



An
Bord
Pleanála

Inspector's Report ABP307891-20

Development	Solar Farm.
Location	Garrenleen, Bendistown, Tinnaclash, Ardbearn, County Carlow.
Planning Authority	Carlow County Council
Planning Authority Reg. Ref.	20143
Applicant(s)	Terra Solar II Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First v Refusal
Appellant(s)	Terra Solar II Limited
Observer(s)	See report below.
Date of Site Inspection	15 th September 2021.
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The application site comprises two parcels of land with a combined area of 127h to the north of the N80 between Ballon village to the southeast and junction 5 of the M9 with the N80 to the northwest. The larger/more southern section of the application site is accessed from the L7111 which has a junction with the N80 while the smaller/more northern element of the site is accessed off the L7112. The lands are currently used for agriculture which is the dominant landuse in the area. There is extensive one-off housing development along the local road network and a large concrete manufacturing plant at the junction of the L7111 and the N80. The N80 is a major regional route in good repair with good sightlines and a hard shoulder at the junction with the L7111. The L7111 is single carriageway and without a median line or footpaths in the vicinity of the application site. The L7112 is similarly a narrow county road.
- 1.2. The area is within the catchment of the Barrow river which flows through Carlow town to the northwest of the application site. The Burren river flows south to north under the N80 and through the site to turn west north of the site and decants into the Barrow in Carlow town.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a solar farm which will connect to the national grid on lands of about 127ha, including solar panels on ground mounted frames, 28 single storey electrical inverter/transformer stations, and associated equipment container, security fencing, satellite communications pole, CCTV, upgrade existing access tracks and construct new access tracks, temporary construction compounds, landscaping and ancillary works at Garrenleen, Bendistown, Tinnaclash, Ardbearn, County Carlow.
- 2.2. A grid connection is not part of this application.
- 2.3. The application is for a 10-year permission.

3.0 Planning Authority Decision

3.1. Decision

Permission refused for two reasons.

1. The design and scale of the proposed development (127ha and an energy output of 95MW) would be contrary to Section 6.5.1 in relation to Solar Energy and to Energy policy 9 of the County Development Plan.
2. The application site adjoins the River Burren which is a tributary of the River Barrow which is part of the River Barrow and River Nore SAC (002162). The planning authority is not satisfied that the proposed development would not give rise to ecological impacts and would not significantly affect the SAC and thereby materially contravene Heritage Objective 5 in relation to the protection of European sites set out in the Carlow County Development Plan.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report recommended refusal as set out in the manager's order.

3.2.2. Other Technical Reports

3.2.3. The Department of Housing, Local Government and Heritage (**Development Applications Unit**) noted that there is a recorded monument (RMP CW013-121 Enclosure) which was spatially undefined and the extend of any proposed buffer zone wis therefore uncertain.

3.2.4. The **HSE** commented that there are generally no direct emissions to surface water from solar farms. A flood risk assessment was carried out which demonstrated that there will be no flooding arising from the proposed development. The Visual Impact Assessment demonstrates that the proposed development will not give rise to significant visual impacts. The glint/glare assessment included mitigation measures

in relation a small number of houses. No noise assessment was submitted with the application.

3.2.5. No alternative locations were considered, and no rationale was submitted for dividing the site into two sections. Public consultation in advance of making the application was limited. A noise assessment of impacts on sensitive receptors should have been submitted. Wells in the area should be identified and CEMP should include mitigation measures.

3.2.6. The Environment Section commented that.

- the project is not subject to EIA.
- The area along the western boundary along the Burren River may be susceptible to floor risk.
- The noise impacts are assessed in the submitted Planning and Environmental Statement. Noise should be subject to a separate assessment.
- An additional report on the potential impacts of EMF generated by all elements of the proposed development should be submitted.
- The biodiversity management plan is noted.
- The Construction Environmental Management Plan is noted but a final version of the plan is required to fully assess the potential effects on European sites.
- The Glint/Glare report is inadequate.
- The NIS is inadequate on several points.
- Further information should be sought.

3.3. **Transport Infrastructure Ireland** reported no objection.

3.4. The planning authority's **Transport Section** reported no objection subject to consultation in relation to access/agrees arrangements.

4.0 **Planning History**

No relevant planning history.

5.0 Policy and Context

5.1. National Policy

National Planning Framework

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.

National Renewable Energy Plan 2010

The National Renewable Energy Action Plan (NREAP) sets out the Government's strategic approach and measures to deliver on Ireland's 16% target Directive 2009/28/EC. It states that the Government has set a target of 40% electricity consumption from renewable sources by 2020.

Strategy for Renewable Energy 2012-2020

The Strategy states that the Government's overriding energy policy objective is to ensure competitive, secure and sustainable energy for the economy and for society.

Adapting to Climate Change and Low Carbon Act 2015

This Act sets a statutory framework for the adoption of plans to ensure compliance with Ireland's commitments to European and international agreements on climate change. It commits to a carbon neutral situation by 2050 and to also match Ireland's targets with those of the EU. It requires that the Minister for Communications, Climate Action and the Environment make, and submit to Government, a series of successive National Mitigation Plans and National Adaptation Frameworks.

Ireland's Transition to a Low Carbon Energy Future 2015-2030

Accelerate the development and diversification of renewable energy generation to be achieved through a number of means including wind, solar PV and ocean energy.

Draft Renewable Energy Policy and Development Framework 2016

The main principles of the Renewable Electricity Policy and Development Framework include:

- Maximise the sustainable use of renewable electricity resources in order to develop progressively more renewable electricity for the domestic and potential, future export markets.
- Assist in the achievement of targets for renewable energy, enhance security of energy supply and foster economic growth and employment opportunities.

