



Development

10 year planning permission for a solar farm consisting of circa 555,000 m² of solar panels on ground mounted frames. The solar farm will have an operational lifespan of 35 years.

Location

Cain, Woodpark, Barnadown Lower, Brackernagh, Ballinamona, Crancrower, Tomcoyle, Mountforest, Clonmore, Balloughter, Ballyeden, Tullabeg (Townlands), Co. Wexford.

Planning Authority

Wexford County Council

Planning Authority Reg. Ref.

20211538

Applicant(s)

Tullabeg Solar Farm Limited

Type of Application

Permission

Planning Authority Decision

Refuse x 5

Type of Appeal

First Party

Appellant(s)

Tullabeg Solar Farm Limited

Observer(s)

None

Date of Site Inspection

28th April 2022

Inspector

Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 129ha, inclusive of the underground interconnector cabling is located east of the M11 and the Dublin-Wexford Railway Line. It comprises two parcels to the north and south of the L1027 Local Road. The general area is characterised as rural agricultural with associated structures and ribbon development with the aforementioned road and rail infrastructure. The appeal site is in agricultural use. The nearest urban settlement are the villages of Camolin, approx. 3km to the west and Ballycanew, approx. 1km to the southeast.
- 1.2. **Parcel A (North)** – Situated to the north of the L1027 within the townlands of Cain, Woodpark, Barnadown Lower and Brackernagh. It is presently accessed via a number of individual farm entrances to the south, east and west. It comprises a mix of backland agricultural fields with hedgerows of notable maturity. The lands of the western side of Parcel A slope away from the railway line into a very contained lowland basin. It is proposed to access Parcel A via a single entrance from the L1027 as part of the construction and operational development.
- 1.3. **Parcel B (South)** – Situated to the south of the L1027 within the townlands of Ballinamona, and Crancrower. It is presently accessed via a domestic / agricultural laneway from the R741 to the east. It comprises of five different agricultural fields which are typical backland in nature (the northernmost field is c140m from the public road). The Worlough tributary runs adjacent to and through part of the site. It is proposed to access the site by means of a new entrance from the L1027 to the north.
- 1.4. The development will connect to the national grid by means of the 110kV substation permitted under ABP 305803-19. The 33kV cable route extends to approximately 4,900 linear metres between the proposed switchgear container in the solar farm and the 110kV substation at Tullabeg. The northern and southern parts of the solar farm will be connected by a separate 33kV electricity cable of approximately 1,190m under the L1027 public road.
- 1.5. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photomontages available to view on the appeal file. Together these serve to describe the site and location in further detail.

2.0 Proposed Development

2.1. Ten-year planning permission is sought for a solar farm consisting of circa 555,000 m² of solar panels on ground mounted frames, 16 no. single storey electrical inverter/transformer stations and associated spare equipment container, customer switchgear container, security fencing, CCTV, access tracks (including three agricultural bridges), temporary construction compounds, landscaping and all associated ancillary development works. Construction & operational access to the northern part of the solar farm will be provided via an existing agricultural entrance from the L1027 which will be upgraded, with access to the southern part via a new entrance also from the L1027. The solar farm will be connected to the national grid by means of the 110kv substation permitted under An Bord Pleanála Reference 305803-19, with the connection between the proposed solar farm and permitted substation comprising underground cabling. A separate underground interconnection cable will connect the northern & southern parcels of the solar farm. The solar farm will have an operational lifespan of 35 years.

2.2. The application was accompanied by the following:

- Letters of consent from registered landowners
- Cable interconnector technical plans
- Planning & Environmental Statement
- Landscape & Visual Impact Assessment with Photomontages
- Glint & Glare Assessment
- Ecological Assessment Screening Report
- Appropriate Assessment Screening Report
- Archaeological Impact Assessment
- Outline Construction & Environmental Management Plan and appended Outline Construction Methodology for cable interconnector
- Site Access and Drainage Report
- Site Specific Flood Risk Assessment

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Wexford County Council issued notification of decision to refuse planning permission for the following 5 no reasons:

- 1) *Having regard to the insufficient data submitted with the planning application to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site, the proposed development is considered at variance with the official policy in relation to control of development on / affecting national roads, as outlined in the Department of Environment Community and Local Government Spatial Planning and National Roads Guidelines for Plannign authorities (2012) as the proposed development by itself, or by precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network.*
- 2) *The subject application proposes a HDD grid connection, crossing the M11 motorway which requires Works Specific Deeds of Indemnities, arrangements for the third party access and consent from TII in accordance with Section 53 of the Roads Act, 1993. Inadequate information has therefore been provided to assess the full extent and impacts of the proposed works. The proposed development is therefore considered premature pending such details and agreements and is contrary to the proper planning and sustainable development of the area.*
- 3) *Having regard to the lack of information and evidence provided on the management and performance of vegetation cover under a solar energy installation and lack of any proposed drainage management systems to be employed particularly during construction timeframes, and presence of flood risk zone on site, it is considered that there is insufficient information provided to assess the significant risk of soil erosion and potential for significant effects on the soil resource in the long term and effects on local drainage and potential for impacts on receiving surface waters. The proposed development is therefore considered contrary to the proper planning and sustainable development of the area.*

- 4) *It is policy under Objective L04 of the County Development Plan 2013 – 2019, “to require all developments to be appropriate in scale and sited, designed and landscaped having regard to their setting in the landscape so as to ensure that any potential adverse visual impacts are minimised”. Having regard to the topography of this open landscape and its visible nature from certain viewpoints, it is considered that the proposed solar farm would, in combination with the other solar farm development permitted and proposed on the nearby adjacent lands, will form a prominent and obtrusive feature in the landscape, which would be highly visible in views from roads in the vicinity and which would adversely impact on the rural character of the area. The proposed development would seriously injure the visual amenities of the area and would conflict with this development plan objective which seeks to protect the landscape. The proposed development would, therefore be contrary to the proposed planning and development of the area.*
- 5) *The over reliance of the mitigation measure of and intervening timeframe required for new planting obtaining a canopy density and height indicated, given the solar panel installation is to commence by week 7 of the construction phase, and considering the inconsistencies in the establishment of new planting which is considered unreliable and therefore there remains an unacceptable degree of uncertainty on level of glint and glare impacts on rail, road users and also residential properties. The proposed development is therefore considered contrary to the proper planning and development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** having considered the proposed development recommended that permission be refused for 5 no reasons summarised as follows:
 - 1) **National Road Network** - Detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site.
 - 2) **Grid Connection** - Inadequate information has been provided to assess the full extent and impacts of the proposed HDD grid connection, crossing the M11 motorway.

- 3) **Drainage** - There is insufficient information provided to assess the significant risk of soil erosion and potential for significant effects on the soil resource in the long term and effects on local drainage and potential for impacts on receiving surface waters.
- 4) **Visual Impact** - The proposed development would seriously injure the visual amenities of the area and would conflict with Objective L04 of the County Development Plan 2013 – 2019 which seeks to protect the landscape.
- 5) **Glint & Glare** - Considering the inconsistencies in the establishment of new planting which is considered unreliable there remains an unacceptable degree of uncertainty on level of glint and glare impacts on rail, road users and also residential properties.

