



**An
Bord
Pleanála**

Inspector's Report ABP310841-21

Development	Construct a battery energy storage system.
Location	Dunnstown, County Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	21/08
Applicant(s)	Strategic Power Projects Limited.
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	Applicant & Third-Party V Refusal
Appellant(s)	<ol style="list-style-type: none">1. Clementine Ltd2. Strategic Power Projects Limited.
Observer(s)	Listed in report.
Date of Site Inspection	23 rd August 2022.
Inspector	Hugh Mannion

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1.0 Site Location and Description

1.1. The site has a stated area of 4.089ha and is irregularly shaped and comprises parts of three pasture fields at Dunnstown, County Kildare. The irregular shape arises from the requirement for an access road from the public road (L6044) and provision of a wayleave for an existing electricity pylon in the middle field, a further element of access road is provided in preparation for an application following the Board's decision in ABP310033. There is substantial hedging on the site boundaries. There is a ESB substation on the adjoining land to the southwest, this is visible from within the application site and accessed from the R412 which links Kilcullen village in the south to Naas town in the north. The south-eastern boundary adjoins the public road (L6044) and the rear boundaries of three houses. The north-eastern and north-western boundaries adjoin agricultural land. The general area is rural in character and lies about 7kms south of Naas town and about 5kms from Kilcullen village.

2.0 Proposed Development

2.1. The proposed development comprises

- the construction of an enclosed battery energy storage compound on circa 4.089ha with 76 battery storage units each with associated containers and step-up transformer, one containerised control room, one containerised switch room, one containerised switch gear unit and CCTV cameras.
- New site entrance off the L6044 and site access road,
- Extended site access road to the proposed substation (ABP310033),

All at Dunnstown, County Kildare.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for three reasons.

1. The proposed development is reliant on a proposed 220kv line which has not been determined yet by the Board and therefore they proposed development is premature pending the outcome of that application.
2. The fire safety aspects of the proposed development (hard standing access routes for emergency vehicles, inadequate separation distances between the storage units, lack of water supply at the site) have not been adequately addressed and the proposed development would, therefore, seriously injure the environment, the residential amenity of property in the area and set an undesirable precedent for similar development.
3. The application did not provide adequate details of wastewater treatment, which is contrary to the EPA Code of Practice and Policy WW11 of the County Development Plan. Additionally, the application did not provide adequate information in relation to noise and vibration which would seriously injure the residential amenity and devalue of property in the area.

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

3.3. The Chief Fire Officer reported on the application making the following comments –

- the access routes within the site does not meet the structural standards set out in the technical guidance document,
- the separation distances between the battery storage systems have not been assessed,
- failure mode analysis of various scenarios has not been carried out,

- hazard analysis and risk assessment for fire and/or explosion has not been carried out,
- impacts on nearby community have not been assessed,
- no water supply has been proposed for the site, both water and gaseous fire suppressant facilities should be considered,
- the cooling and ventilation systems are not adequately detailed in the application,
- reference documents included in the application documents are not relevant to this type of application,
- the correct standard is set out at NFPA 885 2020 and this is not referenced in the application,
- there is a discrepancy in the drawings as to the location of the doors on each battery storage unit.

3.4. **Roads and Transport Department** commented that it had no objection to a grant of planning permission subject to conditions. These conditions related to prevention of surface water run off onto the public road, the submission of a CEMP to include traffic management, wheel wash facilities, locations of construction compounds, a construction waste management plan and appropriate signage. A condition to regulate working hours, adequate parking facilities, avoidance of dirt spill on public roads, and avoidance of damage to land or roadside drains should also be imposed.

3.5. **The HSE Senior Environmental Health Officer** recommended that in the event of a grant of permission no wastewater should be released to surface or ground water, drinking water should be up to the standard in the EU Drinking Water Regulations, that mitigation measures set out in the Environmental Report (ER) should be adopted and that 7am is too early a start for construction work. Appropriate measures should be adopted to mitigate risk of fire and risk to public health. The HSE agrees with the ER and is satisfied that noise from the proposed development poses no significant risk to public health.

3.6. **The Environment Section** Reported that the applicant should be asked for details of appropriate bunding for the battery storage units, detail of wastewater treatment

for staff facilities on site, and additional details in relation to tonal noise and vibration emissions.

3.7. **Irish Water** reported no objection.

3.8. **The Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media** made a submission stating that the site should be subject to archaeological assessment in the event of a grant of planning permission.

4.0 **Planning History**

4.1. Under ABP310033-21 the Board decided that the development of a 220kV substation and grid connection at the existing 400kV substation at Dunstow, County Kildare is strategic infrastructure, and an application should be made to the Board. No such application has been made at time of writing.

