



An
Bord
Pleanála

Inspector's Report

ABP-312674-22

Development	Ten year permission for a solar farm on a site of approximately 86.6 hectares. A Natura impact statement accompanies this application.
Location	Rochestown, Harperstown, Co. Wexford.
Planning Authority	Wexford County Council
Planning Authority Reg. Ref.	20210807
Applicant(s)	Highfield Solar System
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First Party against Conditions
Appellant(s)	Highfield Solar System
Observer(s)	None
Date of Site Inspection	None
Inspector	Una Crosse

1.0 Introduction

- 1.1. This is a first party appeal against 5 conditions attached to the Notification of a Decision to Grant Permission for a solar farm development in County Wexford.

2.0 Site Location and Description

- 2.1. The site which has a stated area of 86.6 hectares is located to the west of Waddington to the north and south of the R733 which is a regional road linking Wexford town to Wellingtonbridge. The site comprises agricultural lands with fields bounded by mature hedging. There are a number of residential dwellings and farmyards/outbuildings adjoining the site.

3.0 Proposed Development

- 3.1. A ten-year permission has been sought for a proposed solar farm development comprising ground mounted solar photovoltaic panels assembled in rows on metal racks. It also includes a single storey 38kV electrical substation building and associated compound, electrical transformer/inverter station modules, battery storage modules, solar PV panels ground mounted on steel support structures, storage containers, CCTV camera, access roads, fencing and associated electrical cabling and ducting. The proposed structure height for the solar panels is 3.2m
- 3.2. The maximum export capacity of the proposal is expected to be 65-85 MW with the range proposed to account for the rapid advances in Solar PV technology which would potentially allow for an installed capacity of 85MW at the time of construction within the same footprint. A 35 year lifespan is sought.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission for the proposed development subject to 23 conditions. The conditions subject of this appeal are as follows:

Condition 2

This planning permission is for 5 years only and the development shall be completed within 5 years of the grant of permission unless otherwise granted by An Bord Pleanála or granted by an extension of duration under Section 42 of the Planning and Development Act 2000 (as amended).

Reason: In the interests of clarity

Condition 7

The structures shall be removed at the expiration of a period of 25 years from the date of commissioning of the development unless planning permission for a further period has been granted.

Reason: To enable the planning authority to review the operation of the solar farm having regard to the circumstances then prevailing.

Condition 8

No external artificial lighting shall be installed or operated during the operation of the site.

Reason: In the interest of visual amenity

Condition 15

Prior to commencement of works on site, the applicant shall obtain planning permission for connection of the solar farm to the national grid.

Reason: In the interest of clarity and the proper planning and sustainable development of the area.

Condition 17

Within 12 months of the first operation of the solar arrays the operator shall provide a detailed independent report on the first years operations which shall include:

- (a) report on the noise levels experienced on dwellings adjacent to the site,
- (b) a report on the glint and glare experienced on the dwellings adjacent to the site
- (c) a report on any fluctuation of property prices in the immediate vicinity of the solar farm that maybe attributed to the solar farm.

If abnormal results are identified above those predicted in the glint and glare study dated 26 May 2021, the operator shall submit proposals to reduce the impact.

The noise levels and property price report and any mitigation measures proposed including further monitoring if necessary shall be agreed in writing by the Planning Authority and the development shall operate in accordance with the agreed measures.

Reason: In the interests of the proper planning and sustainable development of the area.

4.2. Planning Authority Reports

4.2.1. Planning Report

The following statements in the report refer to matters which may be of relevance for the consideration of the appeal:

- Well chosen site in terms of visual impact.
- Only occasional glimpses of the site from the public road.
- Agree with assertion in Section 8 of the Planning report that impacts (from glint and glare) are not considered significant on residential amenity.
- Stated in the planning application that design life of approximately 35 years
- Recommended that a condition included requiring decommissioning and removal of solar panels at end of design life.
- Reference to response to further information where applicant states there is a precedent for no impacts on property values.
- Proposal does not pose any significant risk to adjoining properties in terms of noise or fire.
- Note third party submission and recommend bringing these concerns to the attention of the applicant within a further information request. Response required a condition to ensure that any future deterioration of house prices as a result of this extra large solar farm is addressed by the developer.
- Grid connection is indicated as an over ground or underground cable to Traceyston East.

4.3. **Third Party Observations**

One submission received raising issues regarding residential amenity, property value, noise and glare.

5.0 **Planning History**

None of relevance

6.0 **Policy Context**

6.1. **Development Plan**

Site comprises agricultural lands and is not zoned for a specific land use.

Chapter 5 – Climate Change

“The Plan promotes the development and use of renewable sources of energy such as wind, tidal and energy crops, as a sustainable solution. The energy potential of these resources can be harnessed to meet the energy needs of the county and perhaps can be exported as an economic output. The Council will prioritise the development of renewable energy resources and the maximisation of electricity production from renewable sources where possible”

Chapter 6 – Employment, Economy and Enterprise.