The notification of decision to refuse permission issued by Wexford County Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Roads Department** – the following further information was requested:
 - 1) Proposals to provide a minimum of 65m sight distance in both directions at each of the proposed 2 no entrances.
 - 2) Sightlines must be maintained at all times
 - 3) Any works that will be required to achieve sightlines must be within the red site boundary unless written permission is provided.
 - 4) Details outlined in the TII correspondence regarding the proposed drilling under the motorway
 - 5) TII comments regarding haulage routes and damage to road network should be noted. Applicant shall provide detailed mitigation measures to ensure no damage to the road network
 - 6) Applicant shall ensure that no glint or glare shall affect any road users or properties

3.3. Prescribed Bodies

- **Iarnrod Eireann Infrastructure** – Due to the proximity of the Waterford – Rosslare railway line developer must take account of the Railway Safety Act 2005, erect a

suitably designed fence for boundary treatment with details and maintenance to be agreed with the existing drainage ditches to be cleared and maintained. With respect to Solar reflections, Glint & Glare the proposed application and any mitigation measures should be carefully evaluated to ensure that there is no resulting glint / glare on the railway environment which could impact on the safe operation of railway services or cause any visual distraction to staff operating within the railway environment. Railway mounds and ditches are to be preserved. Access for Irish Rail staff to culverts / bridges under the Railway should not be hindered.

- **TII** – The application is at variance with official policy in relation to control of development on / affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), as the proposed development by itself, or by the precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network for the following reasons:

- 1) The Authority is of the opinion that insufficient data has been submitted with the planning application to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site.
- 2) It is noted that the subject planning application proposes a HDD grid connection crossing of the M11. A third party seeking to cross a motorway will require Works Specific Deeds of Indemnities, arrangements for third party access or consent from TII in accordance with Section 53 of the Roads Act, 1993. Arrangements for third party access are also likely to be required. Contact should be made to thirdpartyworks@tii.ie to progress this element when proposals for the crossings have been developed.

General requirements for directional drilling under a motorway include:

- The launch and reception pits for the pipeline are located outside the motorway boundary
- The pipeline will be installed at such depths so as not to conflict with the drainage for the motorway
- Neither the works nor the pipeline will damage or interfere with the Motorway

- There are no bolted joints in that part of the pipeline within the motorway fence-line
 - Specific requirements may also arise for these proposed works
- 3) While TII notes that the haul route to site has been detailed in the application, the legibility of the documents scanned to the planning authority's e-plan resource presents difficulty in determining the extent of works, temporary or otherwise, required to the national road network to facilitate delivery to site of the Solar PV Farm components. TII requests referral of all proposals agreed between the road authority and the applicant impacting on national roads.
- Any mitigation measures identified by the applicant should be included as conditions in any decision to grant permission
 - Any proposed works to the national road network shall comply with TII publications
 - Any damage caused to the pavement on the existing national road due to the turning movement of abnormal "length" loads (e.g tearing of the surface course) shall be rectified in accordance with TII Pavement Standards and details in this regard shall be agreed with the Road Authority prior to the commencement of any development on site
- 4) Any operator who wants to transport a vehicle or load whose weight falls outside the limits allowed by the Road Traffic (Construction Equipment & Use of Vehicles) Regulations 2003, SI 5 of 2003, must obtain a permit for its movement from each Local authority through whose jurisdiction the vehicle shall travel.
- In the event that an abnormal weight load is proposed as part of the subject application, all structures on the national road network which form part of the delivery / haul route should be checked by the applicant / developer to confirm their capacity to accommodate any abnormal weight load proposed.
- TII requests referral of all proposals agreed between the road authority and the applicant impacting on national road structures.
- 5) Any mitigation proposed to safeguard the levels of safety on the M11, national road, included in the Glint and Glare Assessment shall be incorporated into the decision as a condition in any permission granted

The Council is requested to identify a monitoring programme for the applicant to adhere to which should allow for additional mitigation if necessary and amendment / removal of any elements of the Solar PV Farm that result in glint / glare and impact on road safety on the M11, national road. The applicant shall be responsible for any costs associated with required mitigation.

3.4. Third Party Observations

3.4.1. None

4.0 Planning History

4.1. The solar farm will be connected to the national grid by means of the 110kv substation permitted under An Bord Pleanála Reference 305803-19, with the connection between the proposed solar farm and permitted substation comprising underground cabling.

- **ABP-306065-19** – Wexford County Council initially refused a 10-year planning permission at Ballyclogh, Tullabeg, Medophall and Medophall Demesne for a solar farm consisting of c384,00 sqm of solar panels on ground mounted frames and 25 no single storey electrical inverter / transformer stations. The operational lifespan of the solar farm will be 35 years. The Board granted permission in September 2020 subject to 13 no conditions.
- **ABP-305803-19** – The Board also made a concurrent decision to grant planning permission for a 110kV substation and associated grid connection under the SID process.

4.2. There is a further recently permitted solar farm proximate to the appeal site as follows:

- **ABP-310272 – 21** – Wexford County Council refused a 10 year planning permission for c. 160,000m² of solar panels located on 4 separately identified parcels of land. Stated that the proposal entails a solar farm which will connect with and represents an extension to the adjacent solar farm permitted under Wexford County Council (WCC) Planning Reference 20191272 (ABP Ref. 306065-19). The operational lifespan of the solar farm will be 35 years. The Board granted permission in January 2022 subject to 12 no conditions.

5.0 Policy Context

5.1. National Policy

5.1.1. 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.

5.1.2. 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.

5.1.3. 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.

5.1.4. 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.

5.1.5. 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.

5.1.6. 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 Planning Guidelines

5.2.1. Regional Spatial and Economic Strategy for the Southern Region

5.2.2. The Strategy came into effect on 31st January 2020. The following are policies relevant to the current proposal:

- **Objective RPO 87** - Low Carbon Energy Future - The RSES is committed to the implementation of the Government's policy under Ireland's Transition to a Low Carbon Energy Future 2015-30 and Climate Action Plan 2019. It is an objective increase the use of renewable energy sources across the key sectors of electricity supply, heating, transport and agriculture
- **Objective RPO 95** - Sustainable Renewable Energy Generation - 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
- **Objective RPO 100** seeks to "support the integration of indigenous renewable energy production and grid injection".
- **Objective RPO 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.

- **Objective RPO 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

5.3. Development Plan

5.3.1. The operative plan for the area is the **Wexford County Development Plan 2013-2019**.

- **Objective EN07** - To encourage and favourably consider proposals for renewable energy developments and ancillary facilities in order to meet national, regional and county renewable energy targets and to facilitate a reduction in CO2 emissions and the promotion of a low carbon economy, subject to compliance with development management standards in Chapter 18 and compliance with Article 6 of the Habitats Directive.
- **Objective EN10** - To prepare a Renewable Energy Strategy for County Wexford during the lifetime of the Plan which will build on and support the Wind Energy Strategy 2013-2019, any Climate Change Strategy prepared for the County and the National Renewable Energy Action Plan (Department of Communications, Energy and Natural Resources, 2010).
- **Objective EN18** - To promote the use of solar technologies in new and existing dwellings, offices, commercial and industrial buildings, subject to compliance with normal planning and environmental criteria and the development management standards contained in Chapter 18.
- **Objective L04** – To require all developments to be appropriate in scale and sited, designed and landscaped having regard to their setting in the landscape so as to ensure that any potential adverse visual impacts are minimised.