5.0 **Policy and Context**

5.1. **National Planning Framework (NPF)**

5.1.1. **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.

5.2. **Midland and Eastern Regional Spatial & Economic Strategy (RSES) 2020-2032**

5.2.1. **Decarbonising the Energy Sector**

5.2.2. The Region will need to shift from its reliance on using fossil fuels and natural gas as its main energy source to a more diverse range of low and zero-carbon sources, including renewable energy and secondary heat sources. Decentralised energy will be critical to the Region's energy supply and will ensure that the Region can become more self-sufficient in relation to its energy needs.

5.2.3. **Regional Policy Objective RPO 7.35:** EMRA shall, in conjunction with local authorities in the Region, identify Strategic Energy Zones as areas suitable for larger energy generating projects, the role of community and micro energy production in urban and rural settings and the potential for renewable energy within industrial areas. The Strategic Energy Zones for the Region will ensure all environmental

constraints are addressed in the analysis. A regional landscape strategy could be developed to support delivery of projects within the Strategic Energy Zones.

5.2.4. **RPO 7.36:** Planning policy at local authority level shall reflect and adhere to the principles and planning guidance set out in Department of Housing, Planning and Local Government publications relating to 'Wind Energy Development' and the DCCAE Code of Practice for Wind Energy Development in Ireland on Guidelines for Community Engagement and any other relevant guidance which may be issued in relation to sustainable energy provisions.

5.2.5. **RPO 7.37:** A bioeconomy plan for the Region should be developed that outlines the capacity of the Region to supply the range of bioenergy resources required for the fuel mix as well as the current and projected consumption requirements for growth in this market.

5.2.6. **RPO 7.38:** Local authorities shall consider the use of heat mapping to support developments which deliver energy efficiency and the recovery of energy that would otherwise be wasted. A feasibility assessment for district heating in local authority areas shall be carried out and statutory planning documents shall identify local waste heat sources.

5.3. **Kildare County Development Plan 2017-2023**

5.3.1. **Policies: General Energy**

5.3.2. It is the policy of the Council to:

5.3.3. **ER 1** Respond to the European and National Energy Programme through the County Development Plan with policies and objectives that promote energy conservation, increased efficiency and growth of locally based renewable energy alternatives, in an environmentally and socially acceptable and sustainable manner.

5.3.4. **ER 2** Support infrastructural renewal and development of electricity and gas networks in the county, subject to safety and amenity requirements.

5.3.5. **ER 3** Support regional, national and international initiatives for limiting emissions of greenhouse gases through energy efficiency and the development of renewable energy sources which make use of the natural resources in an environmentally and socially acceptable manner.

- 5.3.6. **ER 4** Have regard to the requirements of the service providers in the provision of strategic infrastructure whilst also seeking to ensure that development, including the location of high voltage transmission power lines, is controlled, particularly adjoining existing dwellings, except where no other alternative can be shown to exist. ER 5 Seek the co-ordinated delivery of infrastructure and services to support sustainable communities.
- 5.3.7. **ER 6** Support and encourage the sustainable development of renewable energy auto-production units (the production of energy primarily for on-site usage) for existing and proposed developments in line with relevant design criteria, amenity and heritage considerations and the proper planning and sustainable development of the area.
- 5.3.8. **ER 7** Adopt a positive approach to renewable energy proposals, having regard to the proper planning and sustainable development of the area, including community, environmental and landscape impacts and impacts on protected or designated heritage areas/structures.
- 5.3.9. **ER 8** Have regard to the Renewable Electricity Policy and Development Framework, when adopted, when assessing any renewable energy proposals.

5.4. **Wind Energy**

5.5. **Electricity Generation and Transmission**

- 5.5.1. **Wind Energy: Objective WE 2** Encourage the development of wind energy in suitable locations in an environmentally sustainable manner and in accordance with Government policy and the Kildare Wind Energy Strategy.
- 5.5.2. **Solar Energy: Objective SE 1** Promote the development of solar energy infrastructure in the county, in particular for on-site energy use, including solar PV, solar thermal and seasonal storage technologies. Such projects will be considered subject to environmental safeguards and the protection of natural or built heritage features, biodiversity views and prospects.
- 5.5.3. **Rural Economy/Agriculture**
- 5.5.4. **Objective RE 5** Support and facilitate sustainable agriculture, horticulture, forestry, renewable energy and other rural enterprises at suitable locations in the county.