Climate Action Plan, 2019

The plan stresses the importance of decarbonising electricity consumed by harnessing the significant renewable energy resources. Ensuring the building of renewable rather than fossil fuel generation capacity to help meet the projected growth in electricity demand is essential. Ensuring increased levels of renewable generation will require very substantial new infrastructure, including wind and solar farms, grid reinforcement, storage developments, and interconnection.

To meet the required level of emissions reduction, by 2030 it is required to increase electricity generated from renewable sources to 70% comprising of up to 3.5GW of offshore energy, 1.5 GW of grid-scale solar energy and 8.2GW of onshore wind capacity (indicative figures).

5.2. Regional Policy

- 5.3. The **Regional Spatial and Economic Strategy for the Southern Region (RPO 95)** states that “it is an objective to support implementation of the National Renewable Energy Action Plan (NREAP), and the Offshore Renewable Energy Plan and the implementation of mitigation measures outlined in their respective SEA and AA and leverage the Region as a leader and innovator in sustainable renewable energy generation”. Additionally, it is a regional policy objective (RPO 96) to support the sustainable development, maintenance and upgrading of electricity and gas network grid infrastructure to integrate renewable energy sources and ensure our national and regional energy system remains safe, secure and ready to meet increased demand as the regional economy grows.
- 5.4. Regional policy objective 100 seeks to “support the integration of indigenous renewable energy production and grid injection”.
- 5.5. Regional policy objective 219 states that “it is an objective to support the sustainable reinforcement and provision of new energy infrastructure by infrastructure providers

(subject to appropriate environmental assessment and the planning process) to ensure the energy needs of future population and economic expansion within designated growth areas and across the Region can be delivered in a sustainable and timely manner and that capacity is available at local and regional scale to meet future needs.

5.6. Regional Policy Objective 221 states that Local Authority City and County Development Plans shall support the sustainable development of renewable energy generation and demand centres such as data centres which can be serviced with a renewable energy source (subject to appropriate environmental assessment and the planning process) to spatially suitable locations to ensure efficient use of the existing transmission network.

5.7. **Local Policy**

5.8. **Carlow County Development Plan**

5.9. The County Development Plan section 6.5.1 states that solar energy can provide a sustainable source of energy for buildings and reduces demand for electricity supply from the national grid. Solar energy is achieved by the manner in which glass and other materials and structures are utilised to capture and magnify the sun's energy. 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. The Council encourages such methods in the provision of renewable energy, subject to design and other considerations, over the plan period.

Energy – Policy 9 It is the policy of Carlow County Council 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 development management standards

- Promote commercial scale Photovoltaic Generators up to 10MW subject to compliance with normal planning and environmental criteria and development management standards.

5.10. **Natural Heritage Designations**

5.11. Assessed under AA.

5.12. **EIA Screening**

5.13. The proposed development is not of a class of development to which Schedule 5 of the Planning and Development Regulations refer and therefore an EIAR and EIA is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- The planning authority's reason for refusal No. 1 is an overly restrictive interpretation of the County Development Plan. There is no basis for the 10MW threshold and other parts of the plan support renewable energy production.
- The Development Plan Guidelines (2007) requires planning authorities to support renewable energy proposals in the policy objectives set out in the Development Plan.
- The National Planning Framework objective 23 requires planning authorities to support rural development thorough supporting, *inter alia*, renewable energy projects.
- Irelands Transition to a Low Carbon Energy Future 2016-2030 supports the acceleration and diversification of renewable energy generation and specifically supports solar photovoltaic energy production.
- The Climate Action Plan (June 2019) seeks to limit the impact of greenhouse gas emissions.

- The Commission for the Regulation of Utilities supports the delivery of the renewable energy targets set out in the Climate Action Plan by prioritising connection to the national grid of the 25 largest renewable energy projects.
- The renewable electricity support scheme subsidises renewable energy but no project from County Carlow has benefitted from such funding despite Carlow County being the 5th most suitable county from a solar irradiance perspective.
- The Regional Spatial and Economic Strategy for the Southern Region (RSES) Supports national policy in relation to the delivery of low carbon energy sources.
- Section 37(2) of the planning and Development Acts 2000, as amended, allows the Board to grant permission where a planning authority has refused permission based on a material contravention of the County Development Plan. In circumstances where there are conflicting objectives within Development Plans and/or where permission should be granted having regard to Section 28 Guidelines or other national policies the Board may grant permission.
- In relation to **glint and glare** an error occurred in the submitted report where a section of text was omitted. This text confirms that house 15 identified in the report will not be impacted by the proposed development.
- In relation to **noise** referenced by the planning authority's environment department it is the case that no noise will be emitted by the proposed development in its operational phase.
- In relation to **EMFs** emitted by the proposed development and referenced in the planning authority's environmental report research supported by the WHO and the EU supports the position that solar PV installations are very low risk in terms of impacts on human health.
- Construction phase **staff sanitary facilities** will be provided by a licenced operator and effluent disposed of off-site.
- In relation to **flooding** along the Burren River it is the case that there is a strip along the river included in the site which is shown in the OPW preliminary

floor risk assessment maps as subject to flood risk. However, it should be noted that these maps are indicative only, there are no recorded flood events within the area, the proposed development is set back 25m from the riverbank, the panels are not water vulnerable and are a minimum of 0.9m above the ground surface. Having regard to these factors there is no real risk to the development arising from flooding.

- A fire safety certificate is required under the Building Control Act. There are no reasonably foreseeable fire risks associated with this development.

6.2. Planning Authority Response

- No further comment to make.

