



An
Bord
Pleanála

Inspector's Report

ABP-304054-19

Development	10-year permission to construct an energy storage facility within a total site area of 0.86HA including a single storey electrical transformer/inverter station modules, Battery storage modules..
Location	Ballyglasheen, Kilfeakle County Tipperary
Planning Authority	Tipperary County Council
Planning Authority Reg. Ref.	18600406
Applicant(s)	Highfield Storage
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Highfield Storage
Date of Site Inspection	30 th May, 2019
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located in a rural area that is c.2.5km to the north of the village of Bansha and c.6km to the east of Tipperary town. The site is accessed off a local road that runs south off the N74 in the direction of Bansha and comprises lands between this local road and a 110kv sub station operated by ESB Networks (ESBN) that is located immediately to the north of the site. This sub station is stated in the application documentation to be one of a limited number of sub stations on the network to have the capacity to both export and import the level of electrical energy proposed to be accommodated in the development.
- 1.2. Access to the sub station is available via an existing entrance off the local road and access roadway that runs along the western boundary of the site. The existing entrance arrangement to the ESB site comprises a recessed entrance of c. 13 metres in width with a gate accessing an access roadway to the sub station which is located c.20 metres back from the road edge. To the right (south east) of the access to the sub station and accessed via the same recessed area, is an agricultural access to the fields which comprise the appeal site.
- 1.3. There is a roadside stream along the local road to the east of the existing entrance flowing in a south easterly direction. This stream crosses under the local road approximately at the location of the existing entrance and runs to the west.
- 1.4. The site is relatively level and is currently in agricultural use. The stated area of the appeal site is 0.86 ha.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of an energy storage facility on the site. The form of energy storage proposed comprises battery storage with a series of battery storage modules in the form of container sized storage units sited across the bulk of the site. These containers are proposed to house lithium ion batteries, inverters, transformers and associated equipment and are proposed to be mounted on concrete foundations. The maximum height of the containers above existing ground level is indicated as being approximately 4 metres and a total of up to 39 battery storage units are proposed.

- 2.2. A single storey sub station building is proposed to be provided at the north west end of the site. An electrical compound is also proposed to be located in this area. The electrical compound is proposed to house a grid transformer.
- 2.3. Connections between the battery storage units in each container is proposed to be via overground cables laid on steel trunking. A connection to the existing Eirgrid substation to the immediate north is proposed and an indicative route for this connection is provided at Appendix 2 of the submitted Planning Application Supplementary documentation.
- 2.4. A number of other ancillary elements are proposed including a security fence around the perimeter of the site plus cctv, communications equipment to be mounted on the substation building, and lighting poles. A new access track from the proposed entrance into the site and along the western boundary is proposed as well as a north – south internal access road through the middle of the site from which the battery modules are accessed.
- 2.5. The application documentation states that the maximum import and export capacity from the site is envisaged as being 60MW. The application sought is for a 10 year period and the application details indicate that the construction period would be relatively short at approximately 6 months. The projected lifespan of the development is stated to be 30 years.
- 2.6. The purpose of the proposed development is to provide high speed frequency response to the grid through the importation and export of power with the aim of ensuring that grid frequency is maintained at the required level to ensure continuity of service to users and improve the overall efficiency of the grid. The form of development proposed does not involve any on site power generation and so no emissions arising from power generation would be emitted.

3.0 Planning Authority Decision

3.1 Request for Further Information

Prior to the issuing of a Notification of Decision, the Planning Authority requested further information on the following issues:

- That the viewpoints submitted in the visual assessment are inadequate and that revised viewpoints are required.
- That additional details regarding fire safety measures are required.
- That the details regarding the site entrance are inadequate and additional details including details of sightlines and sight stopping distance are required. Clarification why the ESB sub station access and roadway not being used is required.
- Details of surface water control measures at the site entrance.
- Specifications for foul water storage tank to be located in the substation building.