“The Council recognises that a range of opportunities exist in renewable energies and energy crop production for farmers, energy producers and businesses. The provision of renewable energy solutions will help attract business to County Wexford as it provides a cheaper, cleaner solution that reduces the carbon footprint and will assist the transition to a low-carbon economy.”

6.2. **Natural Heritage Designations**

Site is hydrologically linked to two Natura 2000 sites:

- Ballyteigue Burrow SPA (004020) – 5.6km to the south
- Bannow Bay SAC (000696) – 4.2km to the west.

Application was accompanied by an NIS.

6.3. EIA Screening

Not a project for the purposes of EIA.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

Clarity sought from the Board on the following conditions which are deemed impractical by the applicant.

Condition 2

- Condition limits permission to 5 years.
- Note large number of recent grants by the Board facilitate 10-year permission where requested which was the case in present development description.
- Particularly important given the Enduring Connection Policy put in place by the Commissioner for Regulation of Utilities in 2018 whereby applicant can only begin processing for a connection offer at a point after permission is received.
- Request condition is amended to 10 years.

Condition 7

- Applicant outlines a series of a large number of conditions related to solar farms permitted by An Bord Pleanála and a number Planning Authorities where lifespans of 30-35 years have been permitted.
- Considerable policy support for decarbonising the electricity system to 2050.
- Core of RESS is requirement for cost effectiveness.
- Capital investment required to provide the generation asset is significant and prudent to maximise the asset.
- Apparent that longer operational periods eminently feasible and significantly reduce cost of capital funding for the projects.

- Technology associated with solar photovoltaic cells and solar energy projects have made rapid advances in recent years.
- Meisel 2016 concludes useful life of the PV modules being installed is 35 years or longer.

Condition 8

- The condition states that no external artificial lighting be installed or operated.
- External lighting is proposed to be installed at the substation compound location (Section 4.7.10 Planning Report).
- Provision of external lighting accords with the ESN functional specifications and requirements for the safe operation of the facility.
- Request that condition is updated to state that no 'additional' external artificial lighting be installed or operated.

Condition 15

- Wording of the condition which seeks that the applicant obtain permission for the connection of the solar farm to the national grid.
- Have direct experience of the issues this wording has previously created in County Wexford, would have expected the working to have the following effect.
- Condition 22 provides comfort on the matter.
- Request Condition 15 amended to include 'should planning permission be required' or remove the condition as it is unnecessary given the inclusion of Condition 22.

Condition 17

- Requires the applicant to monitor amongst other items property price fluctuations in the vicinity of the solar farm.
- Seek clarity as to whether this is a legitimate planning concern or appropriate condition.
- Not aware of any similar conditions on other renewable energy projects in Ireland.

7.2. **Planning Authority Response**

No response received.

7.3. **Observations**

No valid submissions received

8.0 **Assessment**

I will address each of the conditions in turn.

8.1. **Condition 2**

- 8.1.1. Condition 2 as outlined at section 4.1 in full above, limits the permission to 5 years. The applicant sought a 10-year permission, and this is referenced in the public notices and in the supporting documentation. The rationale is outlined in Section 4.1 of the Planning report with the timelines required in respect of securing a grid connection outlined as the main reason for requiring a period longer than 5 years.
- 8.1.2. There is no mention in the Planners report as to the duration of the permission sought or the rationale for limiting it to 5 years. I note the actual wording of the condition proposed by the Planning Authority does provide for the Board to amend same on appeal. The applicant has outlined, in their appeal, that the additional time on the permission is particularly important given the Enduring Connection Policy put in place by the Commissioner for Regulation of Utilities in 2018 whereby applicants can only begin processing for a connection offer at a point after permission is received. I consider that the applicants have set out the rationale for the 10-year permission and the Planning Authority have provided no justification for limiting it to 5 years. I recommend that the condition is amended to facilitate a 10-year permission and reference to An Bord Pleanala is removed as the appeal process will have been finished by virtue of the Boards decision on this appeal.

8.2. **Condition 7**

- 8.2.1. This condition relates to the lifespan of the development which Condition 7 limits to 25 years from the date of commissioning of the development. I note the lifespan of

the proposal is clearly outlined as 35 years within Section 4.11 of the applicants planning report. Reference is made to the RESS High Level Design published by the Department of Communications, Climate Action and the Environment in 2018 which at its core has the requirement for cost effectiveness and value for money. The capital investment required to develop and operate the asset is outlined and it is considered prudent to maximise the potential. I would also refer to the applicant's reference to the improved technology in the field.

- 8.2.2. The Planners report refers to this requested lifespan of 35 years in his report but does not comment on same in respect of whether this is considered acceptable or not. There is no discussion of lifespan at all. The condition limiting the lifespan to 25 years is then included without any discussion of same. Given that there appears to be no rationale provided for the 25-year lifespan and the applicants outline in some detail the rationale for the 35 lifespan proposed I recommend that the condition is amended to 35 years.

