



An
Bord
Pleanála

Inspector's Report ABP-305854-19

Development	Permission to amend the design of the approved development (PA Ref 20171680) which comprises consent for the development of a temporary (25 year) ground mounted solar panel photovoltaic (PV) farm to generate electricity on a 10.4 hectare site.
Location	Killabeg, Tinnacross, Co. Wexford
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20190441
Applicant(s)	Renewable Energy System Ltd.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First Party – To amend Condition 3 of the Grant of permission such that the lifespan of the development is extended from 25 years to 35 years.
Observer(s)	Paul Kehoe TD

Date of Site Inspection

8th January 2020

Inspector

Paul O'Brien

1.0 Site Location and Description

- 1.1. The subject site with a stated area of 10.4 hectares, comprises an area of land directly to the south east of a farmyard/ farmhouse (Avonbeg House as labelled on the submitted plans) located to the north east of Enniscorthy town. Access to the farmyard is by way of a long straight driveway of circa 440 m which connects to a local road to the west. There is a steady climb from the local road to the farmyard. The farmyard consists of a single storey extended house to the south west corner and a mix of open/ closed sheds and agricultural buildings. Approximately 80 m to the east of the farmyard/ north of the subject site, is a fenced off area of land which is heavily overgrown; this area is known locally as the 'Old Church' and is not within the subject site lands.
- 1.2. The subject site consists of a large agricultural field that was under grass on the day of the site visit. The field forms part of a significant area of land in agricultural use. The field sloped downwards on a north to south axis. A hedgerow forms the eastern boundary. A wooden post and wire fence is found on the southern and northern site boundaries. There was no formal boundary on the western side of the site. Beyond the southern boundary is a narrow strip of trees which sides onto a tributary stream of the River Slaney. To the east of the site is a detached house, partially screened from view by trees and the hedgerow. A small cluster of houses is located to the south east of the site. The site and surrounding landscape can be described as consisting of rolling hills.
- 1.3. To the south east approximately, 565 m from the south east point of the site, is a large electricity substation. This electricity substation is visible from the northern end of the subject site. 110 kV powerlines are located to the east of the site and which connect to the substation. The recently opened M11 – Enniscorthy by-pass, is located to the east of the substation.

2.0 Proposed Development

- 2.1. The proposed development consists of amendments to the development approved under P.A. Ref. 20171680 as follows:

- To amend the lifespan of the consented development from the permitted 25 years to 35 years.
- Amendments proposed include: no changes to red line boundary and a reduction in the number of CCTV cameras from 16 to 11; solar panel height increase from 2.3 m to 2.5 m, angle span amended from 20 - 30 degrees to 10 - 40 degrees.
- Panel layout slightly reconfigured and increased; western perimeter fence removal to link with consented solar farm (ref: 20171127). Fence change from mesh to deer fencing (cond. No. 14); access track increase of 17.5 sq m;
- Replace combined energy storage area and temporary compound (5,500 sq m) with 3,075 sq m energy storage area and a 3,000 sq m temporary compound.
- Removal of grid connection substation and 3 energy containers. Replace three solar farm substations with two slightly larger substations.
- Overall increase in the amount of ground disturbance of circa 766.5 sq m.
Overall decrease in the land take for the duration of the operational stage by circa 2,233.5 sq m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Following the receipt of further information, the Planning Authority decided to grant permission subject to a total of 16 no. conditions. The conditions are generally standard. Specific conditions relate to the completion of the development within 5 years of the receipt of the grant of permission, permission shall be for a limited period and all structures to be removed within 25 years of commencement of this development, measures to reduce glint and glare to a neighbouring house to be provided prior to the commencement of development, no artificial lighting to be used/ provided on site, details of the anchoring of the solar panels are specified (driven pile, screw pile or pre cast ballasted foundations only), cables from the solar arrays shall be located underground, standard condition with reference to archaeology, landscaping of the site to be carried out within 12 months and native wild grass and flower seeds to be planted on site. Any fencing shall allow for the movement of badgers and other wildlife through the site.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Authority Case Officer recommended refusal following the receipt of further information and clarification of further information. The primary issue of concern that was raised was the need for a revised Glint and Glare Assessment, and the submitted report in this regard, indicated that the house to the east of the subject site and the public road also to the east would suffer excessive glare on an annual basis. This would result in a negative impact to residential amenity and could give rise to a serious traffic hazard along the public road. This decision was signed by the Case Officer and the Senior Executive Planner.