5.3.2. Map 13 of the CDP 2013-2019 shows Landscape Units and Features. The subject appeal site is location in an area designated as 'lowlands'. Volume 3 of the Plan consists of a Landscape Character Assessment and Section 1.2.2 states that 'the Lowland unit generally has characteristics which have a higher capacity to absorb

development without it causing significant visual intrusion although, care still needs to be taken on a site by site basis, particularly to minimise the risks of developments being visually intrusive’.

5.3.3. **Draft Wexford County Development Plan 2022-2028**

5.3.4. Volume 10 of the Draft Plan sets out the emerging “Energy Strategy” for the County. Chapter 4 of the Energy Strategy refers specifically to solar generated energy. Map 2 of the Strategy confirms that Wexford has the highest solar irradiation of any area in the Country. Map 6 identifies the appeal site as being within an area confirmed as being “open to consideration” for solar development. Objective ES01 of the strategy aims *“to facilitate the development of solar PV developments in the area open for consideration as shown on Map 6 subject to the renewable energy target set for the County, the proper planning and sustainable development of the area and the Development Management standards set out below”*.

5.4. **Natural Heritage Designations**

5.4.1. The site is not located within any Natura 2000 designated site. There are 5 no European sites within 15km of the appeal site:

- Slaney river Valley SAC
- Cahore Marches SPA
- Cahore Polders & Dunes SAC
- Kilmuckridge – Tinnaberna Sandhills SAC
- Blackwater Bank SAC
- Kilpatrick Sandhills SAC

5.4.2. The closest site to the appeal site is the Slaney River Valley SAC.

5.5. **EIA Screening**

5.6. Under the Planning and Development Regulations 2001 (as amended), current government and EU guidance, the Planning Authority must screen the proposed development for Environmental Impact Assessment (EIA) and decide if the planning application for the proposed development does or does not require the preparation of an Environmental Impact Assessment Report (EIAR).

- 5.7. The current requirements for EIA are outlined in Part X of the Planning and Development Act, 2000, as amended and Part 10 of the Planning and Development Regulation 2001, as amended. The prescribed classes of development and thresholds that trigger a mandatory EIS are set out in Schedule 5 of the Planning and Development Regulations 2001, as amended.
- 5.8. The proposed development does not fall into a class of development contained in Schedule 5, Parts 1 or 2 and therefore the requirements for an EIA can be screened out. Class 15 of the Schedule 5 states that EIA can be required in the case of subthreshold development that would be likely to have significant effects on the environment having regard to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended).
- 5.9. In considering the criteria for determining whether a development would or would not be likely to have significant effects on the environment, I consider that having regard to the characteristics of the proposed development and the location of the development and the characteristics of potential impacts there is no real likelihood of significant effects on the environment arising from the proposed development. Accordingly I am satisfied that the proposed development would not be likely to have significant effects on the environment such that an Environmental Impact Assessment is required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The detailed first party appeal against the decision to refuse permission has been prepared and submitted by HWP Planning and may be summarised as follows.
- 6.1.2. Concern is raised that the processing of the application was not in accordance with the development Management Guidelines for Planning Authorities (2007) as there is an absence of clarity on the rationale for a number of refusal reasons such as Refusal Reason No 1 (not clear what gaps exist in the application in relation to the national road network) and Refusal Reason No 2 (TII consent is not required at Planning stage). Further submitted that it is not elaborated on the location of possible “more visible viewpoints” as set out in Refusal Reason No 4. The absence of clear

justification for the refusal reasons constitutes an unsound basis to refuse the proposed development.

6.2. Refusal Reason No 1 – National Road Network

- 6.2.1. Analysis of the planning application documents show that the proposed development will not have an impact on the national road network and that the planning application contains all of the information necessary to determine this.
- 6.2.2. A Site Access Study was submitted with the planning application showing the proposed haul route on the national road network and a detailed breakdown of construction vehicle volumes. When these volumes are compared with TII average traffic data in the vicinity of the site, it is clear that there will be no impact to the capacity of the national road network as a result of the proposed development. There are also no known factors in relation to the proposed development which could affect the operational efficiency of the national road network in the vicinity of the appeal site.
- 6.2.3. A detailed Glint and Glare Assessment was submitted with the planning application which shows that there will be no reflectance impacts to the M11 motorway due to the site proximity, orientation and existing vegetation. The glint and glare report contains ample data and analysis to ensure a Planning Authority that there will be no safety issues emanating from the proposed development with respect to the national road network.
- 6.2.4. There are no policies contained in the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) which the proposed development is at variance with.
- 6.2.5. Submitted that there is sufficient data within the planning application to show that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site.

6.3. Refusal Reason No 2 – Third Party Access and Consent from TII

- 6.3.1. TII have stated in their submission on the planning application that legal documents, access arrangements and consent will be required when proposals for crossing the motorway have been developed. As previously noted, the applicant is happy to

engage with TII and any other parties as required to ensure that all procedures are followed and adhered to in relation to the proposed motorway crossing.

6.3.2. Applicant not aware of anything within the Planning and Development Regulations which require legal documentation such as Works Specific Deeds of Indemnities and third party access to be in place in advance of planning permission. The applicant has engaged with TII on the proposed cable crossing in advance of planning application lodgement and has provided technical details and methodologies within the application itself. Noted that TIIs requirements for directional drilling in their submission and TLI Group have provided a response to these as part of this appeal which is attached as Appendix C. Further, consent for HDD is not required at this point in the development process as outlined in the new regulations.

6.3.3. Submitted that WCC may have misunderstood the timing of documentation required to cross a motorway with an electricity cable. They have assumed that this documentation should be required now and have erroneously claimed that the lack of this documentation is contrary to the proper planning and sustainable development of the area. However, these documents are required at a later stage of development when planning permission is granted and this documentation has nothing to do with the planning application process. For these reasons submitted that this reason for refusal is not valid and should not be considered further in the context of this planning application.

6.4. Refusal Reason No 3 – Surface Water

6.4.1. Submitted that there are no information deficits in the application documentation in respect of risks to soil erosion or impact on local drainage. Subject to appropriate design specifications, the installation of solar PV arrays will not give rise to increased surface water runoff (volumes or rates) in an agricultural setting. This position is supported by both academic and industry testing of pre and post-panelled ground conditions. The Council referenced paper “Hydrologic Response of Solar Farms” confirms that investigated “solar parks themselves did not have a significant effect on runoff volumes, peaks or times to peak”. This research advocates the establishment and maintenance of grass underneath erected panels promoting kinetic friction and the avoidance of bare-ground in adjacent spacer section (areas between array rows).

These measures have been adopted as an intrinsic part of the solar farm design. Surface water will continue to be accommodated by the existing original drainage and infiltration pattern on the site via the network of perimeter drains.