- 5.5.5. **Objective RE 10** Promote resource efficiency and support the shift toward a low-carbon and climate resilient economy in the agriculture, food and forestry sectors.
- 5.5.6. **Equine Industry**
- 5.5.7. **Objective EQ1** Encourage the expansion of the bloodstock industry by protecting the environment and amenity value of rural areas from encroachment by urban sprawl and incompatible development.
- 5.5.8. **Objective EQ 2** Support equine related activities e.g. farriers, bloodstock sales, etc. of an appropriate size and at suitable locations.
- 5.5.9. **Objective EQ 3.** Ensure that equine based developments are located on suitable and viable landholdings and are subject to normal planning, siting and design considerations.
- 5.5.10. **Objective EQ 4** Protect the Curragh, Punchestown and Naas racecourses from any development that would interfere with their amenity qualities while, at the same time, promoting the enhancement of facilities for racegoers.
- 5.5.11. **Objective EQ 5** Recognise and support the development of the Irish sport horse industry in the county, including breeding, competing and training.
- 5.5.12. **Objective EQ 6** Support the relevant equine bodies / organisations in the county in the pursuit of their objective to maintain the position of the equine industry in the world's international market
- 5.5.13. **Objective EQ 7** Support the role of Goff's facility at Kill as a horse sales facility, which plays an important role in the economic and social development of the equine industry at national, regional and county level.
- 5.5.14. **Objective EQ 8** Ensure that The Curragh remains the centre of excellence in Ireland for horse training.
- 5.5.15. **Objective EQ 9** Promote and encourage the development of activities that relate to the equine industry in the county such as riding schools, pony trekking and the development of bridle paths.

5.6. Natura 2000

5.7. **Objective NH 4** Support the conservation and enhancement of Natura 2000 Sites including any additional sites that may be proposed for designation during the period of this Plan and to protect the Natura 2000 network from any plans and projects that are likely to have a significant effect on the coherence or integrity of a Natura 2000 Site.

5.8. **Objective NH 5** Prevent development that would adversely affect the integrity of any Natura 2000 site located within and immediately adjacent to the county and promote favourable conservation status of habitats and protected species including those listed under the Birds Directive, the Wildlife Acts and the Habitats Directive.

5.9. **Objective NH 6** Ensure an Appropriate Assessment, in accordance with Article 6(3) and Article 6(4) of the Habitats Directive and with DEHG guidance (2009), is carried out in respect of any plan or project not directly connected with or necessary to the management of a Natura 2000 site to determine the likelihood of the plan or project having a significant effect on a Natura 2000 site, either individually or in combination with other plans or projects and to ensure that projects which may give rise to significant cumulative, direct, indirect or secondary impacts on Natura 2000 sites will not be permitted (either individually or in combination with other plans or projects) unless for reasons of overriding public interest.

5.10. Natural Heritage Designations

5.11. It is the policy of the Council to protect and promote the conservation of biodiversity outside of designated areas and to ensure that species and habitats that are protected under the Wildlife Acts 1976 - 2012, the Birds Directive 1979 and the Habitats Directive 1992 are adequately protected

6.0 The Appeal

6.1. Grounds of Appeal

- The proposed development is in the centre of the Kildare equine industry, in particular it is close to Castlemartin Demesne (a protected structure) and

would negatively impact the equine industry locally and nationally. The vision for the Castlemartin stud is that it be based in a pristine environment.

- The proposed development would be contrary to policy EQ1 and the policies/objectives of the Kildare County Development Plan to promote the equine industry.
- The applicant did not properly consult with neighbours or neighbouring uses.
- The proposed development conflicts with the EU Waste Directive in that the disposal of spent batteries has not been adequately considered in the application. The proposed technology is unproven and subject to major accidents and release of toxic chemicals into the environment.
- The proposed development conflicts with the Habitat Directive and the AA screening report is flawed. The site is close to the River Liffey, there is a likelihood of connection to the river Liffey. The proposed development has the capacity to undermine the requirements of the Water Framework Directive in preventing the deterioration of the status of water bodies.
- The proposed development fails to comply with the EIA Directive and comprises project splitting since it is part of a wider energy project which is not considered in the application.
- The proposed development give rise to unreasonable fire hazard in a sensitive location.

6.2. The applicant appealed against refusal on the following grounds.

- **Refusal Reason 1** - Battery Energy Storage Systems (BESS) are a complementary element in the electricity grid infrastructure that that allows greater renewable energy storage which facilitates meeting renewable energy targets and the decarbonisation of the energy system. There is no contradiction between the BESS and the substation/grid connection being considered separately by the Board and the planning authority in the event that the substation/grid connection is determined to be a SID.
- **Refusal Reason 2** - The applicant consulted with several sections within the local authority. Only the Chief Fire Officer recommended refusal. The issues raised by the CFO could have been sorted out in a meeting or by a request for

additional information. Fire risk is dealt with under a separate code. The matters raised by the CFO are not fundamental planning objections and could have been dealt with by further information.