In response, the following is a summary of the most significant information, and alterations submitted to the Planning Authority:

- Revised viewpoints submitted in Appendix B to the response submission.
- Details of fire protection and control measures to be incorporated in the development included as Appendix C to the further information response. An outline accident and emergency accident plan has been submitted.
- Stated that the applicant requires a planning consent before they can engage with ESB networks regarding a grid connection agreement. It is the intention of the applicant that when permission is obtained they will include for discussion relating to the use of the existing access.
- That the operational phase traffic using the site will be very low (one or two visits per month and less than the current agricultural use) and that this issue has arisen in the case of a number of recent renewable energy developments where the Board has taken the view that the construction period traffic is a short term impact and that operation phase impacts are minor.
- A revised sight line drawing for the entrance is included as Appendix D using a 2.4 metre set back.
- Surface water details at the access are also indicated in Appendix D.
- Details of the holding tank are given in Appendix E.

- It is noted that the response to further information states that the duration of the permission sought has now been reduced to 5 years from the original 10 year permission sought on the basis that changes introduced to the grid connection process by the CER mean that the 10 year permission is not required.

3.2. Decision

The Planning Authority issued a Notification of Decision to refuse Permission for a single reason that can be summarised as follows:

That DM1 of the county development plan states that developments are required to comply with the standards set out in Chapter 10 and that Table 10.1 and Figure 10.1 set out the sightline requirements for new developments. Noted that the required sight line is not met without works which are on lands outside of the applicant control. Concluded that the planning authority is not satisfied that the proposed development would not result in a development that endanger public safety by reason of a traffic hazard or obstruction of road users and that the proposed development would therefore be contrary to DM1 of the Plan.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The initial report of the planning officer notes the form of development and internal reports received. An initial report recommends further information that is consistent with that requested by the Planning Authority. Second report subsequent to the receipt of further information indicates satisfaction with the further information submitted with the exception of the sight lines at the proposed entrance. Refusal of permission consistent with the Notification of Decision which issued is recommended.

Noted that the Planning Officer report makes reference to a District Engineer report received 28th May which recommends refusal of permission, however this does not appear to be on the appeal file.

3.3.2. Other Technical Reports

District Engineer – Initial report notes the absence of detail as to how the sight line requirements set out at Table 10.1 of the plan are to be met. Report subsequent to the submission of further information recommends that the applicant be required to agree the size of roadside drainage pipe with the area engineer. Note that reference in the report of the Planning Officer to a further report which indicates continued objection to the proposed development on the basis of inadequate sight lines at the proposed access from the local road.

3.4. Prescribed Bodies

Irish Water – No objection.

3.5. Third Party Observations

Third party observation from the adjoining landowner state that discussions have been held with Highfield Energy but that there is no agreement to works being undertaken to facilitate sight lines. Second submission received which questions the basis for the development, failure of notices to adequately describe the development, issues related to site choice, safety implications, technology and benefits to the local area amongst other issues.

4.0 Planning History

The following planning history is referenced in the reports of the Planning Officer:

- Tipperary Co. Co. Ref. 15600766 – retention permission granted for communications mast on ESB site to the north of the current appeal site.
- Tipperary Co. Co. Ref. 03/899 – permission granted for the erection of a 36 metre high communications mast and associated equipment.
- Tipperary Co. Co. Ref. 97/347 – Permission granted for the development of a 110kv outdoor sub station on lands to the immediate north of the current appeal site.

The first party makes reference to a number of An Bord Pleanála cases in the response to further information submitted to the Planning Authority and in the first party appeal. These cases can be summarised as follows:

- ABP Ref. PL27.246527 – Permission granted by the Board for a solar farm at Ballcooleen, Avoca, Co. Wicklow.
- ABP Ref. PL26.246321 – Permission granted by the Board for the construction of a wind farm at Tominearly and Killegney, Clonroche, Co. Wexford. (It is noted that the decision of the Board in this case was quashed following judicial review).
- ABP Ref. PL26.247179 – Permission granted by the Board for the construction of a solar farm at Tomfarney, Co. Wexford. .
- ABP Ref. PL04.249377 – Permission refused by the Planning Authority and granted on appeal by the Board for the construction of a solar PV development on lands at Curraduff, Glenlara, Co. Cork which included access via an existing agricultural field gate which opens onto the adjacent splayed entrance arrangement serving the neighbouring ESB Glenlara 110kV substation. The entrance arrangements are therefore very similar to those proposed at the subject appeal site.

