the first instance is not warranted. In that regard I note the provisions of section 139 of the Planning & Development Act 2000 (as amended). This assessment will therefore be confined to the specific appeal of Condition number 2, 6 & 13 of the Planning Authority decision. The issue of appropriate assessment screening also needs to be addressed

7.1. Condition No 2 (Duration of Permission)

7.1.1 An application was submitted for a 10 year duration of permission. The applicants have set out in the grounds of appeal that it is generally considered in the case of a solar energy generation project that the limitation of permission of 5 years to be a constraint that would likely undermine the viability of the project given the requirements necessary to be offered connection to the national electricity grid and the mechanisms proposed in the Renewable Electricity Support Scheme for Ireland.

7.1.2 The planning authority's rationale for attaching a duration of 5 years to the permission is set out in a Supplementary Report prepared by the Senior Planner which stated that *'There is no current national guidance and new Ministerial Guidance could result in a difference determination on this site. Extending the duration period would take the permission beyond the life of the next County Development Plan 2019-2025 and the development could be contrary to the new more restrictive policies. I do not consider the physical works require any significant engineering and do not consider that the issue would result in delays. If emerging policy continues to support the proposal the*

application, if permitted, is likely to be approved for an extension of duration under section 42(a) for an additional 5 year period’.

7.1.3 The application before the Board has been assessed against the current County Development Plan 2019-2025 as this is the operative Plan for the County at present and against current national and regional policies. I consider a condition restricting the duration of permission to 5 years based on a presumption that policies may be more restrictive in the future is premature and unreasonable.

7.1.4 I have examined recent An Bord Pleanála decision on solar farms and I note that the Board generally pursues an approach of attaching 10 year permission to solar farm development citing ‘having regard to the nature of the proposed development, the Board consider it reasonable and appropriate to specify a period of the permission in excess of five years’ as the reason. In my view given the timeframe required to ensure the renewable project can engage in a grid offer process this is good practice. I, therefore, consider it appropriate to omit condition no. 2 and replace it with:

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.*

7.2 Condition No. 6 (Security Bond)

7.2.1 For certain types of developments it is standard practice to attach a condition requiring the lodgement of a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority to ensure

the satisfactory completion and reinstatement of a site on cessation of a project. In this instance the planning authority have conditioned that this should be in the form of a 'cash deposit'

7.2.2 I note that the wording of the condition is misleading as it refers to the lodgement of a 'cash deposit' and subsequently sets out that '*The form and amount of security shall be agreed between the Planning Authority and the developer, or, in default of agreement, shall be referred to An Bord Pleanála for determination*'

7.2.3 It is common practice by An Bord Pleanála and Planning Authorities that a condition relating to the lodgement of a security includes reference to '*a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority*'. I consider the wording of condition No. 6 restrictive and unreasonable as it excludes the applicant the opportunity to lodge other acceptable means of security 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.

7.2.4 I recommend that condition no. 6 should be omitted and replaced with:

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.*

7.3 Condition No. 13 (Grid Connection)

7.3.1 The planning status of a grid connection has been raised by the applicants in the grounds of appeal and reference has been made to Wexford County Council Section 5 determinations relating to exempted development. I do not propose to assess whether a grid connection is or is not exempted development.

7.3.2 I am of the view that condition no. 13 as worded by the planning authority is overly onerous. An Bord Pleanála have pursued an approach of attaching the following condition:

This permission shall not be construed as any form of consent or agreement to a connection to the national grid or to the routing or nature of any such connection.

Reason: *In the interest of clarity.*

This is considered reasonable given the timeframe required to ensure the renewable project can engage in a grid offer process and I recommend that condition no. 13 be omitted and replace with condition no.13 as set out above.

7.4 Appropriate Assessment

7.4.1 An Appropriate Assessment Screening Report was submitted with the application. This concluded that stage 2 appropriate assessment was not required.

7.4.2 The application site is not located within a European site. There are 17 European sites identified within 15km of the application site. There is a hydrological connection between the site and 2 European sites, Ballyteige Burrow SAC (site code 000696) and Ballyteige Burrow SPA (site code 004020) which are c.8 and 9km respectively from the site. The site drains to the Sledagh River which joins the Bridgetown River which in turn flows into the Ballyteige Burrow where it then flows into the sea.

7.4.3 Notwithstanding that there is a hydrological link between the site and the Ballyteige Burrow SAC and Ballyteige Burrow SPA via the Sleedagh River. Having regard to the nature and scale of the development and its location relative to European sites, I consider it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Ballyteige Burrow SAC (site code 000696) and Ballyteige Burrow SPA (site code 004020) or any other European site, in view of the site's Conservation Objectives. A Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

Having regard to the nature of the conditions the subject of the appeal and based on the reasons and considerations set out below, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 as amended, to omit condition no. 2, no. 6 and no. 13 and replace conditions 2, 6 and 13 with the conditions set out hereunder.

9.0 Reasons and Considerations

Having regard to nature and scale of the development it is considered that the proposal would not set an undesirable precedent and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

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.

6. 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.

13. This permission shall not be construed as any form of consent or agreement to a connection to the national grid or to the routing or nature of any such connection.

Reason: In the interest of clarity.

Dáire McDevitt
Planning Inspector
5th July 2019