- **Refusal Reason 3** - In relation to wastewater treatment the application was accompanied by an Environmental Report (Malone O'Regan report) which makes the point that foul water arising from staff facilities will be treated appropriately off-site by a licenced and monitored waste contractor.
- The NPF recognise that rural areas have a significant role to play in meeting future energy needs and BESS is an integral part of the renewable energy infrastructure. The site is within a Class 2 Medium Sensitivity Landscape area and the planning authority's reports conclude that there would be no unacceptable visual impacts. The planning authority did not conclude that the proposed development would adversely affect the equine industry in the area.
- The planning authority's comments in relation to noise from the proposed development are not based on Development Plan standards or any other accepted standards. The applicant used an appropriate noise measurement period of 60 minutes daytime and 15 minutes night-time. Vibration was discounted as an issue as, amongst other factors, vibration is designed out of storage batteries. Total noise output is expected to be well below ambient noise levels.
- EIA and AA were screened out. An environmental report and an AA screening report were included in the application. No liquids or other contaminants will be stored in the battery storage facility. Therefore, there is no risk of ground/surface water pollution.
- The site is not in an area prone to flooding and the proposed development will not contribute to flooding.
- The application site is in Eastern Transition Landscape Area identified in the County Development Plan and the planning authority has no concerns in relation to negative impact on the landscape. A very small element of roadside hedge will be lost at the entrance.

- The planning authority did not consider that the proposed development would negatively impact on the equine industry. There are about 123 stud farms in the area, the closest is 2kms as the crow flies.
- The transport department did not have concern in relation to the adequacy of the local road network.
- Battery storage facilities are not an 'establishments' for the purposes of the Sevesco Directive and therefore the COMAG Regulations do not apply.
- The proposed development is 700m from the GAA grounds and not visible from it.

6.3. Planning Authority Response

- The planning authority states that the reports on file are adequate and has no additional observations to make.

6.4. Applicant's response to Third Party

- The public notice was adequate.
- The proposed development does not require EIA.
- The AA screening was correct in ruling out impacts on any European site.
- A fire safety report concluded that there is no real risk of fire or explosion occurring within the proposed development.
- There will be no impacts on the stud farm industry arising from the proposed development.
- The proposed development is not contrary to development plan objectives to support the equine industry.

6.5. Observations

6.6. Observations were received from Michael Goeden and Caroline Lamb, Cllr Tracey O'Dwyer, Barry Mahon, Caroline Treacy, Philip Morrison Gale (Camphill Communities Ireland), the Kildare Green Party, Hugh Dillon/Elanor Wauchob, Anthony Byrne,

Castlemartin stud farm/Clementville Limited, Frank MacGabhann, Kildare South Fine Gael, Two Mile House GAA Club, Jennifer Cullen, Two Mile House Says No. These submissions may be summarised as follows.

- The local road network is inadequate to accommodate construction machinery. Walkers will be endangered and access to the local GAA club will be compromised.
- The proposed development will be unacceptably visually intrusive in the area.
- There has not been adequate community consultation in relation to the proposed development.
- The environmental impacts have not been properly assessed.
- The applicant may not have the expertise to manage the proposed development which will be the largest of its kind in Ireland.
- The proposed development will negatively impact on human health.
- The Camphill Communities have not expressed support for the proposed development as claimed in the application. Camphill Community currently use an access off the L6044 in the vicinity of the proposed a new entrance to the proposed development and the safety of residents who use this road for recreation/walking will be compromised. The increased traffic arising from the proposed development may impede access for health care related vehicles to vulnerable residents.
- This is a residential area, and the proposed development is subject to risk of fire and explosion.
- Contaminated firefighting water could exit the site and negatively impact the river Liffey.
- The proposed development would negatively impact the equine industry, including Gilltown stud farm and Castlemartin stud farm, which is protected in County Development Plan policy.
- The proposed development might negatively impact on local wildlife including the Marsh Fritillary butterfly and the Lapwing.

- John O'Loughlin lives within 600m of the application site, and expressed the view (as a retired engineer) that opposition to the proposed development has been unnecessarily encouraged in the area and there is only a tiny fire risk arising from this proposed development which is necessary for the storage renewable energy.

6.7. Further Responses

None.

7.0 Assessment

7.1. The planning issues in this case are.

- Refusal reason 1 - prematurity
- Refusal reason 2 - fire safety
- Refusal reason 3 - Wastewater and noise/vibration.
- County Development Plan and Equine industry
- Visual Amenity
- Archaeology
- Road Safety.
- Waste Framework Directive.
- EIA Screening
- Appropriate Assessment Screening

7.2. **Refusal reason 1 - Prematurity.**

7.3. The planning authority in reason number 1 refused permission because it considered that the application would be premature pending the determination of the planning and environmental impact of the strategic infrastructure necessary to support and complement the proposed development.