6.5. Refusal Reason No 4 – Visual Impact

- 6.5.1. There is no basis to the Council's suggestion that the project would conflict with Objective L04 of the Wexford County Development Plan 2013 – 2019 in respect of landscape. As demonstrated by Macro Works appeal statement, this is not an “open landscape” with a “visible nature” and that is confirmed by the 12 viewpoints used for the original visual assessment as well as the six further viewpoints provided and assessed as part of this appeal – none of which exceed a residual impact significance of slight-imperceptible.
- 6.5.2. The proposed solar farm is not a “prominent and obtrusive” feature suggested in refusal reason No 4. It has also been demonstrated using both the photomontages and a cumulative ZTV map that intervisibility of the proposed development in conjunction with other permitted and proposed solar farms to the west is likely to be very limited and of a distant and obscured nature that prevents significant cumulative impacts from occurring.

6.6. Refusal Reason No 5 – Glint & Glare

- 6.6.1. There is no “uncertainty” or “inconsistency” with regard to the screening of glint and glare effects from surrounding receptors as the vast majority of this is provided by existing vegetation. The proposed mitigation will only ensure that the very minor reflectance effects are even further reduced for residential, road and rail receptors. The applicant is fully committed to this and agrees with Iarnród Éireann's submission that all monitoring and mitigation measures can be formalised by way of applied condition of any grant of permission to ensure the safety and operation of the railway.

6.7. Other Matters

- **Comments on WCC Roads Department** – These recommendations were incorporated into the planning application by the applicant. No works, temporary

of otherwise, are proposed to the national road network as part of this development.

- **Abnormal Loads on the National Road Network (TII)** – No abnormal load is proposed or are necessary as part of the proposed development. Further to any grant of permission, the applicant will liaise with TII and the local authority on planned construction movements in advance of the construction phase.

6.8. Conclusion

Solar Farms represent a positive form of agricultural diversification. As a temporary use in the landscape, they are typically inert, with a negligible environmental impact. The subject site has been carefully selected on the basis of key technical, planning, as well as environmental considerations and is deemed wholly suitable for the intended use. The proposal is compliant with national policy as enshrined in the Governments Climate Action Plan and is supported by key economic and environmental policies contained in the National Planning Framework, the Southern Regional Assembly's Regional Spatial and Economic Strategy and the WCC Development Plan 2013 (as extended).

6.8.1. The appeal was accompanied by the following:

- Report and sight line drawings by CSEA Engineering Advisors
- Report by TLI Group including utility search findings for grid connection
- Statutory Undertaker Letter
- Report from IE Consulting
- Report form Marco Works
- TII email dated 27th August 2021

6.9. Planning Authority Response

6.9.1. None

6.10. Observations

6.10.1. None

6.11. Further Responses

6.11.1. None

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings.

- Principle
- Refusal Reason No 1 – National Road Network
- Refusal Reason No 2 – Third Party Access and Consent from TII
- Refusal Reason No 3 – Surface Water
- Refusal Reason No 4 – Visual Impact
- Refusal Reason No 5 – Glint & Glare
- Screening for Appropriate Assessment
- Other Issues

7.2. Principle

7.2.1. Renewable energy development is supported in principle at national, regional and local policy levels, with collective support across government sectors for a move to a low carbon future and an acknowledgement of the need to encourage the use of renewable resources to reduce greenhouse gas emissions and to meet renewable energy targets set at a European Level. It is also an action of the NPF under National Policy Objective no. 55 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'*.

7.3. The Wexford County Development Plan 2013-2019 is supportive of renewable energy in general, and solar power and acknowledges the geographical advantages of the area in this respect. Objective EN07 in particular encourages this type of development and states that proposals for renewable energy developments and ancillary facilities

should be considered favourably in order to meet national, regional and county renewable energy targets and to facilitate a reduction in CO2 emissions and the promotion of a low carbon economy, subject to compliance with development management standards in Chapter 18 and compliance with Article 6 of the Habitats Directive.

- 7.4. It is further noted that the Draft Wexford County Development Plan 2022-2028 sets out the emerging “Energy Strategy” for the County. Chapter 4 of the Energy Strategy refers specifically to solar generated energy. Map 2 of the Strategy confirms that Wexford has the highest solar irradiation of any area in the Country. Map 6 identifies the appeal site as being within an area confirmed as being “open to consideration” for solar development. Objective ES01 of the strategy aims “*to facilitate the development of solar PV developments in the area open for consideration as shown on Map 6 subject to the renewable energy target set for the County, the proper planning and sustainable development of the area and the Development Management standards set out below*”. While the Draft Development Plan is yet to be adopted its policies and objectives demonstrates the evolution of support for renewable energy projects and in particular solar development within the County. Notwithstanding the clear support for solar development in the Draft Plan it remains that the operative plan against which this development is considered is the Wexford County Development Plan 2013-2019.
- 7.5. The proposed development is therefore supported by national, regional, and local policies in terms of renewable energy. Accordingly, I consider the proposal to be acceptable in principle and that it would contribute to the diversity of sources of energy supply and hence the security of energy supply. The acceptability of the proposal is contingent on other issues addressed below.

7.6. **Refusal Reason No 1 – National Road Network**

- 7.6.1. Wexford County Council in their first reason for refusal set out the following:

Having regard to the insufficient data submitted with the planning application to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site, the proposed development is considered at variance with the official policy in relation to control of development on / affecting national

roads, as outlined in the Department of Environment Community and Local Government Spatial Planning and National Roads Guidelines for Planning Authorities (2012) as the proposed development by itself, or by precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network.

7.6.2. As set out above WCC are concerned that there is insufficient data to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site. This reason for refusal is in line with the submission of TII to WCC where it states that *the application is at variance with official policy in relation to control of development on / affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012), as the proposed development by itself, or by the precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network.*

7.6.3. While much of the TII submission is concerned with the proposed HDD grid connection crossing of the M11 (to be discussed under Refusal Reason No 2 below) it is noted that specific concern is raised that the legibility of the documents scanned to the planning authority's e-plan resource presents difficult in determining the extent of works, temporary or otherwise, required to the national road network to facilitate delivery to site of the Solar PV Farm components. TII requested the referral of all proposals agreed between the road authority and the applicant impacting on national roads together with the following requirements:

- Any mitigation measures identified by the applicant should be included as conditions in any decision to grant permission
- Any proposed works to the national road network shall comply with TII publications
- Any damage caused to the pavement on the existing national road due to the turning movement of abnormal "length" loads (e.g tearing of the surface course) shall be rectified in accordance with TII Pavement Standards and details in this regard shall be agreed with the Road Authority prior to the commencement of any development on site

- Any operator who wants to transport a vehicle or load whose weight falls outside the limits allowed by the Road Traffic (Construction Equipment & Use of Vehicles) Regulations 2003, SI 5 of 2003, must obtain a permit for its movement from each Local authority through whose jurisdiction the vehicle shall travel.
- In the event that an abnormal weight load is proposed as part of the subject application, all structures on the national road network which form part of the delivery / haul route should be checked by the applicant / developer to confirm their capacity to accommodate any abnormal weight load proposed.
- TII requests referral of all proposals agreed between the road authority and the applicant impacting on national road structures.