7.0 Observations

7.1. Observations were received from.

- 1) Brian Cummings,
- 2) John and Jane Kane,
- 3) Pat Bermingham
- 4) Kieran Kelly,
- 5) Nellie Carroll,
- 6) Delia and Walter Roache,
- 7) Tom and Ann Sheehan,
- 8) Patricia Dowling,
- 9) Lisa Doyle and JJ Kavanagh,
- 10) Patrick Clarke,
- 11) Clare Nolan,
- 12) Rita Howard,
- 13) Charlotte Egan and Francis Kelly
- 14) Greg McDonnell
- 15) Lorraine Kealy

- 16) Tina McDonnell
- 17) Laurance and Elizabeth Doyle
- 18) John McDonald
- 19) Jamie Kealy and Others,
- 20) Mathew and Vanessa Dowling
- 21) William Kirwan,
- 22) Aisling Townsend.
- 23) C. Egan and F. Kelly.
- 24) N. Carroll.

7.2. The points raised in the submissions may be summarised as.

- The proposed development will give rise to glint and glare in the surrounding area.
- The scale of the proposed solar farm is excessive, and one of the largest in the country, and will give rise to unacceptable visual impact on the area.
- The proposed development will give rise to unacceptable levels of construction and maintenance related traffic on the local road network especially the L7111.
- The underground cables will damage human health, particularly that of individuals with Downs syndrome. The closest solar panel is 70m from a house. The construction compounds are too close to houses.
- The proposed development may be a fire risk.
- Solar panels have a lifespan of 25 years and therefore a 35-year permission is not appropriate.
- The local road network and the site entrance 1 is prone to flooding. It is not clear where the substation is located and there appears to be no grid connection and therefore the application incomplete.
- The proposed development will devalue property in the area.

- The proposed development contravenes the provisions of the County Development Plan policy to limit photovoltaic generators to a max output of 10MW. The County Development Plan does not contravene regional or national planning policy guidance.
- The proposed development may give rise to leaks of oil which would negatively impact on the Burren river which is a tributary of the Barrow SAC.

8.0 Further Responses

None

9.0 Assessment

9.1. There are two elements to this assessment, a planning assessment and an appropriate assessment.

9.2. The matters to be considered in the planning assessment are

1. County Carlow's Development Plan policy in relation to solar energy developments,
2. glint/glare,
3. visual impact,
4. traffic impacts,
5. flooding,
6. human health impacts,
7. fire risk,
8. duration of permission,
9. water pollution,
10. archaeology
11. substation location,
12. devaluation of property.

9.3. **Development Plan Policy**

9.4. The first reason for refusal given by the planning authority and referenced in the observations made to the Board in relation to this application is that the proposed development comprising about 127ha with an energy export capacity of 95MW would be contrary to policy 9 of the Carlow County Development Plan 2015-2021 which supports solar energy project up to an output of 10MW and contravene the policy set out at 6.5.1 of the Plan that sets out a general policy in support of solar power as part of a move to renewable energy supplies. Many of the observations received by the Board states that the application materially contravenes the County Development Plan.

9.5. The appeal makes several points in relation to this refusal reason.

- there is no basis or justification in the County Development Plan for the output limit of 10MW set out in policy 9,
- that the Development Plan Guidelines for Planning Authorities requires that development plans support sustainable development
- that regard should be had to national and regional plans and policies, that policy 9 conflicts with the National Planning Framework, national climate policy and with the Regional Spatial and Economic Strategy for the Southern Region.

9.6. There is an ambiguity in the planning authority's first refusal reason in that it did not use the non-compensable wording set out in the Act and state that the proposed development *materially contravenes* the County Development Plan and I conclude therefore that the requirement placed on the Board to have regard to the conditions set out in in section 37(2)(b) does not apply.

9.7. However, the Board may consider that the planning authority did refuse for material contravention and in the light of the difference between the figure of 10MW of output provided for in the County Development Plan and the proposed 95MW of output set out in the application, I consider, that the proposed development materially contravenes the County Development Plan. The Planning and Development Acts provides in section 37 (2) that where permission has been refused for materially

contravening the County Development Plan several factors may be considered and where they apply the Board may grant permission. These factors are;

- The proposed development is of strategic or national importance
- There are conflicting objectives in the Development Plan, or the objectives are not clearly stated,
- Permission should be granted having regard to the RSES, guidelines under Section 28, directives under section 29, statutory obligations of any local authority in the area, any relevant policy of the government or a Minister.
- Permission should be granted having regard to the pattern of development in the area and permissions granted in the area, since the making of the Development Plan.

- 9.8. The NDP sets out government policy in relation to national spatial development up to 2040. National Policy Objective 55 states that it is national policy to “promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050”. The Regional Economic and Spatial Strategy for the Southern Region states as a regional policy objective (RPO95) “it is an objective to support implementation of the National Renewable Energy Action Plan (NREAP), and the Offshore Renewable Energy Plan and the implementation of mitigation measures outlined in their respective SEA and AA and leverage the Region as a leader and innovator in sustainable renewable energy generation”. A further objective (RPO89) commits the regional authority to support measures to build in resilience to climate change throughout the region, to address impact reduction, adaptive capacity awareness raising, providing for nature-based solutions and emergency planning. Additionally, it is an objective (RPO96) of the RSES to “support the sustainable development, maintenance and upgrading of electricity and gas network grid infrastructure to integrate renewable energy sources and ensure our national and regional energy system remains safe, secure and ready to meet increased demand as the regional economy grows”, and (RPO100) “it is an objective to support the integration of indigenous renewable energy production and grid injection”.
- 9.9. The Renewable Energy Support Scheme provides support to renewable electricity projects in Ireland in order to help achieve the targets set out in the National Climate

Action Plan 2019 which include the reduction of electricity related CO₂ production by 50-55% by 2030, phasing out of peat fired electricity production, increase in the amount of electricity produced from renewables to 70% with a contribution of 1.5GW of grid-scale solar energy.