7.4. The SID application referred to is that dealt with under ABP310033-21 wherein the Board determined that a 220kV substation on adjoining lands is strategic infrastructure and that permission should be sought under section 182A of the P & D Act. There is an existing 400kV substation on the adjoining site and it appears that the applicant's long-term purpose is that all three pieces of infrastructure – the existing and proposed substations and the BESS will serve renewable energy projects in the area. Since BESS are not a form of development subject to EIA and that the proposed BESS can serve a number of developments there appears no good planning reason to delay consideration of this specific proposal. If other forms of development are proposed in the wider area, they can be considered on their own merits.

7.5. I conclude that the planning authority's first refusal reason can reasonably be set aside.

7.6. **Refusal reason 2 - fire safety**

7.7. The second reason for refusal stated that the fire safety aspects of the proposed development (hard standing access routes for emergency vehicles, inadequate separation distances between the storage units, lack of water supply at the site) have not been adequately addressed and the proposed development would, therefore, seriously injure the environment, the residential amenity of property in the area and set an undesirable precedent for similar development.

7.8. The CFO reported on the application making the following comments – the access routes within the site does not meet the structural standards set out in the technical guidance document, the separation distances between the battery storage systems have not been assessed, failure mode analysis of various scenarios has not been carried out, hazard analysis and risk assessment for fire and/or explosion has not been carried out, impacts on nearby community, no water supply has been proposed for the site, both water and gaseous fire suppressant facilities should be considered, the cooling and ventilation systems are not adequately detailed in the application, reference documents included in the application documents are not relevant to this type application, the correct standard is set out at NFPA 885 2020 and this is not referenced in the application, there is a discrepancy in the location of the doors on

each battery storage unit. This report formed the basis for the second refusal reason set out in the manager's order.

- 7.9. The applicant in the grounds of appeal makes the general point that the proposed development requires a Fire Safety Cert, and that further detail can be provided in that process.
- 7.10. The Development Management Guidelines (section 7.8.3) advise that fire safety considerations should impact on development management only in so far as such considerations impact on the proper planning and sustainable development of the area. Specifically, consideration should be given to fire air safety (1) where a proposed development is located close to other potential fire hazard (2) where protected structures might be endangered, (3) where a question of adequate road access is raised and (4) the availability of firefighting supplies. In relation to consideration (1) the adjoining ESB substation is not identified by the CFO as a potential source of fire danger, and it is reasonable to assume already complies with the appropriate fire safety standards. In relation to consideration (2) the third-party appeal makes the point that the proposed development could impact on Castlemartin Stud which is also a protected structure. That stud farm is about 5.3kms distant as the crow flies to the southwest of the application site and I am satisfied would not be endangered by a fire in the application site. In relation to consideration (3) the applicant's appeal includes an auto track drawing which demonstrates that the application site is accessible to a pump fire tenders. This material was circulated for comment to the planning authority, and they replied that they had no further comment to make. Having regard to the material submitted with the appeal and circulated for comment I consider that adequate access is available to the application site for firefighting purposes, and that it would be inappropriate to refuse planning permission on this point.
- 7.11. Finally, in relation to consideration (4) set out in the Development Management Guidelines (firefighting water) the applicant includes in the appeal a fire safety assessment which makes the point that no firefighting water will be used on site. Fire risk mitigation and fire suppression will be achieved by a SCADA system which allows for off-site monitoring of industrial activities. Battery containers will be maintained at a constant temperature in the between 21 and 23 degrees and deviation from this or increased pressure within the containers will set off a fire

alarm. Fire would be extinguished by a gas suppression system which floods the containers with nitrogen gas thereby excluding oxygen which results in the suppression of fire. Fire spread will be mitigated against by spacing the containers 3m apart which is in excess of the 2.5m required by the NFPA 855 standards reference by the planning authority. In relation to potential explosions the internal pressure in the units is monitored and when required inert/harmless gasses will be vented to the outside. The closest sensitive receptor is 235m away.

- 7.12. This submission was circulated to the planning authority for comment and no adverse comment was returned. I consider that the Development Management Guidelines correctly distinguishes between those fire related issues that are properly the concern of the planning system and matters of technical detail better left to the certification system managed under the Building Control Act. Having regard to the material submitted with the application and appeal I conclude that issues of fire safety do not give rise to reasons for refusal of planning permission in this case.
- 7.13. **Refusal reason 3** Wastewater treatment and noise.
- 7.14. The third refusal reason comprises two elements (1) the lack of information in relation to the treatment of wastewater arising within the site and (2) the lack of information in relation to noise/vibration.
- 7.15. In relation to the first part of the refusal reason the applicant's appeal makes the point that there are no permanent staff facilities on site to generate wastewater and that the staff needs during the construction phase will be met by portable facilities that are then moved from site and effluent disposed of by a licenced contractor. In the longer term staff facilities will be provided as part of the additional electricity substation on adjoining lands. I am satisfied that the proposed development does not need or provide permanent staff facilities as, generally, the systems are subject to remote monitoring. In reference to the construction phase plan to treat staff wastewater generated off site by a licenced contractor this is a standard practice which I consider is acceptable and will avoid any wastewater entering the local water environment.
- 7.16. In relation to the second part of the refusal reason the applicant makes the point that neither the planning authority's Environment Section or the Environmental Health Service raised the issue of noise or vibration in their reports.