8.3. **Condition 8**

- 8.3.1. The condition states that no external artificial lighting shall be installed or operated during the operation of the site. As pointed out by the applicant, external lighting was proposed within the application. It is proposed to be installed at the substation compound location (Section 4.7.10 Planning Report). I would note that the matter was not addressed as a concern within the planning assessment carried out by the Planning Authority. It is stated by the applicant that the provision of external lighting accords with the ESN functional specifications and requirements for the safe operation of the facility.
- 8.3.2. Therefore, it maybe that the intention of the Planning Authority was to control any potential additional lighting rather than the lighting proposed within the application. In this regard I would agree with the amendment proposed by the applicant that the condition should specifically reference additional external lighting and I recommend that Condition 8 is amended accordingly.

8.4. **Condition 15**

- 8.4.1. This condition relates to the grid connection. The PA in their condition require that prior to commencement of the works on site, the applicant shall obtain planning permission for connection of the solar farm to the national grid. The applicants state that they have direct experience of the issues that the wording of the condition has previously created in County Wexford. Depending on the type of connection, permission may not be required but the wording of the condition does not reflect such nuances with the condition as worded would appear to include all potential types of connection and it may cause difficulty if the connection is deemed to be exempt. The applicant also refers to Condition 22 of the Notification which states that *'this permission shall not in any way be construed as any form of consent or agreement to a connection to the national grid or to the routing or nature of any such connection'*. I consider that Condition 15 is poorly worded and fundamentally it is not required given the wording of Condition 22. I recommend that condition 15 is removed.

8.5. **Condition 17**

- 8.5.1. This condition requires a number of reports within 12 months of the operation of the proposal. The first report relates to noise levels, the second to glint and glare and the third to property prices. It is further stated that if abnormal results are identified above those predicted in the glint and glare study dated 26 May 2021, the operator shall submit proposals to reduce the impact. In addition, it states that the noise levels and property price report and any mitigation measures proposed including further monitoring if necessary, shall be agreed in writing by the Planning Authority and the development shall operate in accordance with the agreed measures.
- 8.5.2. The applicant is seeking clarity from the Board as to whether this is a legitimate planning concern or is an appropriate condition. I note that in the Planner's report, prior to the recommendation, the Planner states that they note the third party submission and recommend bringing these concerns to the attention of the applicant within a further information request. The response they state requires a condition to ensure that any future deterioration of house prices as a result of this extra-large solar farm is addressed by the developer.

- 8.5.3. The condition reads like a hybrid of a further information request and a monitoring condition for a development which was subject to EIA. In terms of noise and glint and glare, the applicant has provided assessments of these matters. The reports clearly outline that there will not be significant impacts from either noise or glint and glare. The whole point of providing these assessments with the planning application is that they are part of the consideration of whether the proposal is appropriate or not. The Planning Authority cannot decide to grant permission with a proviso that it will have another look at the issues once the development is operational. It is either acceptable or it is not and it is not appropriate for the Planning Authority to include conditions which seek to move the goalposts post permission.
- 8.5.4. In terms of property prices, again the planning authority are required to assess the proposal and determine the impacts at the time of the application. It is not appropriate to permit a development and then seek to reassess it if they are not satisfied. Furthermore, there are any number of economic reasons why property prices within an area might change including, for example, a recession or global matters outside the control of the jurisdiction of this state. The requirement for the report proposed is unfathomable. I consider that the condition is inappropriate and should be removed.

9.0 Recommendation

- 9.1. Having regard to the nature of the conditions the subject of the appeal and based on the reasons and considerations set out below, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to:
- AMEND condition number 2.
 - AMEND condition number 7.
 - AMEND condition number 8.
 - REMOVE condition number 15.
 - REMOVE condition number 17.

10.0 Reasons and Considerations

Having regard to national and local policies in relation to renewable energy, the scale, extent and layout of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with national and local policy, would not seriously injure the visual or residential amenities of the area, would be acceptable in terms of landscape impacts and in terms of traffic safety and public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

AMEND Conditions 2, 7 and 8 as follows

Condition 2

This planning permission is for 10 years only and the development shall be completed within 10 years of the grant of permission unless otherwise granted by an extension of duration under Section 42 of the Planning and Development Act 2000 (as amended).

Reason: In the interests of clarity

Condition 7

The structures shall be removed at the expiration of a period of 35 years from the date of commissioning of the development unless planning permission for a further period has been granted.

Reason: To enable the planning authority to review the operation of the solar farm having regard to the circumstances then prevailing.

Condition 8

No additional external artificial lighting shall be installed or operated during the operation of the site.

Reason: In the interest of visual amenity

REMOVE Conditions 15 & 17

Una Crosse

Senior Planning Inspector

8 April 2022