9.10. The draft Carlow County Development Plan 2022-2028 states that there are no commercial solar energy facilities in the County and includes a draft objective SE.P2 to “favourably considered the development of solar farms on agricultural; lands which allows for farm diversification and multipurpose use of lands”. The draft plan does not set any limit on the output of solar farm projects.

9.11. Having regard to the submissions in relation to this application and appeal appeal material on file and publicly available national climate policy, the grounds of appeal and the submissions made in relation to this case I conclude;

- There is a contradiction within the County Development Plan whereby the planning authority is committed (see especially policy set out in Chapter 6) to following national climate change policy to increase the proportion of energy from renewable resources, promote Carlow as a low carbon county and raise awareness of necessity to reverse fossil fuel dependency while setting an low limit on solar energy production facilities unsupported by any rationale for the restrictive policy.
- The policy set out in the development plan is unclear as to what is meant by a photovoltaic generator – does it mean a single project, a single site or a cap for the entire County? The point made in the draft Carlow County Development Plan that no commercial solar farms have been established in the County indicates that there is some confusion as to the planning policy applicable.
- The policy set out in the County Development Plan conflicts with the NDP in that it does not have reasonable regard to the NPO 55 to promote renewable energy on a scale to meet national objective to achieve a low carbon economy or the state’s overarching climate policy is set out in the Climate Action Plan 2019 which is to reduce CO₂ emissions in the electricity generating sector by 50-55% relative to 2030 pre-National Development Plan.

- The policy set out in the County Development Plan conflicts with the RSES in that the regional objectives is that County Development Plans *shall* support the sustainable development of renewable energy and the low limit imposed does not meet that threshold.

9.12. Considering the foregoing, I recommend that it is open to the Board to consider a grant of permission.

9.13. **Glint/glare**

9.14. The observers make the point that the proposed development will give rise to unacceptable glint and glare for residents and others in the area.

9.15. The Irish Aviation Authority's position is that no impacts arise for airports outside a 10km radius and as there are no such facilities within that radius of the application site aviation impact is ruled out in this instance.

9.16. The application includes a glint/glare study in support of the proposed development. The application makes the point that solar panels are poor reflective surfaces because they are designed to absorb solar energy - not reflect it - and other materials commonly found in the countryside (concrete paving, water bodies, plastic/poly tunnels etc) are more likely to reflect light than solar panels. The area of potential reflection is mapped in figure 9 and 10 and the houses within this zone are mapped. The main mitigation measure is the siting of the solar panels in a robust rural area avoiding in so far as possible impacts on roads/houses. There is significant screening along the site boundaries and the screening value of existing boundaries will be increased by additional planting where appropriate.

9.17. The applicant's assessment used a bare ground analysis within a DSM or digital surface model software tool to predict the glint/glare impact on the sensitive receptors (dwelling houses) and local road network. Where potential impacts are predicted terrain and screening are factored in to provide a more realistic assessment and where remaining impacts are identified mitigation in the form of additional screening is incorporated into the proposed development.

9.18. An initial survey based on a 'bare ground' (leaving out any landscape screening affect) analysis found 96 houses could experience some glint/glare but when

screening is factored in only 10 houses were considered to be at substantial risk. Of these house H9 is about 350m west of the solar farm but 1,125m from the closest solar panel which, because of screening, might have an impact of 14 minutes per day for 95 days per year or an annualised average of 5.2 minutes per day and the overall impact is considered medium-low. Houses identified as H25, H26 and H27 are north of the application site and 1.2km from panels that might reflect towards these houses. These factors allow a conclusion of no impact on these buildings. H39 and H40 are assessed to experience about 4m minutes of glare over 60 days per year which is none (H39) and low-none (H40). The rear boundary of H67 faces onto the proposed solar farm with a potential for glint/glare impact of 8 minute per day over a period of 82 days but this impact has been mitigated by additional tree planting along the site boundary allowing from the conclusion that the glare impact on this house will be none. The grounds of appeal (see section 05 referring to a query raised in the planning authority's reports) refers to another house (H15) located 450m to the west of the site which, if there were no natural screening, would experience some glint/glare impact but factoring in the existing natural screening is estimated to experience glare for about 4 minutes for 2 days per annum. Finally, there is H73. This house backs onto the solar farm and there is some potential for glare on the back up-stairs windows but factoring in screening and the angle towards the setting sun it may be concluded that the glint/glare impact on this house can determined to be none.

- 9.19. The initial study using the DSM identified an initial 206 points within the road network where glint/glare impact may occur. Accounting for screening this was reduced to 10 points. When screening is factored in there are no points on the N80, of the R170/R189 and R189/R206) where glare will be experienced. Following mitigation (additional screening) included in the application it can be concluded that there are no hazardous effects on the local road network arising from the proposed development.
- 9.20. I have reviewed the material submitted with the application and appeal and in particular the observations made to the Board in relation to the impacts of glint and glare on residential properties in the area. As the application points out there is no national guidance in relation to the assessment or glint/glare impacts on properties and/or road networks in the state. Nonetheless the applicant makes the point that US

Federal Aviation Authority has produced a Solar Glare Hazard Analysis Tool software which has been adapted for use in the analysis submitted in the present case. Development management under the planning acts requires a balance be struck between different land uses. I have carried out a site inspection of the application site and the surrounding areas including the public road network and the houses in the area. Of particular note in the area is the substantial hedgerows both between fields and along the road network where most of the houses are located. It is the case that the proposed development will on occasion give rise to some glint/glare for housing and the road network, but this does not rise to the threshold of serious injury to residential amenity or hazard for road users. It may be noted in this context that the roads department reported (2nd June 2020) no concerns in relation to traffic impacts from glint/glare. I consider that the analysis submitted with the application is robust and its conclusions are reasonable. It has detailed the topography and screening accurately in the area and accurately mapped the pattern of sensitive uses (houses). It is reasonable to conclude based on the material submitted with the application that the proposed development will not seriously injure the residential amenity of houses in the area or the safety of the road network by reason of glint/glare.