5.0 Policy Context

5.1. Development Plan

The applicable development plan is the South Tipperary County Development Plan 2009-2015 (as amended). The text of the original plan has been significantly varied to take account of the merger of north and south Tipperary councils and to ensure consistent policies and objectives across the new administrative area. The life of the 2009-2015 plan has also been extended under s.11A of the Planning and Development Act, 2000 (as amended) pending the adoption of the regional spatial and economic strategy following which a new plan will be prepared.

The site is located in a rural area that is outside of any identified settlement.

There are a number of development plan policies that are of relevance to the assessment, the most significant of which are considered to be as follows.

Section 2.4 lists the core objectives of the plan and, under the heading of 'Climate Change Energy and Flooding', states that the aim is '*to ensure that the county continues to be a leader in addressing climate change through the facilitation of appropriate renewable energy developments and through supporting energy efficiency in all sectors of the economy*'.

Chapter 8 of the plan relates to Climate change and energy and includes references to the provisions of the National Renewable Energy Action Plan and the need to facilitate the appropriate expansion of the national grid, facilitate the connection of renewable energy sources and support for the sustainable expansion of the network.

Table 10.1 of the plan sets out the requirements for sightlines and specifies a sight line of 70 – 90 metres for local roads measured from a position 4.5 metres back from the road edge in the case of multiple residential / commercial developments.

5.2. Natural Heritage Designations

The site is not located within or close to any designated site. The closest European site is the Lower River Suir SAC which is located approximately 5km from the appeal site at the closest point.

5.3. EIA Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of the Fifth Schedule of the Planning and Development Regulations, 2001 (as amended).

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party appeal:

- That the proposed design relates to an existing entrance and will result in a significant improvement on the existing prevailing conditions.
- That the design of the access has been amended (Annex II of appeal) to be relocated slightly further to the east and to provide for signage to direct exiting traffic to use the appropriate lane.
- That the council have (as recently as October 2015) permitted development at the ESNB site (telecoms equipment) that uses the same access that the district engineer had no objection to these developments.
- That the appellant is aware of cases approved by the Board where improvements of existing entrances were deemed not to constitute a traffic hazard particularly in cases where there is a low volume of access vehicles.
- That the Board have also taken the view that a number of other energy developments with limited operational phase traffic impacts and construction phase traffic management procedures are acceptable. Such examples include Ballycooleen Solar Farm, Ballinclay Wind Farm, and Tomfarney North Solar Farm.
- That the sight lines are sufficient when taking into consideration the temporary nature of the increased traffic levels and the existing use for access by large agricultural machinery and maintenance vehicles accessing the ESNB sub station.
- That sightlines are available in both directions from a position 2.0 metres back as opposed to the 4.5 metres requested by the Council.
- That TD41/95 sets out the standards with regard to visibility at entrances and with regard to x distances states that the 4.5 metre distance relates to a situation where more than one vehicle may be wishing to join the trunk road at a time and that in the case of likely used accesses where the site conditions are particularly difficult, the set back 'x' may be reduced to 2.0 metres as a relaxation. Table 5.4 of the TD41/95 refers.

- That the developer commits to construction traffic management at the site that would include signage, traffic lights where required, one way haul route, use of a banksman at entrance and the unloading of all deliveries within the site.
- That the operational phase of the development is only likely to generate 20 – 24 light goods vehicles per year and therefore there is clear potential for the x distance of 2.0 metres to be applied.
- That the report of the planning officer is generally supportive of the development.

6.2. Planning Authority Response

The following is a summary of the main issues raised in the submission received from the Planning Authority:

- The revised access layout submitted as Annex II to the appeal is noted.
- Confirmed that this revised layout was referred to the district engineer and that the council remain of the opinion that the required sight distances cannot be achieved from a position 4.5 metres back from the road edge.
- Noted that the hedgerow removal required to provide a sightline is not within the control of the first party.

6.3. Further Responses

The response of the Planning Authority was referred to the first party for comment and the following is a summary of the main issues raised in the response received:

- The references by the planning authority to a 4.5 metre set back are noted, however what is requested is a reduced set back which is considered appropriate at this existing entrance point.
- That contrary to the view of the planning authority, the movement of the access point eastwards would result in an improvement in safety.
- Noted that a case with circumstances similar to the subject appeal (an energy project sharing its entrance with an existing ESNB entrance to a 110kv sub station which was initially refused permission by the planning authority) has recently been granted by the Board, (ABP Ref. PL04.249377).

