



An
Bord
Pleanála

Inspector's Report ABP-313424-22.

Development	Solar PV Energy development at 42.68-hectare site.
Location	Rathduff, Thomastown Demesne South, Co. Tipperary.
Planning Authority	Tipperary County Council.
Planning Authority Reg. Ref.	211014.
Applicant	Renewable Energy Systems (RES).
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellants	Margaret Kennedy Caroline and John Bourke Ber Bourke Jim Keane South Tipperary Solar Farm Concern Maria Bailey Sean Hourigan Michael and Mary Joyce

Amy and Olivia Marnane
Michael O'Brien
Carol, Emma and Daisy Welsh
Jack Fogarty
Chris Bailey
Con and Theresa Marnane
Maureen and Tony Walsh
Mary and Alice O'Connor
Roma Coonan
Good Herdsmen Ltd
Clíodhna and Maeve Hanley
Caitriona Bn Uí Annraghain
Caroline Burke
Jean and Noel Morrissey
Kathleen and Thomas Bourke
Emma and Katy Walsh
Denis Pollard Jnr
VESI Environmental Limited

Observers

None.

Date of Site Inspection

1 October 2022.

Inspector

Mairead Kenny.

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1.0 Overview

- 1.1. This appeal relates to the proposed development of a 42.68 ha solar PV energy development. Permission was granted by the planning authority.
26 no. third party appeals have been lodged.
- 1.2. The Board has decided that an oral hearing is not required in this case.
- 1.3. A Natura Impact Statement was submitted by the applicant in response to the appeals and revised public notices were submitted following a request by the Board.

2.0 Site Location and Description

- 2.1. This site is located approximately 2.9 kilometers to the northeast of the village of Bansha and 7.5 kilometers east of Tipperary town. Cashel town is located 12km to the northeast and the nearby village of Golden is 5km away. The site is approximately 1.5 kilometers to the west of the river Suir. This low-lying pastoral area is within the Golden Vale, which is an extensive area spread across parts of Tipperary and north Cork and which is so described because of its importance for the dairy sector in particular. The immediate area is of significance by reason of its high quality well-developed agricultural and equestrian industry which includes renowned stables and innovative cattle rearing businesses which attract international visitors.
- 2.2. The site is made-up of four fields which are described as being in mixed agricultural use including grazing and sugar beet production. The adjacent lands as noted at the time of inspection are in use for cattle rearing and equestrian activities. Part of the site has been used as a horse gallop and this remains evident on the ground.
- 2.3. The site topography falls towards the south and there is a level change of 8.5m between its northerly point and the southern boundary. The site is bounded to the west by a cul de sac road, the L43061, which meets the L4306 at a point about 500m to the north. The applicant's holding also has a site frontage onto lands to the north / north-east of the site close to Rathduff House. The area has ready access to the motorway network at Cashel, about 12km away.
- 2.4. I consider that the character of the proposed development site (PDS) may be described as relatively open and devoid of significant tree planting. This character

reflects the former function of this part of the holding as a deer park associated with a former demesne. The land to the north of the PDS which is within the same land holding and also within the former demesne landscape contains mature trees of significance and which appear to date to the original planting of the demesne. Within the site are a number of sites and monuments of archaeological interest, which are not visible at ground level.