7.6.4. I also refer to the report of WCC Roads Department who requested further information in relation to the provision of 65m sight distance in both directions at each of the proposed 2 no entrances, sightlines to be maintained at all times, any works that will be required to achieve sightlines must be within the red site boundary unless written permission is provided and details outlined in the TII correspondence regarding the proposed drilling under the motorway. It was requested that the TII comments regarding haulage routes and damage to road network should be noted and that the applicant shall provide detailed mitigation measures to ensure no damage to the road network.

7.6.5. There is no evidence on the appeal file indicating that detailed hard copies of the proposed development were made available to TII. No further information was sought in relation the queries raised by either TII or the WCC Roads Department. I refer to the Planning & Environmental Statement, the Site Access Report submitted with the planning application together with the appeal submission.

7.6.6. There is only one national road in the vicinity of the proposed development; the M11 Gorey to Enniscorthy motorway, which is situated c480m at its closest point, to the northwest. Within this separation distance there is a local road, a number of residences, the Dublin to Rosslare railway line and a number of well-established hedgerows that screen the site. Given the orientation and direction of the motorway there is little direct interaction between the two. Taken together with my site inspection

I agree with the applicant that the physical relationship between the two can be described as distanced and detached.

- 7.6.7. While not explicitly stated it is reasonable to infer that the primary impact on the capacity, safety and / or operational efficiency of the national road network will likely occur at the construction and / or decommissioning stage of the development. A Site Access Study was submitted with the planning application showing the proposed haul route on the national road network and a detailed breakdown of construction vehicle volumes.
- 7.6.8. The construction timeframe is estimated at 24 weeks. Peak vehicle numbers to the site will be during Weeks 10 and 11, when 40 vehicles will travel to the site per day. The construction haul route is proposed to travel from Rosslare Port on the N11 and M11 before reaching the site via a short journey on regional and local roads. The supplementary information submitted with the appeal confirms that there is no abnormal vehicle loads or lengths associated with the project. The applicant submits that based on the TII Traffic Data AADT, at peak construction traffic of 40 vehicles per day, the proposed development will increase the AADT in the vicinity of the site by less than 0.5% for a period of two weeks during construction. Given these figures I agree with the applicant that the proposed development will not have a significant impact on the capacity of the national road network in the vicinity of the site. Vehicle volumes associated with the operation of the solar farm are substantially less again where there will be an average of 2-4 vehicular visits to the site per month for maintenance purposes
- 7.6.9. I refer to Section 7.12 below that addresses in further detail the issue of Glint & Glare together with the detailed Glint and Glare Assessment submitted with the planning application which shows that there will be no reflectance impacts to the M11 motorway due to the site proximity, orientation, and existing vegetation. The Glint & Glare Assessment submitted concludes that “the M11 has no potential to be impacted by glint and glare”. This is attributed to the distance between the appeals site and the motorway, the orientation of the appeal site and the substantial intervening vegetation between the two. I am satisfied that there will be no safety issues emanating from the proposed development with respect to the national road network.

7.6.10. Overall, taken together with my site inspection, I am satisfied that there is sufficient data within the planning appeal to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety, or operational efficiency of the national road network in the vicinity of the site. With regard to the specific concerns raised by TII and WCC Roads Department I agree with the applicant that all monitoring and mitigation measures can be formalised by way of condition. It is recommended that refusal reason no 1 be set aside.

7.7. Refusal Reason No 2 – Third party access and consent from TII

7.7.1. WCC in their second reason for refusal set out the following:

The subject application proposes a HDD grid connection, crossing the M11 motorway which requires Works Specific Deeds of Indemnities, arrangements for the third party access and consent from TII in accordance with Section 53 of the Roads Act, 1993. Inadequate information has therefore been provided to assess the full extent and impacts of the proposed works. The proposed development is therefore considered premature pending such details and agreements and is contrary to the proper planning and sustainable development of the area.

7.7.2. As set out above WCC are concerned that inadequate information has been provided to assess the full extent and impacts of the proposed HDD grid connection, crossing the M11 motorway which requires Works Specific Deeds of Indemnities, arrangements for the third-party access and consent from TII.

7.7.3. As documented, the development will connect to the national grid by means of the 110kV substation permitted under ABP 305803-19. The 33kV cable route extends to approximately 4,900 linear metres between the proposed switchgear container in the solar farm and the 110kV substation at Tullabeg. The northern and southern parts of the solar farm will be connected by a separate 33kV electricity cable of approximately 1,190m under the L1027 public road.

7.7.4. TII in their submission to WCC note that the subject planning application proposes a HDD grid connection crossing of the M11. TII state that a third party seeking to cross a motorway will require Works Specific Deeds of Indemnities, arrangements for third party access or consent from TII in accordance with Section 53 of the Roads Act, 1993.

Arrangements for third party access are also likely to be required. General requirements for directional drilling under a motorway include:

- The launch and reception pits for the pipeline are located outside the motorway boundary
- The pipeline will be installed at such depths so as not to conflict with the drainage for the motorway
- Neither the works nor the pipeline will damage or interfere with the Motorway
- There are no bolted joints in that part of the pipeline within the motorway fence-line
- Specific requirements may also arise for these proposed works

7.7.5. The path of all underground cabling is detailed on the site layout plans, with the technical specifications for such cables contained in supporting drawings and the outline construction methodology by TLI Group. Where cable routes pass under agriculture field boundaries, it is stated that these trenches will be dug out by hand in accordance with best practise. Where drains are present at such boundaries the trenching will be dug under the drain level, cable laid and drain reinstated. Any digging in such locations will be undertaken during dry weather when no water is flowing in the drain. Elsewhere, the cabling under the Worlough River bridge on the L1027 and the M11 crossing will be completed by means of directional drilling, with the necessary agreements put in place with the roads authority prior to commencement of development.

7.7.6. The Construction Methodology sets out a detailed approach to these works including extent of works area, phased stages of construction and execution, compliance with licensing and construction guidelines, traffic management, interactions with existing services, reinstatement and waste management. The applicant states that it notified TII on this matter and all necessary final agreements will be put in place once planning permission has been obtained consistent with standard procedures.

7.7.7. A Works Specific Deed of Indemnity, as referenced in the reason for refusal, is a legal document which protects an entity against claims made by third parties and are generally agreed between the developer and Authority before construction commences. Having considered the submission by TII I agree with the applicant that it would appear that TII are requesting that further arrangements are made with

respect to the HDD element of the project at a later stage of development once planning permission is granted. I do not consider the absence of such a document to be a reason of itself to refuse planning permission.

7.7.8. With regard to the reference that “arrangements for third party access” agreements should be in place at planning stage, or the application is “considered premature” I note that the applicant has carried out a utility search to check if any third party infrastructure was located in the area of the HDD crossing. The results of the search revealed that there was no third party infrastructure in the vicinity of the HDD crossing. I am satisfied that this matter can be set aside.