7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of the subject appeal:

- Principle of Development,
- Landscape and Visual Impact,
- Traffic Safety and Access,
- Other Issues,
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The appeal site is located on lands that are outside of any identified settlement and which are currently in agricultural use. The site adjoins an existing 110kv sub station and the locational justification given for the proposed development relates to its proximity to this sub station and to the transmission network.

7.2.2. The application documentation provides some background information with regard to the purpose of the proposed development. From this and information presented with other applications, it is apparent that the development comprises a battery storage project which has the purpose of providing quick inputs of power to the grid to ensure the maintenance of grid frequency at the appropriate level and avoid the possibility of outages. Maintenance of grid frequency is an essential requirement for the stability of the grid system and rapid fluctuations in frequency are an issue which arises when the penetration of renewable generating sources onto the grid increases.

7.2.3. I note that one of the Strategic Core Aims of the Plan listed at paragraph 2.4 of the South Tipperary County Development Plan, 2009 (as varied) relates to Climate Change, Energy and Flooding. The specific core aim cited is '*to ensure that the county continues to be a leader in addressing climate change through the facilitation of appropriately located renewable energy developments and through supporting energy efficiency in all sectors of the economy*'. The proposed development that would facilitate the efficient operation of the grid and the increased penetration of renewable energy sources onto the grid would, in my opinion, be consistent with this strategic core aim of the development plan.

- 7.2.4. Section .2.3 of the *Tipperary Renewable Energy Strategy, 2016* relates to the specific area of energy storage and states that future energy storage on a national and regional scale is an integral aspect of the industry. It is also stated that This Renewable Energy Strategy supports the objectives of the White Paper for Energy 2015 as they relate to energy storage as an important element of renewable energy systems in the county. Objective SO13 of the Strategy states that it is an objective of the Strategy ...' ...to support the objectives of the White Paper for Energy 2015 as they relate to energy storage as an important element of renewable energy systems in the county.' In my opinion the proposed development would also therefore, be consistent with the objectives of the Renewable Energy Strategy.
- 7.2.5. The application documentation details how the nature of the proposed development is such that it requires a connection to a sub station on the transmission network that has the capacity to both send and receive power. The number of sub stations which have the capacity to fulfil this role is stated to be limited. A further limiting factor to location is a requirement that the length of the grid connection from the development to the sub station would be limited to reduce as far as practicable environmental implications, disturbance and cost. The appeal site is presented as being one of a very limited number of locations which fulfils the above criteria. On the basis of the information presented, I consider that a clear basis for the form of development and the proposed location have been presented by the first party. The location of the site adjacent to existing grid infrastructure is such that the proposed development would effectively form an extension of the existing sub station and, subject to consideration of other relevant planning and environmental considerations, it is my opinion that the location of the proposed development is acceptable in principle.

7.3. **Landscape and Visual Impact,**

- 7.3.1. The appeal site is not located within an area that is identified in the county development plan as being an area of amenity (Figure 7.1). The site is not located within, and does not impact upon, any listed view as set out in Appendix 4 of the plan. The provisions of Policies LH2 and LH3 relating to protection of listed views and particular protection for the visual amenities of the area are not therefore applicable in the area occupied by the appeal site. The site is also located within Landscape Character Area 4 as per the Landscape Character Assessment of Tipperary 2016 which is the River Suir Central Plains. This LCA is identified in the strategy as having a high capacity for and low sensitivity to development and is

identified as a location where change and development is generally acceptable. In policy terms therefore there is no reason in principle why the location of the proposed development should not be acceptable in terms of visual amenity and landscape impact.