3.0 Proposed Development

- 3.1. Permission is sought for the development of a solar PV energy development at a site of stated area of 43.68 ha. A five-year permission was sought and the development is intended to be in place for 35 years.
- 3.2. The site layout drawings show that the site entrance to serve the proposed development would be from the western boundary of the site, the L43061. This is stated to be an existing site entrance which will be upgraded. The site compound would be just inside the site entrance and a HGV holding bay and staff parking would also be at this location. The main access road within the proposed development would traverse from this point in an easterly direction and along this route the transformers and inverters would be located. The remainder of the lands are laid out with solar arrays. However there are a number of buffer zones including adjacent to all of the field boundaries, at archaeological sites and monuments, around some mature trees and at an area in the east of the site where a designated buffer zone is to be subject to additional planting and laid out as a wildflower meadow.
- 3.3. As part of the response to a request for further information a revised site layout was submitted. Other submitted drawings showed relatively minor revisions such as alterations to entrance sightlines.
- 3.4. The indicative route for the grid connection to the substation to the west is along the public road network shown on the application documentation.
- 3.5. The haul route shows that traffic for the construction phase would utilize the L43061 cul-de-sac road to the west of the site, traversing from there in a northerly direction along another local road and from there joining the regional road, into the village of Golden and unto the Cashel Bypass and from there to the motorway junction.
- 3.6. The application was accompanied by a number of reports including:

- Planning Report
- AA Screening
- EIA Screening
- Landscape and Visual Impact Assessment
- Ecological Impact Assessment
- Archaeological and Architectural Heritage Impact Assessment
- Flood Risk Assessment
- Construction Traffic Management Plan
- Glint And Glare Assessment
- Outline Construction and Environmental Management Plan
- Noise Impact Assessment.

A Natura Impact Statement was submitted as part of the response to the appeals.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to conditions including:

- The development to be in accordance with the plans and particulars submitted on 13 August 2021 as amended by further information received on 6 January 2022 and clarification of further information received on 9 March 2022.
- The mitigation and enhancement measures in the relevant reports shall be implemented in full.
- Prior to commencement of development a preconstruction badger and breeding bird survey shall be undertaken for the written agreement of the planning authority.
- The period within which the development is permitted is 10 years.
- The planning authority shall be notified of the date of commissioning of the solar PV development and the permission shall be for 35 years from that date.

- The solar array and related ancillary structures shall be removed at the end of that period unless permission is granted for their retention for a further period.
- Prior to commencement of development a detailed restoration plan providing for removal of the solar arrays and associated structures and removal of the internal roadways, fencing, lighting and CCTV poles to a specific timescale shall be submitted to and agreed in writing with the planning authority. On full or partial decommissioning of the solar farm or if it ceases operation for a period of more than one year the solar arrays including foundations and anchors and all associated equipment shall be removed permanently from the site. The restoration plan will be implemented within three months of decommissioning.
- The electricity control unit, inverters and fencing shall be dark green in colour unless agreed with the planning authority.
- No external artificial lighting shall be installed or operated on site unless authorised by a prior grant of permission.
- Existing field boundaries, trees and hedgerows shall be maintained and supplemented and additional hedgerow screening of suitable type and density and 3 m in height should be provided over the full extent of the southern boundary. A revised landscaping plan incorporating this requirement shall be submitted for the written agreement of the planning authority.
- Measures relating to surface water adjacent the public road and prohibiting the use of tarmac / concrete in the access tracks on the site.
- Details of the site entrance which shall achieve 70 m sightlines in both directions. Roadside hedging to be put in place.
- Works to improve the visibility at the junction of the L43061 and L4306 shall be undertaken in accordance with submitted details. The work shall be undertaken as an initial phase of development and prior to construction works on the PV panels or access tracks.
- Development to be managed in accordance with a CMP to include a TMP, which shall be agreed with the planning authority prior to commencement of development.

- Archaeologist to be employed to monitor all topsoil stripping and ground disturbance and establish the buffer zone around the 3 no. recorded monuments shown on the application submitted. Other requirements relating to ground works and archaeological monitoring.
- Site development and building works to be between the hours of 0800 to 1800 Mondays to Fridays inclusive and 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.
- Financial contribution in the amount of €3750 per megawatt in accordance with the Tipperary County Development Contribution Scheme 2020.

4.2. **Further information request**

This related to :

- Clarification of traffic volumes, sightlines at the junction of the L-4306 and L-43061, the site entrance sightlines and the location of a HGV layby at the L43061.
- Potential for glare at the planned N24 Cahir to Limerick Junction scheme.
- Diversion of surface water into fields and away from the public road.