A supplementary report signed by the Senior Planner overruled the decision to refuse permission and a grant of permission was issued for the development as described. Additional landscaping was proposed to address issues of concern regarding glint and glare. It was recommended by condition that the lifespan of the permission be only for a period of 25 years.

3.2.2. Other Technical Reports

Roads Inspection Report: No objection.

Senior Executive Scientist – Environment: Reported on the received further information response and the clarification of further information and had no objection to the development subject to condition.

3.2.3. Prescribed Bodies Reports

Transport Infrastructure Ireland (TII): No objection.

Department of Culture, Heritage and the Gaeltacht: No objection subject to archaeological conditions.

3.2.4. Objections/ Observations

A single submission was received. Issues raised included:

- It is correct to keep the 25-year lifespan of this permission as this is new technology and a similar policy applies in the UK.
- There is a need for a new Glint and Glare Assessment as there are significant differences from what was previously permitted.

- The site is in close proximity to the M11 motorway and the Glint and Glare Assessment should take full account of this.
- Cumulative impact of solar farms in the area and there should be a similar condition to that applied to a previous An Bord Pleanála decision under ABP Ref. 300427 in that a community liaison committee be formed to administer a community benefit fund detailed in the applicant's report.

Similar comments were made with respect to the received further information response and the clarification of further information.

4.0 Planning History

P.A. Ref. 20171680 refers to a March 2018 decision to grant permission for the development of a temporary (27 years) ground-mounted solar photovoltaic (pv) farm to generate renewable electricity on a 10.4 ha site, comprising solar arrays, energy storage, associated electrical infrastructure, fencing, access improvements and ecologically beneficial landscape works. Permission was granted for a period of 25 years, at the end of which the site to be returned to its pre-development condition.

P.A. Ref. 20190440/ ABP Ref. ABP-305852-19 refers to a concurrent application/ appeal for amendments to an approved development under P.A. Ref. 20171127 on the adjoining lands to the west of the subject site. Amendments are similar to that of the subject appeal and the applicant, again the same as this appeal, has appealed Condition no. 3, the 25-year duration of the permission.

5.0 Policy and Context

5.1. Development Plan

Under the Wexford County Development Plan 2013 – 2019, Section 11.3.5 refers to Solar Power and states the following:

'Solar power can be used in buildings to produce heat and electricity. It can be in the form of thermal solar energy (passive and active) or photovoltaic solar energy.

Passive solar heating refers to the way in which buildings are designed to maximise

solar gain and minimise heat loss. Active solar energy is where solar panels are used to transform solar energy into heat to provide space and/or water heating. Solar Photovoltaic Systems use daylight to convert solar radiation into electricity; the greater the intensity of light, the greater the flow of electricity.

It is an objective of the Council:

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’.

The site is on un-zoned land and there are no specific designations associated with these lands.

There are no protected structures on these lands, however there are a number of monuments located to the north of the site as follows:

WX020-004001 – Church

WX020-004002 – Graveyard

WX020-004003 – Font

WX020-004004 – Ecclesiastical Enclosure

The area of land containing these monuments, was fenced off from access on the day of the site visit and the proposed development does not directly impact on this area of land.

5.2. National Planning Framework

- 5.2.1. **National Strategic Outcome 8** – Recognises the need to harness both on-shore and off-shore potential from energy sources including solar. The following points are noted:

Green Energy

‘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’.

5.2.2. **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’.*

5.3. **Guidelines**

No national guidelines have been issued to date. I have noted the following as of relevance to this development:

Planning and Development Guidance Recommendations for Utility Scale Solar Photovoltaic Schemes in Ireland (October 2016 report prepared by Future Analytics for the Sustainable Energy Authority Ireland/ SEAI).

Planning guidance for the development of large scale ground mounted solar PV systems (British Research Establishment/ BRE – 2016).

5.4. **Natural Heritage Designations**

The Slaney River Valley SAC (Site Code 000781) is located within 50 m of the south of the site. Due to the meandering nature of the river to the north of Enniscorthy, the subject site lies within 1 km of this SAC at a number of points.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The applicant has engaged the services of Tony Bamford Planning (TBP), who has prepared an appeal with reference to condition no. 3 of the grant of permission by Wexford County Council. Specifically, the applicant is seeking the revision of the 25 - year duration of permission such that it be for a period of 35 years.