9.21. Visual impact

- 9.22. The observations made to the Board make the point that the solar farm is excessively large and will give rise to unacceptable visual impacts.
- 9.23. The site covers about 127ha and is located in a rural area generally between Ballon village and Carlow town. The planning authority has carried out a Landscape Character Assessment (LCA) as an appendix to the County Development Plan and the application site is within an area designated 'central lowland' in the LCA where the landscape sensitivity is assessed at 2/3 in a 5-point scale where 5 is the highest sensitivity and 1 is the lowest.
- 9.24. Mitigation measures to reduce the visual impact of the proposed development will include retention of existing hedgerows and additional screen planting as illustrated on landscape mitigation plan drawings submitted with the application (Drawings LD.GRNLEEN 3.1 and LD.GRNLEEN 3.2). On-site cables will be buried, and existing access paths/internal access tracks will be reused. These measures will

ensure that the landscape impacts are slight or imperceptible. The application included a visual impact assessment which includes photomontages from 17 viewpoints in the vicinity of the application site from the public road within a zone of theoretical visibility. Of these 17 chosen points 15 are described as low/medium and two as moderate/slight.

9.25. I have carried out a site inspection of the application site and the wider area. The application has accurately assessed the landscape and properly considered the Development Plan provisions in relation to landscape and visual impact. The tallest structures (control buildings) will not exceed 7m and while the receiving landscape is relatively flat there is good natural screening by way of hedging and tree lines, and I consider that mitigation measures included in the application are reasonable and implementable. Having regard to these factors I conclude that the proposed development will integrate into the landscape and will not seriously injure the landscape of the area in a manner that would materially contravene the County Development Plan.

9.26. Traffic impacts

9.27. The observers make the point that the proposed development will give rise to an unreasonable level of construction and maintenance traffic including on the L7111.

9.28. The planning authority's roads department reported no objection to the proposed development. The department commented that the proposed development is served by a local county road network, the N80 and the M9. The report identified construction related traffic and de-commissioning related traffic as two issues requiring attention and noted that the traffic management plan submitted with the application is acceptable. The traffic management plan is included in the access report submitted with the application. There are two access points, the more southerly one is from the L-7111 to the larger section of the application site and the second is from the L-7112 to the northern section of the application site. The first access/L-7111 requires improvement works to achieve the visibility required by the roads authority and these works are contained within the application site and public road. The second access point is from the L-7112 has adequate sightlines without additional works.

- 9.29. The construction phase delivery route is mapped on figure 5.1 and comprises access from the M9 motorway east along the N80 and north along the L-7111 and L-7112 to the separate elements of the application site. Having regard to the safety standards and carrying capacity of the M9 and N80 I see no adverse traffic safety issues with construction or operational phases of the proposed development. However, the L-7111 and L-7112 are narrow (between 3.5m to 5.5m wide) and the application includes traffic safety mitigation measures in relation to these roads in the traffic management plan and in the OCEMP submitted with the application. These measures include a manually controlled stop/go system to manage construction vehicles entering/leaving the application site, provision of advance warning signs in both directions along the L-7111 and L-7112, the provision of passing bays on these two roads and the scheduling of truck movements during the construction phase. The applicant states that a contribution can be made to the planning authority in relation to the provision of passing bays on the L7111 and I include a condition providing for this measure in the draft order below.
- 9.30. Having regard to the nature of the development and the limited staff it will attract I consider that the operational phase will not give rise to a material impact on the traffic volumes or patterns on the local road network.
- 9.31. Having regard to the material submitted with the application and the reports of the planning authority, the observable conditions on the road network in the area and the conditions set out in the draft order below I conclude that the proposed development will not give rise to obstruction of road users or endanger public safety by reason of traffic hazard.
- 9.32. **Flooding**
- 9.33. The observations submitted to the Board make the point that the proposed development will give rise to flooding of the local road network which is already prone to flooding. The planning authority's roads report makes no objection on the grounds of flooding of the local road network. The application (see the site access report/point 4.6 of the Planning and Environment Statement) makes the point that the local access roads are in good repair and that roads drain off to the roadside drains.

9.34. The application makes the point that the additional hard surface created within the site is minimal. The solar panels will be pitched at an angle to allow grass to grow and be grazed by sheep. This arrangement will mitigate against any additional surface water run-off and the existing patterns of drainage on site will not be impacted by the proposed development. The applicant (see grounds of appeal) recognises that a strip of land along the Burren River is indicated in OPW flood maps as being liable to flood but points out that the solar panels are a minimum of 0.9m off the ground and are not a vulnerable use.

9.35. I am satisfied that the proposed development will not generate additional surface water within the site and having regard to the very minimal impermeable surfaces resulting from the proposed development (almost solely the service compound) and the measures proposed in the application to maintain the integrity of the on-site water courses I conclude that the proposed development will not give rise to additional volumes of surface water runoff or faster runoff rates in a manner that would cause flooding of adjoining property or the local road network.

9.36. **Human Health Impacts**

9.37. The observations made to the Board make the point that the proposed development may give rise to radiation/EMFs which would impact human health. The planning authority's environmental section reported (dated 10th June 2020) seeking further information but referred to substations and powerlines which are not part of this planning application.

9.38. Whereas EMF can be created by electricity infrastructure the inverter/transformer units that are part of this application are a minimum of 180m from the nearest dwelling house and I am satisfied that there is no reasonable risk that electromagnetic impacts occur at that distance from relatively minor installations.