- 7.3.2. The scale of the structures proposed on site in terms of height is relative low. The bulk of the site area is proposed to be covered with rows of battery containers and associated transformers which would have a maximum height above existing ground level of 4 metres. The perimeter fencing is indicated as having a height of 2.6 metres and, within the sub station compound, the sub station building is indicated as having a pitched roof and an overall maximum height of 6.25 metres and the external transformer c.5.85 metres. The highest structures proposed are the lattice cable gantry which is c.9 metres above ground level.
- 7.3.3. The site is well screened by surrounding hedgerows to the local road to the south west and west and such that the extent of clear views of the site from the local road is limited to in the immediate vicinity of the site entrance where the roadside vegetation has been removed to facilitate the recessed entrance into the ESNB sub station and the existing agricultural access to the appeal site.
- 7.3.4. The application was accompanied by a visual assessment and, as part of the further information request issued by the Planning Authority, the applicant was requested to provide montages from additional viewpoints. These additional viewpoints are indicated at Annex II to the response to further information submitted and a total of five viewpoints are presented with existing proposed and proposed after 5 years photomontages presented for each viewpoint. The results of the assessment indicate that the only location where any clear view of the proposed development would be available would be in the immediate vicinity of the site access.
- 7.3.5. On the basis of the information presented and from an inspection of the appeal site and environs, I do not consider that the proposed development would have a significant adverse impact on visual amenity or on the rural landscape of the area.

7.4. Traffic Safety and Access,

- 7.4.1. The basis for the refusal of permission by the Planning authority relates to the available visibility at the access to the site and the degree to which the proposed development would have a negative impact on traffic safety. The reason for refusal of permission cited by the Planning Authority makes reference to the fact that the

sight line requirements as set out in Table 10.1 of the Development Management Standards section of the plan cannot be met in the development without undertaking sight line improvement works on lands that are outside the control of the first party and that the proposed development would therefore be contrary to Policy DM1 of the plan that requires developments to comply with the relevant development management standards, would result in the creation of a traffic hazard and would be contrary to the proper planning and sustainable development of the area.

- 7.4.2. The proposed entrance to the development is an existing entrance that is shared with the adjoining ESNB sub station and which comprises a recessed entrance from which access to the current appeal site is also available. The access arrangements as submitted with the application and assessed by the Planning Authority provide for the retention of the existing frontage to the road and the creation of a new access road that would run along the western boundary of the appeal site. A sight line of 90 metres in each direction from a position 2.4 metres back from the road edge is indicated. A revised layout submitted with the first party appeal indicates some alteration to the approach to the junction with the local road from within the site and the addition of signage / road markings which would direct traffic exiting the site to a position at the furthest east end of the junction with the local road. A sight line of 90 metres by 2.0 metres is indicated on this revised layout.
- 7.4.3. The assessment undertaken by the council's district engineer is an assessment of the ability of the proposed access to meet a sight line standard of 90 metres measured from a position 4.5 metres back from the road edge. Neither the existing nor proposed access arrangements to the site or the ESNB sub station are capable of meeting this standard in either direction, particularly to the west of the entrance where a roadside hedgerow boundary, that is located on lands outside the control of the first party, restricts visibility.
- 7.4.4. The first party appeal sets out a number of factors which it is submitted need to be taken into account in the assessment of the proposals for site access. Firstly, the fact that the entrance is an existing one is highlighted. In this regard, I would note that the appeal site which is in agricultural use has an existing access via the combined recessed entrance which it shares with the ESNB sub station site. This access is stated to be currently utilised at a higher intensity than that which would be the case during the operational phase of the proposed development where 20-24 light good vehicles are predicted to access the site. During the construction phase, the first party has set out a number of measures that would form the basis of a

construction traffic plan for the site. These measures include traffic lights where required, one way haul route, use of a banksman at entrance and the unloading of all deliveries within the site. An outline of the predicted construction traffic volumes and movements is provided at Appendix 9 of the Planning Application Summary Document and this shows a total 164 HGV traffic movements over the 26 week construction period with the average daily movements relatively constant over this period and peaking at 8 no. per day. The nature and volume of the construction traffic and the availability of space within the site and off the local road for unloading and management of deliveries is such that it is my opinion that the satisfactory and safe management of construction traffic as proposed by the first party is feasible in this location.

7.4.5. While Table 10.1 of the Plan sets out a set back requirement of 4.5 metres when calculating sight lines for commercial development, I note the provisions of TD41/95 as highlighted in the first party appeal which provides for a 4.5 metre X distance in circumstances where the development is such that more than one vehicle may be looking to access the main road at a time, (see paragraph 2.21 of TD41/95). I also note the provisions in TD41/95 for situations of lightly used accesses where the site conditions are particularly difficult, that the set back 'x' distance may be reduced to 2.0 metres as a relaxation. The nature of the predicted operational phase traffic at the proposed development is such that the site will be served by light goods vehicles with a single vehicle exiting the site at a time. In my opinion, the nature of the access in the operational phase of the development is therefore closer to that of a single dwelling than a commercial development and such that it is appropriate that a reduced set back X distance would be used in the assessment of sight lines.