4.3. **Clarification of further information**

This related to requirements for legal consent to undertake the revised proposal presented as further information.

4.4. **Planning Authority Reports**

4.4.1. Planning Reports - Original

The main points of the **original report** include the following comments below.

- The 78 valid submissions and issues are summarised in an appendix.
- UK Guidance has no statutory basis can inform the issues in the absence of Irish guidelines.
- The panels will follow the contours and are fixed. The siting is acceptable.

- The design of the temporary construction compound is acceptable. The inverter substations are described.
- The site is not within a Primary or Secondary landscape and there are no protected views affecting the site. Views 14 and 19 are within the study area.
- Notwithstanding the landscape change resulting from the new use the following are noted – the low-profile nature of the panels, the existing hedgerows which are to be retained and supplemented and elements of the proposal including the boundary planting which should be double planted with semi-mature hedgerow.
- Potential visibility of the development will be largely confined to only a few residential, recreational and road users in the immediate vicinity. The implementation of the hedgerow screening is essential.
- Further proposals are needed in relation to the future N24 scheme where there is potential for glare and reflectance issues and a need for additional landscape screening along the southern boundary.
- The proposed development would not have a significant visual impact from any designated scenic routes, protected views or prospects or features of interest.
- The panels are orientated to the south and the nearest dwellings are to the north and north-east with one dwelling / farm holding to the south. Given the low potential occurrence of glint and the nature of the landscape the proposed development will not have any significant impacts on the surrounding area.
- Operational noise impact is not likely to be significant. Construction noise can be conditioned.
- In the construction period potential noise and traffic impacts on the local population may occur but will be temporary. Minimal operational traffic.
- I accept the need for CCTV coverage of an unmanned facility which would be remotely monitored. The cameras would face down and would not capture images beyond the site boundary.
- There are precedent decisions for concluding that there would be no health concerns.

- The proposed development does not present concerns relating to dust emissions during operation or, following mitigation, during construction.
- Noting the comments of observers relating to the location of the site within the Golden Vale it is accepted that use of land for bloodstock, livestock and organic farming practices have a significant influence and importance.
- The site is not of specific significant unique ecological value and ecological mitigation includes a pre-construction badger survey and breeding bird survey. A condition will ensure that there will be an appropriate gap at the base of the fence to allow for the movement of wildlife. The construction time may have an impact on breeding of birds.
- The grid connection does not form part of this application but an indicative route is provided.
- The decommissioning will be similar to the construction phase. Decommissioning and restoration details , including solar panel disposal can be agreed prior to commencement of that phase of works.
- Traffic levels and safety concerns are noted. The submitted information is insufficient and further information should be requested in line with the recommendation of the District Engineer.
- Three recorded monuments have been identified on site and the layout of the proposed development avoids these sites and their 60m zone of notification. Archaeological requirements can be addressed by condition.
- The Flood Risk Assessment and Drainage Impact Assessment carried out identifies no potential risk of fluvial / pluvial flooding on the site. Surface water from the eastern side of Field 2 will flow to the Suir by a series of drainage ditches on adjacent lands. A 66m long swale is proposed on site for attenuation and infiltration. No alterations to the existing on-site drainage network and no changes to the current drainage or surface water regime will be undertaken. The scale of the inverter substations is unlikely to warrant a formalised drainage system and runoff should be directed 'to a percolation area for discharge to the ground'. In the event of an accumulation of water soakways can be constructed. More information is required to ensure that there is no accumulation of water at the public road.

- An AA Screening was undertaken. The sites considered are Lower River Suir SAC, Philipston Marsh SAC, Moanour Mountain SAC, Galtee Mountains SAC. This concludes that there is no potential for significant effects therefore Appropriate Assessment is not required.
- Solar energy developments are not listed in the classes of Energy Industry Activities that require EIA. Therefore the proposed development does not require EIA. A pre-screening report is attached.
- Development contributions will be levied under Class 21 of the Scheme.
- Further information is recommended in relation to roads and traffic issues.