7.17. The applicant includes an Environment Report which deal with noise impacts. The assessment criteria and methodology chosen is the EPA Guidance Note for Noise Licence Applications, Surveys and Assessments in Relation to Scheduled Activities (NG4). The application is within a 'quite area' for the purposes of assessment and the Report maps the noise sensitive receptors (NSR) within the study these include houses, schools, places of worship. The report carried out an recorded the ambient noise levees and five locations, identified sources of construction related noise and assessed the expected impacts. The report adopted a worst case scenario whereby all construction machinery is located at the side boundaries closest to the NSR, and concluded that a $L_{Aer(1\text{ hour})}$ of 61dB. In relation to operational noise impacts the report concludes that because the absence of significant moving parts noise would be emitted akin to that of mechanical air fans and that consequently no specific mitigation measures are proposed.

7.18. The planning authority's Environment Section reported no concerns in relation to noise and vibration (it raised issues of wastewater treatment dealt with elsewhere in this report) and the Environmental Health Service reported it was satisfied that there was no risk to public health from noise in the operation of the proposed development. Having regard to these reports, to the noise assessment submitted with the application which I consider sound in its methodology and conclusions, to the nature of the proposed development which I conclude has little capacity to generate noise or vibration and to the separation distances between noise sensitive receptors and the battery storage system I conclude that there are no likely significant noise or vibration impacts arising from the proposed development.

7.19. **County Development Plan and the Bloodstock Industry**

7.20. The appeal and observations make the point that the proposed development will contravene the County Development plan objectives to support the horse industry. It is the case that the development plan sets out a number of objectives in support of the horse in particular objective EQ1 seeks to encourage the expansion of the bloodstock industry by protecting the environment and amenity value of rural areas from encroachment by urban sprawl and incompatible development. It is also the case the County Development Plan sets out objectives supportive of wind and solar generated renewable energy and the provision of appropriate support infrastructure.

- 7.21. The proposed development does not comprise urban sprawl and for it to be incompatible with the bloodstock industry there must be some demonstratable negative impacts. As detailed elsewhere in this report there will be no permanent staff facilities associated with this development to give rise to soiled effluent and construction phase effluent will be retained on site and disposed of at intervals off site by a licenced contractor. Rainfall will be allowed to infiltrate the subsoil naturally with no surface water will exit the site. The preliminary construction and environmental management plan submitted with the application details the measures adopted to prevent/mitigate against hydrocarbon spills within the site in the construction phase. No firefighting water source is proposed because fire will be extinguished by other methods. The Environmental Report submitted with the application makes the point that there are no waste emissions during the operational phase of the development (35 years) and that construction phase details are set out a preliminary construction and environmental management plan submitted with the application which will be fine-tuned and agreed with the planning authority prior to commencement of construction works. The visual impact (see below) will be minimal and not detrimental to the bloodstock industry in a manner as to materially contravene an objective of the County Development Plan.
- 7.22. I conclude that the application has demonstrated that the proposed development has minimal capacity to give rise to environmental impacts on the equine industry and I conclude that the proposed development does not materially contravene an objective in the County Development Plan and would not undermine the viability of the bloodstock industry in the area.
- 7.23. **Visual Amenity**
- 7.24. The application includes a Landscape and Visual Impact Assessment, and the appeal includes a further visual impact assessment. This assessment makes the point that the site is in an area designated as Eastern Transition in the County Development Plan which is a 'medium sensitivity landscape'. The plan recognises that this area has a capacity to accommodate a range of land uses without significant negative effects. The application makes the point that significant lines of trees in the area. These are evident along the local road network and between the fields within the site and outside the site. There is an area of forestry to the northwest of the site. The topography additionally limits the visual impact of individual

developments. I carried out a visual inspection of the site and surrounding area including of the local road network (the L6044 from where the revised access will be taken, from the L6073/Stephenstown Lawns Road to the northeast of the application site from its junction with the L6044 to its junction with the R412 to the northwest of the application site and then south along the R412) and noted the enclosed nature of the landscape in the area resulting from the tree cover. Additionally, the existing ESB substation on the adjoining land is only very intermittently visible from the road network. The applicant submitted several photos illustrating the visual impacts and I consider these reasonably accurate. Mitigation will comprise additional tree planting into existing gaps in hedgerow gaps

7.25. The applicant's assessment concludes that the magnitude of change in the landscape is low with only a slight visual impact. I agree with the conclusion set out in the application documents and I also conclude that the proposed development will not negatively impact on the surrounded landscape or interfere with views or prospects in a manner as to materially contravene any objective in the County Development Plan.