9.39. **Fire Risk.**

9.40. The observers make the point that the proposed development may give rise to risk of fire. The A/Chief Fire Officer reported (27th May 2020) that the applicant should be asked for additional information in relation to the risk of fire arising from the proposed development. The applicant in the grounds of appeal makes the point that the

proposed development requires a Fire Certificate in accordance with the Building Control Acts.

- 9.41. The Development Management Guidelines for Planning Authorities (2007) in relation to the management of fire risk in the development management process (chapter 7) makes the point that it is important to ensure that all development meets fire safety standards that the matter should be considered in the context of proper planning and sustainable development and that technical detail is more appropriately considered under a separate legal code. As stated in the Guidelines the factors appropriate for consideration in the present case are the location of the proposed development in relation to industrial or other hazards, access for fire services to the proposed development and water supplies for potential firefighting¹.
- 9.42. It may be noted that the site is largely agricultural land and is situated remote from any industrial or urban centre or other potentially hazardous use. There are two access points to the application site from the public road and additional road frontage network which, in the event of fire, may be used by firefighting equipment and finally there are on-site water sources should such be necessary for firefighting purposes.
- 9.43. Having regard to the foregoing I conclude that the proposed development would not endanger public safety or the built environment by reason of fire hazard.

9.44. **Duration of Permission**

- 9.45. The observations made to the Board question the reasonableness of the duration of the permission as being too long. The application is for a permission for 10 years and a lifetime of 35 years. Considering the extent of the proposed development at about 127ha, the capital costs and the technology to be employed I consider that a 10-year lifetime for the permission and 25 years operational period is appropriate.

¹ The Guidelines include consideration of impacts on protected structures but that is not relevant in the present case.

9.46. **Water pollution.**

9.47. The observations state that the proposed development will give rise to water pollution within the site and therefore will impact on the water quality in nearby European sites.

9.48. There are several water courses within the site (the Burren river, the Garreenleen stream and other unnamed streams and drains). These feed into the Barrow and the Slaney Rivers (both of which are within European sites). The application identifies possible sources of pollution of water courses by hydrocarbons and siltation largely during development works.

9.49. Mitigation measures to prevent surface water pollution specified in the application include maintaining a 20m buffer between the river/stream banks and working areas/storage of plant or machinery, positioning silt fences to provide a barrier between mobilised silts/soils and water courses, storage of fuels/lubricants and other sources of hydrocarbons in bunded storage areas with 110% capacity, and washing vehicles and covering loads of excavated materials to prevent windblown dust which might generate silt in water courses. I consider that these measures are adequate to protect the quality of on-site surface water bodies and by extension the quality of the water entering the European sites.

9.50. Mitigation against ground water pollution include removing human effluent from the site to be treated elsewhere by a licenced contractor and prevention of spills of hydrocarbons from refuelling/maintenance of plant and machinery. Having regard to the nature of the proposed development and the limited excavation works required I conclude that the application has reasonably identified the potential ground water impacts and that the proposed mitigation measures are adequate and implementable.

9.51. Having regard to these factors I conclude that the proposed development will not give rise to ground or surface water pollution.

9.52. **Archaeology.**

9.53. The application includes an archaeological assessment of the impacts of the proposed development. The study maps cultural heritage sites within 1km of the site

boundary and identifies a number of such sites within the application site. No physical impact is predicted for any site/object. A mitigation strategy is set out in section 5 of the report and measures include monitoring of works by a qualified archaeologist and buffer zone around number of unregistered vernacular sites and a spring on the northern edge of the southern element of the application site. I note the comments of the DAU but conclude that the proposed development will not impact on the structure referred to.

9.54. I conclude that this matter may be subject to a condition requiring compliance with good archaeological assessment/protection practice as set out in the draft order below.

9.55. **Substation Location.**

9.56. The application site layout drawings indicate two possible locations for substations. These do not form part of this application and the application states that a separate application for a grid connection providing for a substation and powerlines will be made in the future.

9.57. **Devaluation of property**

9.58. The observations made to the Board make the point that the proposed development will devalue property in the vicinity.

9.59. Devaluation of property could occur where there is a significant negative impact on the residential amenity of property in the vicinity. For the reasons set out under other headings in this report I consider that no unacceptable impacts will arise for property in the vicinity, and I conclude that the proposed development will not give rise to devaluation of property in the area.

10.0 **Appropriate Assessment.**

10.1. **Screening Exercise.**

10.2. The application includes an AA screening exercise. There are three European sites within 15kms of the application site - the Slaney River Valley SAC (00781), the River Barrow River Nore SAC (002162) and the Blackstairs Mountains SAC (00770).

10.3. The conservation objectives for the River Barrow and River Nore SAC (002162) are set out for each of the habitats and species identified as qualifying interests by the

NPWS in its published material but may be summarised as the maintenance or restoration of the favourable conservation condition of these habitats and species within the SAC. The qualifying interests are;

- Desmoulin's whorl snail *Vertigo moulinsiana*
- Freshwater pearl mussel *Margaritifera margaritifera*
- White-clawed crayfish *Austropotamobius pallipes*
- Sea lamprey *Petromyzon marinus*
- Brook lamprey *Lampetra planeri*
- River lamprey *Lampetra fluviatilis*
- Twait shad *Alosa fallax*
- Atlantic salmon (*Salmo salar*) (only in fresh water)
- Estuaries
- Mudflats and sandflats not covered by seawater at low tide
- *Salicornia* and other annuals colonizing mud and sand
- Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)
- Otter *Lutra lutra*
- Mediterranean salt meadows (*Juncetalia maritimi*)
- Killarney fern *Trichomanes speciosum*
- Nore freshwater pearl mussel *Margaritifera durrovensis*
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation
- European dry heaths 6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels
- Petrifying springs with tufa formation (*Cratoneurion*)
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*).