7.7.9. With regard to consent from TII in accordance with Section 53 of the Roads Act 1993 where it states that works to a motorway should not be carried out without the consent of the Authority, I note that pursuant to a favourable grant of planning permission, the applicant is happy to undertake all necessary procedural requirements in relation to the cable crossing in line with TIIs request. To this end I refer to Circular Letter PL01/2021 issued from the Department of Housing, Local Government and Heritage to Planning Authorities on 15th January 2021 where it states as follows. These new Regulations amend provisions in the Planning and Development Regulations 2001, as amended (the Principal Regulations), to remove the requirement for landowner consent to be submitted with planning applications for services along public roads.

..... when seeking planning permission for a proposed development that is in, over or under a public road in cases where the applicant is not the legal owner of the land on which the proposed works are to be undertaken, the consent of the landowner is not required to be submitted with the application, subject to written confirmation being provided that the proposed development concerned is to be undertaken by a statutory undertaker having a right or interest to provide services.

7.7.10. I am satisfied that the requirement for consent is removed based on the amended regulations noted above and that this element of the reason for refusal can also be set aside.

7.7.11. Having regard to the foregoing I am satisfied that Works Specific Deeds of Indemnities, arrangements for the third-party access and consent from TII in accordance with Section 53 of the Roads Act, 1993, while required in order to proceed with a proposed

development should planning permission be granted it remains that they are not required in advance of planning permission. I do not consider that the proposed development is premature pending such details and agreements. Having regard to the foregoing I am satisfied that the second reason for refusal can be set aside.

7.8. Refusal Reason No 3 – Surface Water

7.8.1. WCC in their third reason for refusal set out the following:

Having regard to the lack of information and evidence provided on the management and performance of vegetation cover under a solar energy installation and lack of any proposed drainage management systems to be employed particularly during construction timeframes, and presence of flood risk zone on site, it is considered that there is insufficient information provided to assess the significant risk of soil erosion and potential for significant effects on the soil resource in the long term and effects on local drainage and potential for impacts on receiving surface waters. The proposed development is therefore considered contrary to the proper planning and sustainable development of the area.

7.8.2. As set out above WCC are concerned that there is insufficient information provided to assess the significant risk of soil erosion, potential for significant effects on the soil resource and the effects on local drainage and receiving surface waters. I refer to the Planning & Environmental Statement, the Drainage Report, the Site-Specific Flood Risk Assessment and the Outline Construction & Environmental Management Plan and appended Outline Construction Methodology for cable interconnector submitted with the planning application together with the appeal submission.

7.8.3. It is proposed to plant and maintain a grassy field cover beneath the panels and in between the panel row of the proposed solar farm development. Sizable separation distances have been incorporated between the solar array panels to avoid blanket coverage of this site. The proposed solar farm development shall not include any gravel or paved sections beneath the panels.

7.8.4. With regard to the Construction Phase the Outline Construction and Environmental Plan states that to minimise the impact of the soil structure within the solar farm site, the construction stage will be confined to a 24 week period of suitable weather

conditions. The constructed access tracks will extend to all areas to reduce rutting and damage to pasture and soil structure. On completion of the works, the pasture will be restored and prepared for seeding to encourage grass growth, restoration of the soil structure and natural creation of meadow grass. The processes will be supplemented in full by a suite of agreed measures to prevent silt laden runoff as well as standard good practise site management procedures including routine wheel washing.

7.8.5. With regard to the post construction phase the Outline Construction and Environmental Management Plan states that an operations and maintenance plan will be put in place once the construction phase is complete. It is submitted that this will include routine inspections and monitoring and the implementation of a habitat management plan. The drainage regime on the site will be subject to regular inspection and cleaning / clearing as necessary.

7.8.6. It is submitted by the applicant that the paper referenced by the Council namely “Hydrologic Response of Solar Farms” confirms that investigated “solar parks themselves did not have a significant effect on runoff volumes, peaks or times to peak”. This research advocates the establishment and maintenance of grass underneath erected panels promoting kinetic friction and the avoidance of bare-ground in adjacent spacer section (areas between array rows). It is stated that these measures have been adopted as an intrinsic part of the solar farm design.

7.8.7. As documented surface water will continue to be accommodated by the existing original drainage and infiltration pattern on the site via the network of perimeter drains. Subject to appropriate design specifications, the installation of solar PV arrays will not give rise to increased surface water runoff in an agricultural setting. It is not anticipated that the development will adversely affect the existing or proposed drainage regime and will not be affected from any flooding issues. Having regard to the foregoing I am satisfied that the third reason for refusal can be set aside.

7.9. Refusal Reason No 4 – Visual Impact

7.9.1. WCC in their fourth reason for refusal set out the following:

It is policy under Objective L04 of the County Development Plan 2013 – 2019, “to require all developments to be appropriate in scale and sited, designed and

landscaped having regard to their setting in the landscape so as to ensure that any potential adverse visual impacts are minimised". Having regard to the topography of this open landscape and its visible nature from certain viewpoints, it is considered that the proposed solar farm would, in combination with the other solar farm development permitted and proposed on the nearby adjacent lands, will form a prominent and obtrusive feature in the landscape, which would be highly visible in views from roads in the vicinity and which would adversely impact on the rural character of the area. The proposed development would seriously injure the visual amenities of the area and would conflict with this development plan objective which seeks to protect the landscape. The proposed development would, therefore be contrary to the proposed planning and development of the area.

- 7.9.2. As set out above WCC are concerned that the proposed solar farm would, in combination with the other solar farm development permitted and proposed on the nearby lands seriously injure the visual amenities of the area and would conflict with Objective L04. As set out above Objective L04 states as follows:

To require all developments to be appropriate in scale and sited, designed and landscaped having regard to their setting in the landscape so as to ensure that any potential adverse visual impacts are minimised.

- 7.9.3. I refer to the Planning & Environmental Statement and Landscape & Visual Impact Assessment with Photomontages submitted with the planning application together with the appeal submission.

- 7.10. Chapter 14 Heritage of the Wexford Development Plan characterises the appeal site as "Lowland", an area, which is deemed to have a *higher capacity to absorb developments*, and which is at the lowest end of the sensitivity rating. Landscape and Visual Impacts were considered at application stage: the Landscape and Visual Impact Assessment (LVIA) refers. The assessment methodology examined the effects of the development on the general visual amenity through the selection and assessment of representative viewpoints. The solar farm is a well screened "backland" development with the LVIA concluding that the "proposed development is characterised by a residual visual impact significance that is at the lowest end of the spectrum (imperceptible) in 8 of the 11 selected viewpoints, and second lowest (slightly-imperceptible) for the remaining three selected viewpoints. This equates to a very

limited degree of likely impact generated as a result of the proposed development”. The main reason for this low degree of impact is the combination of terrain and vegetation screening around the site, which is set back from the local road network by at least one field and associated hedgerows in every direction. Overall, the proposed solar farm is not considered to give rise to any significant residual impacts. Instead, it is well screened or otherwise well assimilated within the prevailing landscape pattern.