7.26. Archaeology

7.27. I note the submission by the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media stating that the site should be subject to archaeological assessment in the event of a grant of planning permission and I include a condition requiring monitoring of site development works in the draft order below.

7.28. Road Safety

7.29. The issue of road safety is raised in the application and the observers (especially Camphill Communities whose facility accesses the L6044) make the point that the local road network will be unsafe for walkers and those with limited mobility.

7.30. The planning authority's Roads and Transport Department reported that it had no objection to the proposed development and that in the event of permission be granted that a number of conditions be imposed addressing surface water run off onto the public road, the submission of a CEMP to include traffic management, wheel wash facilities, locations of construction compounds, a construction waste management plan and appropriate signage. A condition to regulate working hours,

adequate parking facilities, avoidance of dirt spill on public roads, and avoidance of damage to land or roadside drains should also be imposed.

7.31. The proposed development has no permanent on-site staff and the application (see environmental report 11.2.2) states that there will be 3/4 annual maintenance visits. I conclude on this basis that the operational phase of the development does not have the capacity to alter traffic patterns on the local road network in a manner to give rise to traffic hazard.

7.32. In relation to the construction phase the application identifies the significant routes (see section 11 of the Environmental Report) as the M50/N7, the R445, R418, R412, L6073 and L6044. I consider that, for the local residents, the significant routes are R412, L6073 and L6044 – these are the closest adjacent routes to the southeast, northeast and northwest of the application site. The traffic surveys for L6044 showed that, although the speed limit on that road is 80 kph, the average actual speed was much lower. To comply with the TII Design Manual for Roads and Bridges the existing access to the site will be closed and a new access from this road will be located to the southwest and 120m sightlines will be achieved in both directions. The construction phase traffic will be limited to a haul route along the R412, L6073 and L6044. The estimated maximum daily HGV deliveries (see table 11-3 in the Environmental Report) vary between 3 and 5 depending on the construction phases and adherence to the identified haul route will be a condition of the Contractors' contracts. Additionally, the draft CEMP submitted with the application makes the point that no construction traffic will be allowed to park on the L6044 at the site entrance and that the applicant will appoint an individual to liaise directly with the Camphill Communities in relation to road safety.

7.33. Having regard to the planning authority's Roads and Transport report, to the material set out in the application (especially the Environmental Report and the draft CEMP) which I consider properly addresses the significant aspects of road safety, my site inspection and the other material on file I conclude that the proposed development would not endanger public safety by reason of traffic hazard.

7.34. EIA Screening

7.34.1. The appeal makes the point that the proposed development is part of a wider energy project and therefore comprises project splitting and should be subject to EIA. The

form of development proposed comprising battery storage units for the storage of energy generated before discharging to the grid does not fall into a class of development set out in Parts 1 or 2 of the Fifth Schedule of the Planning and Development Regulations, 2001 (as amended) which require EIA. Therefore, it is not subject to EIA or screening for EIA which would be appropriate in the case of subthreshold development.

7.35. It may be noted in this context that, generally, grid connections, underground cabling or solar farms are no classes of development for the purposes of EIA. Should forms of development which require EIA be proposed in the future the requirements of the Directive and domestic regulations would apply.

7.36. **Waste Framework Directive.**

7.37. The appeal makes the point that the application fails to comply with the Waste Framework Directive and the decommissioning of the batteries could give rise to environmental hazard.

7.38. The Waste Framework Directive is implemented in Ireland, principally, through the Waste Management Act 1996, as amended and the EU (Waste Directive) Regulations 2001-2020. The applicant has separate responsibilities under the Waste Management Acts in relation to the safe disposal of electrical waste and the Development Management Guidelines advise that where separate codes apply that the development management system has a limited role. Condition 7 and condition 9 set out in the draft order below provide appropriate circumstances for intervention by the planning authority in pursuit of proper planning and sustainable development and I consider that the proposed development will not be contrary to the provisions of the Waste Framework Directive.

7.39. **Appropriate Assessment Screening**

7.40. The appeal makes the related points that the proposed development is within the catchment of the river Liffey, that the proposed development has the capacity to give rise to surface water pollution thereby undermining the objectives of the Water Framework Directive and that the AA screening report is inadequate.