10.4. The conservation objectives for the Slaney River Valley SAC (000781) are set out for each of the habitats and species identified as qualifying interests by the NPWS in its published material but may be summarised as the maintenance or restoration of the favourable conservation condition of these habitats and species within the SAC.

The qualifying interests are;

- Freshwater Pearl Mussel *Margaritifera margaritifera*
- Sea Lamprey *Petromyzon marinus*
- Brook Lamprey *Lampetra planeri*
- River Lamprey *Lampetra fluviatilis*
- Twaite Shad *Alosa fallax*
- Atlantic Salmon *Salmo salar* (only in fresh water)
- Estuaries 1140 Mudflats and sandflats not covered by seawater at low tide
- Otter *Lutra lutra*
- Harbour Seal *Phoca vitulina*
- Water courses of plain to montane levels with the *Ranunculus fluitantis* and *Callitriche-Batrachion* vegetation
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles,
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*).

10.5. The qualifying interests in the Blackstairs Mountains SAC (000770) are Northern Atlantic wet heaths with *Erica tetralix* European dry heaths habitats. The conservation objectives for the habitats are to maintain the favourable conservation condition of the qualifying interests by reference to the list of attributes and targets set out in the published NPWS material.

10.6. The applicants screening exercise concluded in relation to the Blackstairs Mountains SAC (000770) that, having regard to the separation distance between the application

site and the SAC (about 11kms), the absence of a hydrological link between the SAC and the application site and the and the nature of the conservation interests as immobile habitats, this European site could be screened out from further consideration.

- 10.7. I have had regard to the material published by the NPWS, the material submitted with the application, the reports of the planning authority and the other material on file, the source-pathway-receptor model and it is reasonable to conclude on the basis of the available information, 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 Blackstairs Mountains SAC (000770) in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required in relation to that site.
- 10.8. Furthermore, on the basis of the information submitted with the application and the material published by the NPWS, which I consider adequate to conduct a screening assessment, I conclude that there are no other European sites that the proposed development, individually or in combination with other plans or projects would be likely to have a significant effect on.
- 10.9. The applicant's screening exercise concluded that there are potential hydrological links between the application site and the River Barrow and River Nore SAC because two watercourses, the Bureen River and the Garreenleen stream, are within the site and flow north from the site and have a confluence with the River Barrow in Carlow town and the River Barrow is within the River Barrow and River Nore SAC (002162). Additionally, there are drains in the east of the site which drain into the Slaney River SAC about 5.7kms from the application site. I have had regard to the material published by the NPWS, the material submitted with the application, the reports of the planning authority and the other material on file and the source-pathway-receptor model. It is reasonable to conclude that on the basis of the available information, 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 potentially have a significant effect on the River Barrow and River Nore SAC (002162) and the Slaney River SAC in view of the sites'

Conservation Objectives, and I agree that an Appropriate Assessment (and submission of a NIS) is therefore required in relation to these sites.

10.10. **Stage 2 Appropriate Assessment.**

10.11. The NIS adopts the source-pathway-receptor model in its assessment of the likely potential impacts on the River Barrow and River Nore SAC and Slaney River SAC. The application site not within either European site and therefore there is no direct habitat loss.

10.12. There is potential indirect habitat loss/deterioration within the European sites arising in the construction phase from increased siltation, nutrient release and/or contamination through the hydrological connection between the application site and the European sites. The European sites have been designated both for water dependent habitats and species and are covered by the conservation objectives set out by the NPWS and summarised above. The application includes an outline construction and environmental management plan (OCEMP) which aims to prevent impacts on people, property and the environment, to ensure that any demolition and construction waste is dealt with in accordance with the Waste Management Act 1996 (as amended) and to protect water quality by preventing pollution in the Burren River and other water courses within the site. The NIS and OCEMP set out environmental control measures that may be summarised as.

- The use and storage of plant and equipment in the construction phase will adhere to industry best practice by ensuring the storage and handling of all of materials (including any hazardous liquids, oils and fuels) is carried out in a manner to prevent release into the water environment.
- Plant and equipment will be stored in properly constructed compounds remote from water courses,
- Refuelling of plant/machinery will take place in the site compound in a controlled manner,
- Fuels and other liquids will be stored in bunded areas with 110% capacity,
- smaller amounts of fuels will be moved within the site in properly labelled and stored jerry cans,

- Rainwater will be prevented from collecting in drip trays and if drip trays fill with water that becomes contaminated with fuel or other oils the contents will be disposed of off-site by a licenced waste contractor.
- Staff will be trained in materials handling/avoiding spillages and daily briefing sessions will be provided to staff responsible for the environmental controls.

10.13. Specific surface water management measures will be implemented within the site during the construction phase will include.

- a 20m buffer zone will be maintained between water courses and working areas where construction activity and storage of potential contaminants will be prohibited. Additionally, this buffer will prevent and disturbance and therefore spread of two identified invasive plant species (Himalayan balsam and Few Flowered garlic) which occur along the bank of the Burren River.
- Silt fencing will be used to ensure containment of run-off arising from the removal/storage of excavated soil and works requiring ground disturbance will be planned and managed to prevent runoff. An emergency plan will be developed to handle on-site accidental hydrocarbon spills.
- 'Good housekeeping' (for example, provision of spill kits, daily checks on plant/machinery/working areas, vehicle wheel washes entering and leaving the site) will further mitigate contaminant run off during construction.

10.14. Trucks leaving the site with excavated material will be covered in a manner that prevents fugitive dust emissions. A double layer of silt fencing along water courses will prevent dust becoming suspended solids entering the water courses, a speed limit of 15kms/h will be applied within the site to limit fugitive dust, roads will be swept as required and vehicles will be sprayed in dry periods to further mitigate dust emissions.