4.4.2. Planner's report – second.

The planning authority's **assessment of the further information** received on 06/01/2022 is summarised below.

The clarified of the anticipated 15 HGV deliveries per day and an overall figure over the six-month period of 449 HGVs is noted.

The applicant addressed matters raised relating to the sightlines at the junction of the L-4306 and L-43061, the site entrance sightlines and the location of a layby. Clarification is required that lands are within the applicant's control.

Regarding the potential for glare at the planned N24 Cahir to Limerick Junction scheme, the MidWest Roads Project Team reported that the proposed additional hedgerow screening did not extend along the full length of the southern boundary and that the screening should be of suitable type and density, 3m in height and extending along the full length of the southern boundary. This can be addressed by condition. The further information response included revision D of Figure 1.12 which shows additional planting.

The planning authority requested further details relating to the diversion of surface water into fields and away from the public road. In response the applicant referred to Figure 1 appendix B, noted that there are no drainage ditches near the entrance point and that the new access roadway will be permeable. Water will be diverted into the site fields away from the public road and if needed a swale or soakway will be designed which will hold water prior to infiltrating into the soils.

The planning authority requested submission of an auto track/swept path analysis for haulage vehicles at the entrance to the site and to confirm if there would be a requirement for widening on the west side of the proposed entrance to the L – 43061. Figure 2 a swept path diagram at the site entrance point was stated to show that the required movements can be completed within the public highway and will not cut into the neighbouring hedge to the west of the public road.

4.4.3. Planner's report - Final

The report assesses the documentation submitted as clarification of further information. This included a revised site location map and site layout plan and a letter of consent from the landowner. The response is acceptable. The further information received has been screened for EIA and AA and there is no requirement. Permission is recommended subject to conditions.

4.4.4. Other Technical Reports - Selected

District Engineer – original report.

- Improved site entrance sightlines and details of surface water management at this location needed.
- Queries if cul de sac road L-43061 needs to be widened on west side.
- The junction of the L4306 and L43061 has very poor visibility for motorists approaching from the L43061. Appropriate to remove part of the ditch on east side of the junction of the local roads.
- Due to convex profile of the cul de sac road a passing bay is needed.
- Pre-construction survey of cul de sac road recommended.

4.5. Prescribed Bodies – Selected information

The planning authority by letter of 8 August to the Board has clarified that the file was not referred to TII as the site is outside the reservation corridor for the N24 upgrade. The planning authority states that MWNRDO recommend in all cases that TII be circulated – the reference to a referral was a clerical error in the planner's report. The file was referred to the Minister for Housing, Local Government and Heritage. The reference to the Department of Tourism, Culture, Arts and Gaeltacht was an error in the planner's report. There was no referral required to Fáilte Ireland.

The Board referred the file to Failte Ireland and TII - no responses were received.

4.5.1. Mid-West NRDO

The submissions of 15 March 2022 , 13 January 2022 and 18 August 2021 all relate to the potential for impact on route options which are under consideration for the N24 Cahir to Limerick Junction Project. To mitigate any potential risk to road users' safety arising from potential glare and reflectance issues from the proposed development additional landscape screening on the southern boundary of the proposed development is recommended.

The final submission (15 March 2022) notes the revised LEMP but considers that the additional hedgerow screening does not extend to the full length of the site's southern boundary. The project team recommends that additional hedgerow screening of suitable type and density 3m in height should be provided over the full length of the southern boundary.

4.6. Third Party Observations

The main issues raised by the third-party observers are briefly summarised below.

4.6.1. Impacts on existing rural land uses

The use of prime agricultural land, an established organic farm in the Golden Vale for this purpose is unacceptable and the site is unsuitable.

National policy is moving towards reduce dependency on importing food. Is energy more important than food?

In the area is an award-winning organic farm which will be adversely impacted as it is to be extended into a big organic tourist attraction and already receives a lot of international visitors. The solar farm will undermine the rural economy and employment in the area including at this particular enterprise.