7.41. The application includes an AA screening report which identifies 7 European sites within 15kms of the application site. These European sites are Mouds Bog SAC (002331) which is 9.2m kms distant from the application site, Pollardstown Fen SAC

(000396) is located 9.7kms from the application site, Red Bog (Kildare) SAC (000397) is located 10.1kms from the application site, Wicklow Mountains SAC (002122) is located 12.5kms from the application site and Ballynafagh Lake SAC (001287) is located 14.4kms from the application site, Poulaphouca Reservoir SPA (004053) is 7.4kms from the application site and Wicklow Mountains SPA (004040) is 14.4kms from the application site.

- 7.42. Having regard to the source-pathway-receptor model of assessment, the separation distances between the application site and the European sites and the absence of a hydrological or other pathway the applicant screened out all these sites from further consideration.
- 7.43. I have considered the material included in the AA screening report submitted with the application (including the absence of pathways and separation distances) and I conclude that it was reasonable to confine the screening exercise to these sites.
- 7.44. Having regard to the conservation objectives and qualifying interests for the seven European sites published by the NPWS, the separation distances and the absence of pathways between the application site and the European sites, and the information on file (which I consider adequate in order to issue a screening determination) it is reasonable to conclude, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the identified European sites or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.
- 7.45. The AA screening report addresses the point raised in the appeal in relation to potential connection with the river Liffey. There is stream (Fenington South Stream) about 235m distant from the site and this drains to the river Liffey about 3.7 kms downstream of the application site. There is no hydrological connection between the application site and the Fenington Stream. The application demonstrates that there is no potential soiled water leaving the application site (no water is proposed for firefighting, hydrocarbon spills will be mitigated as provided for in the environmental report and no foul effluent from staff facilities will be disposed of on-site thereby making any hydrogeological connection irrelevant). Having regard to these considerations I am satisfied that the applicant adequately demonstrates that the proposed development complies with the European Union Environmental Objectives

(Groundwater) Regulations 2010 (as amended) for ground water protection purposes and with the European Union Environmental Objectives (Surface Water Regulations 2009 (as amended) for surface protection purposes and that, consequently, no real risk of pollution in the river Liffey exists that would undermine the objectives of the Water Framework Directive.

8.0 Recommendation

8.1. I recommend a grant of planning permission.

9.0 Reasons and Considerations

9.1. Having regard to;

- national, regional and local planning policies which support the development of a safe, secure and reliable electricity network and seek to reduce dependence on fossil fuels,
- the nature and scale of the proposed development,
- and the content of the Environmental Report including mitigation measures (in particular relation to water pollution and road safety),
- the Appropriate Assessment Screening report,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or have a significant negative impact on the landscape, would not seriously injure the residential amenity or depreciate the value of property in the vicinity, would not give rise to a risk of ground or surface water pollution, would not give rise to a significant fire hazard or risk of explosion, would not adversely affect the bloodstock industry and would be acceptable in terms of traffic safety, and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the current Kildare County Development Plan and proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on 23rd day of October 2020, except as may be otherwise 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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interests of clarity.</p>
2.	<p>All mitigation measures identified in the Environmental Report, Natura Impact Statement and Ecological Impact Statement and other plans and particulars submitted with the planning application shall be complied with.</p> <p>Reason: In the interests of clarity and the protection of the environment.</p>
3.	<p>Prior to the commencement of development, details of all external finishes of the battery storage containers and the control building shall be submitted for the written agreement of the planning authority.</p> <p>Reason: To protect the visual amenities and landscape character of the area.</p>
4.	<p>Details of advance signage to be provided on local road network shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of traffic safety.</p>
5.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures, off-site disposal of</p>

	<p>construction/demolition waste, traffic management, measures for the storage of oils and fuels on site, and measures for the protection of ground and surface waters.</p> <p>Reason: In the interests of public safety and residential amenity</p>
6.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1300 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity</p>
7.	<p>(a) This permission shall be for a period of 35 years from the date of this Order. The battery storage units, control building and all related development shall then be removed from the site unless, prior to the end of the appropriate period, planning permission for the retention of the development has been obtained.</p> <p>(b) A decommissioning strategy for the proposed development and a site restoration plan shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>Reason: To enable the impact of the development to be reassessed having regard to changes in technology over the period of the permission and to ensure the satisfactory restoration of the site in the interests of visual amenity.</p>
8.	<p>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 -</p> <p>(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,</p>

	<p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(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.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>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.</p>
9.	<p>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, 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.</p> <p>Reason: To ensure the satisfactory restoration of the site in the interest of visual and rural amenity.</p>
10.	<p>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</p>

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

14th September 2022

DECISION QUASHED

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