- 7.10.1. As part of the appeal, a further six viewpoints were selected with additional photomontages provided. The findings confirm a residual significance of impact of “imperceptible” for 5 of these and “slight-imperceptible” for the sixth viewpoint. It is submitted that as the impacts from the additional viewpoints are very similar to the original LVIA viewpoints it confirms the nature of the proposed development as an unobtrusive feature which is appropriately sited with negligible adverse visual impacts.
- 7.10.2. With regard to the proposed cumulative impact it is evident that there is low potential for cumulative visibility between the site and that permitted at Tullybeg and that proposed at Balloughter. It has also been demonstrated using both the photomontages and a cumulative ZTV map that intervisibility of the proposed development in conjunction with other permitted and proposed solar farms to the west is likely to be very limited and of a distant and obscured nature that prevents significant cumulative impacts from occurring.
- 7.10.3. Having reviewed the submissions and my inspection of the site and surrounding areas it is evident that this is a robust and well-contained rural area. Overall, I agree that the visual and landscape impacts are unlikely to arise subject to mitigation measures proposed which include retention, enhancement, and reinforcement of a number of existing hedges and replacement of hedges where they have been removed to facilitate the development. Having regard to the foregoing I am satisfied that the fourth reason for refusal can be set aside

7.11. Refusal Reason No 5 – Glint & Glare

- 7.11.1. Wexford County Council in their fifth and final reason for refusal set out the following:

The over reliance of the mitigation measure of and intervening timeframe required for new planting obtaining a canopy density and height indicated, given the solar panel installation is to commence by week 7 of the construction phase,

and considering the inconsistencies in the establishment of new planting which is considered unreliable and therefore there remains an unacceptable degree of uncertainty on level of glint and glare impacts on rail, road users and also residential properties. The proposed development is therefore considered contrary to the proper planning and development of the area.

7.11.2. As set out above WCC are concerned as there is an unacceptable degree of uncertainty on level of glint and glare impacts on rail, road users and also residential properties. I note the submission by Iarnród Éireann Infrastructure to WCC where concern is raised given the proximity of the scheme to the Waterford – Rosslare railway line that any mitigation measures should be carefully evaluated to ensure that there is no resulting glint / glare on the railway environment which could impact on the safe operation of railway services or cause any visual distraction to staff operating within the railway environment. I also refer to the report of WCC Roads Department who requested that no glint or glare shall affect any road users or properties. I refer to the Planning & Environmental Statement, Glint & Glare Assessment submitted with the planning application together with the appeal submission.

7.11.3. The Glint & Glare Report confirms that any negative effects will be very minor in advance of mitigation screen planting and effectively non-existent thereafter. I agree with the applicant that the proposed mitigation measures represent a reasonable “best practise” approach rather than essential mitigation to present significant effects.

- **Residential Receptors** – The Glint & Glare Assessment (G&GA) concluded that out of the 100 residential receptors assessed, only 3 are likely to experience any reflectance even prior to mitigation and such effects would be in the range of Low to Very Low magnitude reducing to Very Low and None once mitigation establishes.
- **Road Receptors** – 182 road points were assessed along the surrounding road network and only 3 of these had potential for reference even prior to mitigation. Following mitigation the effects will be minor. None of the road points on the M11 had potential for reference when existing screening is taken into account. The orientation and distance from the motorway in conjunction with existing vegetation mean that no extra mitigation planting is required with respect to the M11 motorway.

- **Rail Receptors** – The railway line to the west of the site is shown to have only one small section with potential for reflectance once existing vegetation screening is accounted for. There will be intermittent and fleeting reflectance through the existing tree cover. The reflectance is eliminated by the proposed mitigation. For an even higher degree of certainty, the applicant is proposing that the hedgerow section in question can be further bolstered by agricultural wind stop netting to aid fast establishment and serve as a temporary screen until the planting takes over. Stated that this will be erected at Construction Week 1 remaining in situ until such time as the vegetation is fully established.

7.11.4. The applicant is happy for a condition to be applied in relation to appropriate monitoring of reflectance for the railway line. Reference is made to Condition No 7(c) of ABP 306065-19 by way of example although it is noted that the context is different. The erection of the proposed wind stop netting can be formalised by way of planning condition. A programme of hedgerow maintenance and management will be in place for both the construction and operational development stages to ensure that mitigation is maintained at the required heights. I have had regard to Condition No 7(c) as referred to above which states as follows:

Wind stop netting shall not be used along the northern boundary with the railway line. Details of temporary fencing to be erected along the boundary during the construction phase and which shall be retained in situ until the landscaping is fully established shall be submitted to the planning authority for written agreement prior to commencement of development.

7.11.5. Notwithstanding the foregoing I also note the submission of TII to WCC where it is requested that any mitigation proposed to safeguard the levels of safety on the M11, national road, included in the Glint and Glare Assessment shall be incorporated into the decision as a condition in any permission granted. It is further requested that a monitoring programme is applied to allow for additional mitigation if necessary and amendment / removal of any elements of the Solar PV Farm that result in glint / glare and impact on road safety on the M11, national road. I consider this approach is reasonable and appropriate and I am satisfied that this matter can be dealt with by way of suitably worded condition.

7.11.6. There are no obvious inconsistencies in relation to landscape mitigation in the proposed application with regard to the screening of glint and glare effects from surrounding receptors as the vast majority of this is provided by existing vegetation. The proposed mitigation will ensure that the very minor reflectance effects identified even further reduced for residential, road and rail receptors. With regard to the specific concerns raised by Iarnrod Eireann's submission I agree with the applicant that all monitoring and mitigation measures can be formalised by way of condition. It is recommended that refusal reason No 5 be set aside.

7.12. Screening for Appropriate Assessment

7.12.1. In addition to the Ecological Impact Assessment the application was accompanied by a Stage 1 Appropriate Assessment Screening Report. The site description and proposed development are set out in the foregoing reports and also Section 1.0 and 2.0 above. The site is not located within or directly adjacent to any designated Natura 2000 site and there are no proposals for works to any European Site. There are a total of 5 no SACs within 15km of the proposed development site. While 15km is not a statutory requirement I am satisfied that it is a reasonable parameter and that the sites identified in Stage 1 of the AA are acceptable.

7.12.2. The closest designated site is the Slaney River Valley SAC which is located c2.2km from the proposed development. The remainder of the sites are situated >9.5km from the site boundary. Site specific conservation objectives and qualifying interests have been set for the 5 no sites within 15km of the appeal site by the National Parks and Wildlife Service (NPWS). Details are summarised as follows

European Site	Site Code	Distance (km)	Qualifying Interest	Conservation Objective
Slaney River Valley SAC	000781	2.2	Species: <ul style="list-style-type: none"> ▪ Freshwater Pearl Mussel ▪ Sea Lamprey ▪ Brook Lamprey ▪ River Lamprey ▪ Twaite Shad ▪ Atlantic Salmon (only in fresh water) ▪ Otter ▪ Harbour Seal Habitat:	The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Further detailed conservation objectives for each qualifying interest are provided by the NPWS.