The following supporting comments are made:

- The Planning Authority reasoning for a 25-year permission is based on windfarm developments, where permission is limited to a similar period.
- The Planning Authority assume that the proposed solar technology has a lifespan of 25 years, this is incorrect as warranty documentation from manufacturers indicates a life span of 30 years.
- To meet the 25-year permission, decommissioning would start in year 23, thereby reducing the life span further.
- Reference the Development Management Guidelines (2007) and temporary permissions. Wexford County Council are not being reasonable/ consistent as permission for a solar farm was recently granted for a 30-year operational life.
- An assessment of the development found that there were no substantive impacts arising from a lifespan of 35 years.

6.2. Observations

- Paul Kehoe TD has submitted a representation in support of the applicant, seeking to increase the lifespan of the consented development from 25 years to 35 years.

7.0 Assessment

- 7.1.1. As the appeal refers to Condition no. 3 only, this will be assessed in accordance with Section 139 of the Planning and Development Act 2000 as amended.
- 7.1.2. In general, the subject application is similar to that approved under P.A. Ref. 20171127. The alterations in the panels include a slight increase in height by 20 cm, a reduction in the number of on-site storage containers, revised pathway layout, reduced number of substations and a reduction in the number of CCTV cameras. The development of this site for use as a solar farm has been established under P.A. Ref. 20171127 and there has been no change in circumstances or regulations that would impact on the development of this site for the generation of solar power. The extension of the lifespan of the permission from 25 to 35 years would not impact negatively on the visual or residential amenity of the area.

7.2. Lifespan of the Consented Development – Condition No. 3

- 7.2.1. P.A. Ref. 20171127 included condition no. 3 which required the removal of the solar panels/ support structures not later than 25 years from the date of commencement of the development and the site to be restored to its former use. The subject application included a similar condition, and it is the 25 - year lifespan of the permission which the applicant is now appealing.
- 7.2.2. In the appeal, the applicant has set out the justification for an extended lifespan of permission, preferably for an operational period of 35 years. The applicant states that the ‘Solar panel manufacturers are generally only willing to stand over their products’ performance for 30 years..’. The applicant is now seeking a permission to facilitate an operational life of between 30 to 35 years. The applicant is proposing to install double sided or ‘Bi-facial’ modules; these capture a portion of the light reflected from the ground. The applicant has included trade details from Qcells, the manufacturer of these panels, and which provides technical details of the proposed panels. The trade details state that the performance in year one is at least 98% with a fall of 0.5% per year thereafter. After 10 years the nominal power is 93.5%, falling to 86% up to year 25 and 83.5% in year 30.
- 7.2.3. The applicant has referenced a section of the Irish Solar Energy Association Guidelines – ‘*Planning Considerations for the Development of Ground Mounted Solar*’ (2017) and whilst I acknowledge that these guidelines are from within the industry, the following are noted as particularly relevant:
- ‘Solar PV farms should normally be regarded as a temporary use of land. The expected physical lifetime of the solar panels is approximately 30 years. Applicants should request a grant of permission on the basis of a 30-35 year operational period from the date of commissioning of the solar farm’.*
- 7.2.4. The applicant has referenced similar solar panels in Sweden that are still performing after 35 years of use. The applicant suggests that extending the lifespan of this permission to 30 years would outweigh any limited impacts that may result. As some developments have received 30- or 35-year planning consents and others only 25 years, there arises an issue that those with shorter permissions will not be as viable as those with the longer permitted life spans. The Department of Communications,

Climate Action and Environment operate a 'Renewable Electricity Support Scheme' which is operated on a bid basis; developments with longer duration planning consents may benefit over those with shorter duration permissions.