7.4.6. Having reviewed the available information, and having regard to the existing usage of the site entrance for agricultural purposes (and that of the adjacent access by maintenance traffic visiting the ESNB 110kV substation), the low volume and light good vehicle nature of the predicted traffic during the operational phase of the proposed development as well as the nature of the traffic management measures proposed by the first party to ensure the safe operation of the site access in light of the increased traffic volumes during the construction phase, it is my opinion that a relaxation of the 'X'-distance is permissible in this instance and that the sightlines available from the proposed entrance are within acceptable limits. It is therefore in my opinion appropriate that permission would be granted for the proposed development subject to conditions requiring the submission of a construction traffic

management plan. As highlighted by the first party appellant, this approach is generally consistent with that adopted by the Board in respect of a number of appeals relating to renewable energy infrastructure, most notably that for the construction of a solar PV development on lands at Curraduff, Glenlara, Co. Cork (ABP Ref. PL04.249377) which included access via an existing agricultural field gate which opens onto the adjacent splayed entrance arrangement serving the neighbouring ESB Glenlara 110kV substation.

7.5. Other Issues,

- 7.5.1. The photomontages submitted with the application documentation indicate views of the site post development and five years post development with **landscaping** in place. An area of native planting in the area closest to the road at the southern end of the site is indicated on the submitted Site Layout Plan (Figure 1.1) however no details of this planting has been provided. In the event of a grant of permission it is recommended that the developer be required to submit a site landscaping plan for agreement.
- 7.5.2. With regard to **Environmental Impact Assessment**, the nature of the proposed development is such that it does not fall within a class of development set out in Part 1 or Part 2 of the Fifth Schedule of the Planning and Development Regulations, 2001 (as amended). Specifically, the nature of the project is such that it does not generate power and therefore does not come within the scope of any of the classes of development set out in the Fifth Schedule. Related to this, the application detail does not indicate whether the proposed development was the subject of pre application consultations with the Board under the provisions of the **Strategic Infrastructure Act**. On the basis that the proposed development is not for the generation of electricity being a net user of electricity rather than a net generator, it is my opinion that notwithstanding the fact that the development would be connected to the transmission system, the proposed development would not come within the definition of transmission used in s.182A of the Act. Specifically, the proposed development is not a 'generating station' and would not therefore lead to the conveyance of electricity from a generating station to a substation or from one generating station to another.
- 7.5.3. The issue of **noise** and noise impact is addressed at section 8 and Appendix 10 of the Planning Application Supplementary Document submitted with the application

and the noise assessment included at Appendix 10 indicates that noise impacts during the operational phase at local receptors are minimal. The main source of potential operational noise derives from the inverter units located within each container, as well as external heat pumps, condensers and transformers. Sound power data for the relevant equipment is included in the assessment and the assessment indicates that the maximum night time noise level at the closest dwelling to the site (that located c.100 metres away from the site boundary to the west) would be 32LAeq dB with a 5dB allowance made for a potential tonal component in the noise. On the basis of this analysis operational noise emissions from the development are not considered likely to have any impact on residential amenity.

- 7.5.4. An **archaeological assessment** was undertaken as part of the application documentation and this is contained at Appendix 5 of the Planning Application Summary Document. There is no record of archaeological sites on or within 100 metres of the appeal site and, as part of the mitigation measures proposed, an archaeologist would supervise all soil stripping and excavation works. Subject to the supervision of such works the proposed development is not considered likely to have any significant adverse archaeological impacts.
- 7.5.5. Notwithstanding the fact that the design of the battery containers and electrical connections between the units is designed to be installed with the minimum of intervention on the site, it is considered that the form and scale of the development is such that it is appropriate that a **bond** to ensure the satisfactory reinstatement of the site at the end of the projected 30 year lifespan of the development would be undertaken.
- 7.5.6. The issue of **safety and fire safety** in particular was raised by the Planning Authority as part of the further information request issued. It is also noted that this issue was one of the main points raised in one of the third party submissions received by the Planning Authority. As part of the response to the further information request, the applicants submitted an **Outline Accident and Emergency Action Plan**. This plan contains an assessment of the fire safety risk arising and sets out the safety features proposed to be incorporated. These features include the use of 'stationary' lithium ion batteries housed in containers that are fire resistant and sited to limit the potential spread of fire. A fire detection and suppression system is proposed to be installed and a system of management of the charging and discharging process is proposed to be installed. A fire fighting gas supply is proposed to be provided within each container and the applicant is open to additional on site fire water storage being