			<ul style="list-style-type: none"> ▪ Estuaries ▪ Mudflats and sandflats not covered by seawater at low tide ▪ Water courses of plain to montane levels with the Ranunculion 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 	
Cahore Marches SPA	004143	9.6	<ul style="list-style-type: none"> ▪ Wigeon ▪ Golden Plover ▪ Lapwing ▪ Greenland White-fronted Goose ▪ Wetland and Waterbird 	To maintain or restore the favourable conservation condition of the wetland habitat at Cahore Marshes SPA as a resource for the regularly-occurring migratory waterbirds that utilise it
Cahore Polders & Dunes SAC	000700	9.9	<ul style="list-style-type: none"> ▪ Annual vegetation of drift lines ▪ Embryonic shifting dunes ▪ Shifting dunes along the shoreline with Ammophila arenaria (white dunes) ▪ Fixed coastal dunes with herbaceous vegetation (grey dunes) ▪ Humid dune slacks 	The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Further detailed conservation objectives for each qualifying interest are provided by the NPWS.
Kilmuckridge – Tinnaberna Sandhills SAC	001741	13.2	<ul style="list-style-type: none"> ▪ Embryonic shifting dunes ▪ Shifting dunes along the shoreline with Ammophila arenaria (white dunes) ▪ Fixed coastal dunes with herbaceous vegetation (grey dunes) 	The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Further detailed conservation objectives for each qualifying interest are provided by the NPWS.
Blackwater Bank SAC	002953	13.9	Sandbanks which are slightly covered by sea water all the time	To maintain the favourable conservation condition of Sandbanks which are slightly covered by sea water all the time in Blackwater Bank

				SAC, which is defined list of attributes and targets as set out by the NPWS
Kilpatrick Sandhills SAC	001743	14.5	<ul style="list-style-type: none"> ▪ Annual vegetation of drift lines ▪ Embryonic shifting dunes ▪ Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) ▪ Fixed coastal dunes with herbaceous vegetation (grey dunes) ▪ Atlantic decalcified fixed dunes 	The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Further detailed conservation objectives for each qualifying interest are provided by the NPWS

7.12.3. As stated above all of the proposed works take place outside the SACs and SPAs and therefore there are no direct effects on the integrity of these European Sites. Taking together with an examination of the Appropriate Assessment Stage 1 Screening Report, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separating distances and functional relationship between the proposed works and the European Sites, their conservation objectives and my assessment of the subject site and the surrounding area, the potential impacts to the following 5 no European sites:

- 1) Cahore Marches SPA
- 2) Cahore Polders & Dunes SAC
- 3) Kilmuckridge – Tinnaberna Sandhills SAC
- 4) Blackwater Bank SAC
- 5) Kilpatrick Sandhills SAC

are excluded from further consideration and are therefore screened out. There are no hydrological impacts, and the distance is sufficient for no impacts due to works.

7.12.4. The AA Screening report addressed the remaining European Sites:

- Slaney River Valley SAC

having regard to the qualifying interests for which these sites were designated.

7.12.5. As with the solar development, the grid route cables are not located within or adjacent to any designated sites and there are no hydrological links between the grid route and

any Natura 200 site. The grid route will not cross any watercourses and is not located in close proximity to any watercourses so ex-situ impacts on Otter from the Slaney River Valley SAC as a result of the grid connection are not anticipated in relation to the grid route.

- 7.12.6. There are no hydrological links between the development site and any Natura 2000 sites. Although the Slaney River Valley SAC is located within 2.2km of the proposed site it is located within a different catchment area and does not receive drainage from the proposed development site. The Slaney River Valley SAC is located in a separate river catchment to the River Bracken with flows to the north of the northern eastern land parcel. The Bracken River is a tributary of the Owenovarragh River, which discharges to the sea just north of Courtown c12km downstream of the proposed development site (when measured along the watercourses). There are no Natura 2000 sites along the Bracken or Owneovarragh Rivers, or in the vicinity of the coastline at Courtown. There are therefore no potential impact-receptor pathways via hydrological links between the site and any Natura 2000 sites and no indirect impacts via hydrological links are deemed relevant.
- 7.12.7. The construction and operation of the development will not cause ex-situ disturbance / displacement effects on Otter from the Slaney River Valley SAC as construction activities will not take place at night (when this nocturnal species is active) and the solar farm will not be lit at night. No evidence of Otter was found on the site during the site walkover (and trail camera study) and activity levels are expected to be low on the site given the small size of the local watercourses. The landscaping plan for the proposed development will enhance the habitats along the riparian corridor and provide a habitat and visual buffer between the solar farm infrastructure and the Bracken River, with access to the site for Otter and other wild mammals to be maintained via a 200mm void at the base of the perimeter fence.
- 7.12.8. 'The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 000781, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

7.13. Other Issues

7.13.1. **Development Contribution** - Wexford County Council has adopted a Development Contribution scheme; Wexford County Council Planning Authority Area Development Contribution Scheme 2018, under Section 48 of the Planning and Development Act 2000 (as amended). I have considered the sections entitled “Exemptions” and “Incentives (Discounting / Credit)”. The proposed development does not fall under the exemptions / incentives listed in this scheme. Accordingly, it is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

7.14. Conclusion

7.15. Having regard to the provisions of national and regional policy objectives in relation to renewable energy, the provisions of the Wexford County Development Plan 2013 – 2019 (as extended), the nature and scale of the proposed development, the pattern of development in the vicinity, and the planning history of the wider area, including other permitted solar arrays, it is considered that, subject to compliance with the conditions set out below, the scale of development 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 be acceptable in terms of rail and traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

7.16. Recommendation

7.17. Having considered the contents of the application (as amended), the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the reasons and considerations set out below.

7.18. **Reasons and Considerations**

7.19. Having regard to:

- the provisions of national and regional policy objectives in relation to renewable energy,
- the provisions of the Wexford County Development Plan 2013 – 2019,
- the planning history in the vicinity of the site,
- the nature and scale of the proposed development,

7.20. 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, rail and aviation safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area

7.21. **Conditions**

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

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

4.
 - a) The permission shall be for a period of 35 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 archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological

materials or features which may exist within the site. In this regard, the developer shall:

- a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site (including archaeological testing) and monitor all site development works.

The assessment shall address the following issues:

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

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

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

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

6.
 - a) All existing hedgerows (except at access/track openings) shall be retained notwithstanding any exemptions available and new planting shall be undertaken in accordance with the plans submitted to the planning authority with the application and the details and particulars submitted to An Bord Pleanála
 - b) Details of wind stop netting/temporary fencing to be erected along the boundaries during the construction phase and which shall be retained in situ until the landscaping is fully established, including details of the provision for the movement of mammals at regular intervals along the

perimeter of the site, shall be submitted to the planning authority for written agreement prior to commencement of development.

- c) 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.

- 7.
 - 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 interests of clarity, and of visual and residential amenity.

- 8. 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:
 - a) details of site security fencing and hoardings
 - b) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,
 - c) measures to obviate queuing of construction traffic on the adjoining road network,
 - d) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,

- e) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- f) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained; such bunds shall be roofed to exclude rainwater,
- g) details of on-site re-fuelling arrangements, including use of drip trays,
- h) details of how it is proposed to manage excavated soil,
- i) means to ensure that surface water run-off is controlled such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

9. 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-5092 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.

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 public health.

11. 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.

12. 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.

Mary Crowley

Senior Planning Inspector

29th April 2022