10.15. Wastewater from sanitary facilities will be held in a holding tank and transported and disposed of off-site by a licenced contractor.

10.16. In relation to operational phase surface water run-off the only surface areas where run off can be expected to be impeded are the inverter transformer/stations and storage container which have a total area of about 864.2m² out of a total site area of 1,270,000m².

The NIS concludes that the proposed development will not adversely affect the integrity of any Natura 2000 sites.

10.17. As part of the appeal the applicant submitted an addendum to the NIS dealing with issues raised in the planning authority's Environment Section's report. In reference to the grid connection crossings of the Burren River the applicant commented that there are no in-stream works proposed as part of the grid connection. Depending on the route chosen and the requirements of the grid connection a clear span bridge will be proposed or directional drilling under the riverbed which will not impact on water quality. I conclude in relation to this matter that there is no foreseeable impact on water quality. Furthermore, I note the additional points raised in Environment Section report and I conclude that they have been properly addressed in the application and material submitted with the appeal.

10.18. AA Assessment/Conclusion.

10.19. I have had regard to the material published by the NPWS in relation to these two European sites (River Barrow and River Nore SAC and Slaney River SAC), the material submitted with the application and appeal (specifically the AA screening report, the NIS and the OCEMP submitted as appendix B with the NIS) and I have conducted a site inspection. The application has adequately described the application site and especially the water courses (the Burren river and several smaller streams and drains) within the application and their relationship to the wider water environment. The potential receptors (the River Barrow and River Nore SAC and Slaney River SAC) are correctly identified as the only potential European sites to be impacted by the proposed development. The conservation objectives for the European sites have been properly identified and qualifying interests have been identified and assessed in light of their sensitivity to water borne pollutants and siltation and the application has set out in detail how the pathways (water courses) between the source (in particular the proposed development construction phase) and the receptor (the qualifying interests within the European sites) are to be interrupted. I consider that the mitigation measures against surface water pollution set out in the NIS and elsewhere in the application are sufficiently detailed, site specific, adequate to the task of preventing water pollution and implementable.

10.20. Furthermore, I have had regard to the material set out in the application in relation to the off-site disposal of sanitary wastewater I conclude that this will prevent the release of human generated foul effluent within the catchment of the European sites. I note the measures to prevent and mitigate spills of fuel oils or other hydrocarbons within the site that might enter ground water and thereby effect the species or habitats within the European sites, and I conclude that there are no other foreseeable sources of groundwater pollution and that it is reasonable to conclude that the proposed development will not adversely affect the European sites from this source.

10.21. I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the River Barrow and River Nore SAC and Slaney River SAC or any other European site, in view of the sites' Conservation Objectives.

11.0 Recommendation

11.1. I recommend granting planning permission.

12.0 Reasons and Considerations

Having regard to

- the provisions of national and regional policy objectives in relation to renewable energy,
- the provisions of the Carlow County Development Plan 2015 to 2021.
- the nature and scale of the proposed development,

it is considered that, subject to compliance with the conditions set out below, the proposal would support national and regional renewable energy policy objectives, would not conflict with the provisions of the Development Plan, would not seriously injure the residential amenities of property in the vicinity, would not have unacceptable impacts on the visual amenities of the area, would not result in a

serious risk of pollution, would be acceptable in terms of traffic and rail safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 the development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

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

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

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

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

4. (a) This permission shall be for a period of 25 years from the date of the commissioning of the solar array. The solar array and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

- (b) Prior to commencement of development, a detailed restoration plan, including a timescale for its implementation, providing for the removal of the solar arrays, including all foundations, anchors, inverter/transformer stations, substation, CCTV cameras, fencing and site access to a specific timescale, shall be submitted to, and agreed in writing with, the planning authority.
- (c) On full or partial decommissioning of the solar farm, or if the solar farm ceases operation for a period of more than one year, the solar arrays, including foundations/anchors, and all associated equipment, shall be dismantled and removed permanently from the site. The site shall be restored in accordance with this plan and all decommissioned structures shall be removed within three months of decommissioning.

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

5. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

6. Prior to commencement of development the developer shall submit to and agree in writing with the planning authority the location(s) and construction details of passing bays on the L-7111 and/or L-7112 required to serve the proposed development.

Reason: In the interests of traffic safety and convenience.

7. (a) All existing hedgerows (except at access track openings) shall be retained notwithstanding any exemptions available and new planting undertaken in accordance with the plans submitted to the planning authority with the application.
- (b) All landscaping shall be planted to the written satisfaction of the planning authority prior to commencement of development. Any trees or hedgerow that are removed, die or become seriously damaged or diseased during the operative period of the solar farm as set out by this permission, shall be replaced within the next planting season by trees or hedging of similar size and species, unless otherwise agreed in writing with the planning authority

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

8. (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) Cables within the site shall be located underground.

(d) The inverter/transformer stations shall be dark green in colour.

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

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 management of construction traffic, and the off-site disposal of construction waste.

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

10. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Surface water from the site shall not be permitted to drain onto the adjoining public road or adjoining properties.

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

11. All road surfaces, culverts, watercourses, verges and public lands shall be protected during construction and, in the case of any damage occurring, shall be reinstated to the satisfaction of the planning authority. Prior to commencement of development, a road condition survey on the section of local road L-7111 and L-7112 which forms part of the identified access route for the site shall be taken to provide a basis for reinstatement works. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of the provision of passing bay(s) on the L-7111 and/or the L7112. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such

agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

13. 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.

14. 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.

Hugh Mannion

Senior Planning Inspector

16th September 2021.