provided subject to the detailed requirements of the Fire Officer. On the basis of the information presented and having regard to the separation of the site from environmentally sensitive locations and residential properties (100 metres between the site boundary and the closest residential property) , it is considered that the submitted Outline Accident and Emergency Plan is acceptable in principle. In the event of a grant of permission it is recommended that the submission of a detailed plan for the agreement of the council would be required by way of condition.

- 7.5.7. The application documentation shows an indicative **grid connection** between the site and the ESNB sub station located immediately to the north of the appeal site. As highlighted by the first party, the exact nature of the connection route and format is not definitive as this will be the subject of the detailed requirements of ESB networks when a connection agreement is made. No such connection agreement can be reached until such time as a grant of permission has been obtained from the applicants. In terms of the potential impacts of the grid connection it should however be noted that the relative locations of the appeal site and the ESNB sub station site are such that a direct connection between the two sites is feasible without impacting on any other lands. The issue of the grid connection is referenced further in the sections below.

7.6. **Appropriate Assessment**

Screening Assessment

- 7.6.1. The appeal site is located such that the following sites are located within a 15km radius of the site:
- Lower River Suir SAC (site code 002137)
 - Galtee Mountains SAC (site code 000646)
- 7.6.2. The Lower River Suir is located such that it is approximately 5km from the appeal site at the closest point which is to the east of the site. There is a hydrological connection between the appeal site and the Lower River Suir SAC in the form of the stream that runs along the southern boundary of the site at the boundary with the local road. This stream connects with the Fidaghta River to the east of the site and this subsequently discharges to the River Suir within the SAC and at a point that is c.8km to the south east of the appeal site. The hydrological distance between the appeal site and the SAC via this watercourse(s) is estimated to be c.10-11km.

7.6.3. The Galtee Mountains SAC is located c.9km to the south of the appeal site at the closest point. There are no pathways between the appeal site and the SAC such as would facilitate the transmission of discharges to the environment potentially generated by the form of development proposed in the subject application. It is not therefore considered that the Galtee Mountains SAC site could be potentially affected by the proposed development and it is not therefore proposed to consider this site further in this screening assessment.

Lower River Suir SAC (site code 002137)

7.6.4. The following are the conservation objectives for the Lower River Suir SAC site:

- Atlantic salt meadows
- Mediterranean salt meadows
- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation
- Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels
- Old sessile oak woods with Ilex and Blechnum in the British Isles
- Alluvial forests with Alnus glutinosa and Fraxinus excelsior
- Taxus baccata woods of the British Isles
- Margaritifera margaritifera (Freshwater Pearl Mussel)
- Austropotamobius pallipes (White-clawed Crayfish)
- Petromyzon marinus (Sea Lamprey)
- Lampetra planeri (Brook Lamprey)
- Lampetra fluviatilis (River Lamprey)
- Alosa fallax fallax (Twaité Shad)
- Salmo salar (Salmon)
- Lutra lutra (Otter)

7.6.5. The elements of the proposed development that have the potential to give rise to significant effects on the European site are considered to be as follows:

- The excavation and earthworks required to facilitate the construction of the project would give rise to sediment run off and potential impact on water quality downstream within the SAC.
- Construction activity would potentially give rise to discharges of hydrocarbons to the aquatic environment that would lead to a deterioration of water quality within the SAC.
- A significant failure or fire during the operation of the project could give rise to the discharge of pollutants from batteries and other equipment and fire fighting discharges that could enter the adjacent watercourse and lead to a deterioration in the water quality downstream within the SAC.

7.6.6. The following potential in combination effects can be identified:

- The potential for an incident at the proposed development such as a fire to cause damage to and discharges from the adjoining ESB Networks 110kv sub station.