- 7.2.5. The applicant has referenced a number of applications throughout the Country, where permissions of 30 – 35 years have been granted. One of these applications is in County Wexford – P.A. Ref. 20181768 refers and three of the attached conditions were subsequently appealed (ABP Ref. 303994 refers). The condition which limited the permission to a duration of 30-years, did not form part of the appeal and was not revised.
- 7.2.6. I have noted the appeal and the supporting documentation. I note that the issue of the lifespan of permission is applied on a somewhat random basis with permissions of between 25 and 35 years applied nationwide. Electricity from solar panels is a relatively new form of energy production in this country and no national planning guidelines have been provided to date. From a land-use planning point of view, the extensive use of agricultural land for solar panels may result in the loss of high-quality farmlands. It is accepted that the farming sector is undergoing change and diversification is encouraged. The development does not prevent the use of the land for agricultural purposes but will limit the range of uses whilst in situ. The nature of the development is such though, that it is relatively easy to reverse the impact and subject to demand/ commercial considerations/ change in circumstances, it would be easy to remove the solar farm and return the land to solely agricultural use in a relatively short period of time. It has been argued within the solar energy industry that the operation of the solar farms reduces intensive farming for a period of time thereby allowing the soil/ land to regenerate.
- 7.2.7. The *Development Management Guidelines* (June 2007) clearly set out in *Section 7.5 Temporary permission*, considerations for imposing a temporary permission. I consider it appropriate to impose a temporary rather than a permanent permission as the warranty on these solar panels is for a period of 30 years and it is appropriate that they be removed when their efficiency to produce energy is degraded such as to be uneconomical. A condition setting out the duration of the permission, makes clear to all, that the development is permitted to be in place for a fixed period of time and shall be removed at the end of that period.

7.2.8. The Wexford County Council Case Officer considers a temporary period of 25 years as appropriate for renewable energy infrastructure having regard to the improvement in technologies associated with windfarms over the last 15 years. The Wexford County Council Senior Planner concurs with the conditioning of a lifespan for 25 years only. I note that *Draft Revised Wind Energy Development Guidelines* were issued in December 2019 by the Department of Housing, Planning and Local Government. Under *Section 7.22 Time Limits* the following is considered to be relevant:

‘The discretion on the particular time limit for an individual application will rest with the planning authority, taking into account the specific technology being used. However, current technology would suggest that a time limit of approximately 30 years is reasonable’.

Considering the appeal details, the submitted warranty information from the manufacturer and the nature/ location of the development, I consider that a revised temporary permission of 35 years would be appropriate for this development in this location. From the manufacturer’s information submitted with the appeal, the efficiency of the solar panels is likely to be significantly reduced at the end of the 30-year period and their replacement is likely to be necessary at that stage. The granting of a 35-year permission does not prevent the replacement of the structures/ panels in the meantime if a new more efficient technology is developed. That is a commercial matter and any planning considerations would be assessed in the normal manner through the submission of a new planning application to the Planning Authority.

7.3. Appropriate Assessment Screening

7.3.1. An Ecological Impact Assessment (EclA) was prepared by Natural Power Consultants (Ireland) on behalf of the applicant under P.A. Ref. 20171127 and Appendix 7 of the application report included an Appropriate Assessment (AA) Screening. No impacts on any designated sites were foreseen and no further assessment was required. The subject development is similar in nature to that permitted under 20171127.

- 7.3.2. The submitted appeal is for the extension of the lifespan of the development from 25 to 35 years. No Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

In light of the above assessment, I recommend that the Board, using its powers under Section 139 of the Planning and Development Act 2000 as amended, direct the Planning Authority that Condition no. 3 be amended.

9.0 Reasons and Considerations

Having regard to the provisions of the Wexford County Development Plan 2013 – 2019 as extended, and the planning history of the site, it is considered that Condition no. 3 attached to the grant of permission under P.A. Ref. 20190441 should be revised such that the lifespan of the permission be for 35 years and not the 25 years as conditioned by the Planning Authority. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Amended Condition:

3. All structures hereby authorised shall be removed not later than 35 years from the date of commencement of the development, and the site shall be reinstated unless planning permission has been granted for the retention of the structures for a further period prior to that date. Prior to the commencement of development, a detailed restoration plan, providing for the removal of foundations/ anchors and access roads to a specific timetable shall be submitted to the Planning Authority for written agreement. On full or partial decommissioning of the solar farm, or if the solar farm ceased operation for a period of more than one year, the solar arrays including foundations shall be dismantled and removed from the site. The site shall be restored in accordance with the said programme (including all access roads) and all decommissioned structures shall be removed within three months of decommissioning.

Reason: To enable the Planning Authority to consider the impact of the development over the stated time period, to enable the Planning Authority to review the operation of the solar farm having had regard to the circumstances then prevailing and in the interest of orderly development.

Paul O'Brien
Planning Inspector

5th February 2020