7.6.7. The potential effects of the proposed development on the SAC using the source – pathway – receptor model are as follows:

- The potential for construction phase impacts in terms of sedimentation or the discharge of pollution to the adjacent watercourse from construction activity to impact on the SAC is not considered to be either likely or significant by virtue of the separation distance between the main part of the site boundary and the watercourse to the south. This separation distance is approximately 40 metres and is such that there is adequate space to ensure that construction activity would not result in discharges to the watercourse. This, in conjunction with the c.10-11km hydrological pathway between the appeal site and the SAC and the fact that the most water quality sensitive qualifying interest of the SAC (the freshwater pearl mussel) is located such that the pearl mussel catchment is located in the River Clodiagh catchment and not within potential influence of the main River Suir channel (see Map 6 of the Lower River Suir

SAC Conservation Objectives), means that no significant effects from construction pollution are considered likely to arise.

- With regard to the potential for operational phase fire or other incident to result in a potential effect on the SAC, the separation distance between the appeal site and the watercourse that provides the pathway as well as the on site design and fire protection measures proposed and the hydrological distance between the appeal site and the SAC are such that no significant effects from operational phase pollution are considered likely to arise.

7.6.8. Having regard to the above, the proposed development is not likely to have significant effects on the Lower River Suir SAC in light of its conservation objectives.

8.0 Recommendation

8.1. Having regard to the above, it is recommended that permission is granted based on the following reasons and considerations and subject to the attached conditions:

9.0 Reasons and Considerations

Having regard to:

(a) National and local policies in relation to renewable energy, in particular,

- the National Renewable Energy Action Plan 2010,
- the Strategy for Renewable Energy 2012-2020,
- Ireland's Transition to a Low Carbon Energy Future 2015-2030, and
- the Tipperary Renewable Energy Strategy 2016-2030 in favour of the deployment of renewable energy,
- the South Tipperary County Development Plan, 2009 (as varied) and specifically the strategic core aim relating to the facilitation of appropriately located renewable energy developments,

(b) the scale, extent and layout of the proposed development, and

(c) the pattern of development in the area including the location adjoining an existing sub station, 110kv line and the existing access arrangements to the site,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with national and local policy, would not seriously injure the visual or residential amenities of the area, would be acceptable in terms of landscape impacts and traffic safety and convenience and would not endanger human health or the environment. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the Planning Authority on the 15th day of January, 2019, and by the further plans and particulars received by An Bord Pleanála on the 26th day of March, 2019 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interests of clarity.

2. Prior to the commencement of development, the developer shall submit details of an Accident and Emergency Action Plan which sets out the detailed procedures to be followed in the event of an accident or fire for the written agreement of the Planning Authority.

Reason: To ensure the protection of the environment and surrounding lands and properties in the event of an emergency at the site.

3. (a) The permission shall be for a period of 30 years from the date of the commissioning of the energy storage facility. The battery container units, transformers and all other permitted equipment and 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 all permitted equipment including the battery container units including all foundations, transformers, substation, CCTV cameras, fencing and site access to a specific timescale, shall be submitted to, and agreed in writing with, the planning authority.

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

4. 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.

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) The species, variety, number, size and locations of all proposed trees and shrubs

(ii) Details of screen planting to the southern and eastern boundaries of the site.

(c) A timescale for implementation.

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

Reason: In the interest of residential and visual amenity.

6. (a) No 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.

(c) The battery containers and transformers shall be dark green in colour. The external walls of the proposed substation shall be finished in a neutral colour such as light grey or off-white and the roof shall be of black slate or tiles.

Reason: In the interests of clarity, protection of visual and residential amenity.

7. Prior to the commencement of development, details of the proposed surface water drainage system shall be submitted for the written agreement of the Planning Authority.

Reason: To protect the environment and to ensure that measures are implemented to address any potential flooding arising from this development.

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 and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

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

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

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

9. 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 but not limited to, hours of working, noise and dust management measures, surface water management proposals, the off site disposal of construction waste and proposals for the management of construction traffic including details of the timing and routing of construction traffic to and from the site, signage / traffic management measures and proposals to facilitate the safe delivery of materials and equipment to the site;

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

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.

11. 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.

Stephen Kay
Planning Inspector

4th July, 2019