The credentials of various stables and successful breeders and trainers are described. The Murnane holding to the west is one of the many renowned equestrian facilities in the area. That land was specifically chosen for its quiet environment, which will be adversely affected. The proposed development will result in several concerns relating to flight animals including with respect to the construction of the proposed infrastructure and the working plant and ongoing maintenance.

Within 1 km of the site over 55 people are directly employed in equine, livestock and tillage and many more are indirectly employed. The proposed development will adversely affect existing enterprises, will bring no socio-economic benefit to the area and has not been subject of socio-economic assessment.

4.6.2. Landscape and visual impacts

Under the 2016 LCA this type of area is not suitable for solar or wind farms.

The proposed development will lead to a transformation of the character of the area by reason of the industrial scale and nature of the development.

The assessment of landscape and visual impacts did not take in a large enough area.

4.6.3. Health and safety

The proposed development will impact on animals by reason of stray current.

Potential fire hazard and potential for lightning strikes.

Potential for flying debris during periods of high wind.

Health effects including electromagnetic effects.

Glint and glare effects may impact aeroplanes and would be detrimental to residential amenity and likely to result in horses bolting and being stressed.

4.6.4. Flood risk and water quality impacts

The proposed development during the construction phase will adversely impact on water quality. In the operation phase contamination relating to cleaning of the panels and erosion of toxic chemicals from the panels will impact water quality.

The receiving environment includes three boreholes which supply parts of south Tipperary with clean water and five drinking wells.

The mains water supply which runs the length of the cul-de-sac is superficially located and is vulnerable to leaks and means that the lane is not suitable for heavy traffic volumes.

The proposed development will increase local flooding.

4.6.5. Roads and traffic

The proposed development accessed from the cul-de-sac lane is unsuitable and there is an alternative option available to the north of the landholding and this should be utilised.

Under the previous application on 26 June 2020 the Project Management team for the N24 Cahir to Limerick Junction Scheme made observations with regard to this application and the executive engineer recommend that permission not be granted as the site fell within the study area for the scheme.

4.6.6. Cultural heritage

There will be an adverse impact on built heritage including the protected structures of Golden and Athassel Priory and archaeological features and lands of archaeological potential.

Permission was refused for a dwellinghouse at the north for reason of archaeological impact. On my farm (the Good Herdsman) at a location 200m from the site is a large ringfort which is visited by people who come to my farm and is an important part of the marketing of the farm in conjunction with the landscape, all of which will be adversely impacted.

The omission of the Bronze Age artefacts (the Kilfeacle Hoard) undermines the credibility of the relevant report.

4.6.7. Biodiversity and Appropriate Assessment

There will be adverse impacts on wildlife. Birds, badgers and other species have not been properly considered and are present. The surveys undertaken were too brief and were undertaken by inexperienced staff.

There is a need for a full appropriate assessment.

4.6.8. Other impacts, procedures and adequacy of submissions

The proposed development will lead to property devaluation.

The proposed development by reason of the use of CCTV cameras will adversely impact privacy.

There are many alternative sites and different types of landscapes and land uses where this type of development could be suitably located without impacting on existing rural enterprise.

As the grid connection has not been specified its environmental effects cannot be assessed.

Decommissioning is inadequately addressed.

The submitted documentation is inadequate and the newspaper selected does not circulate in this area.

The planning authority did not respond to the issues raised in the third party observations.

5.0 Planning History

There it is stated to be no recent relevant planning history according to the planner's report. The planning register shows one recent relevant planning history but this was not decided and was withdrawn – reg. ref. 20506 – the description of the development is very similar to the current proposal.

The National Planning Application database shows that all other planning applications related to development proposed in the immediate area are of small scale and generally residential in nature.

The record of the pre-application consultation reference PP6578 which is on file show that the discussion included requirements for sightlines from the L43061-0. The relevant development plan policies are listed in the record.

6.0 Policy Context

6.1. European Climate Law

Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999.

- 6.1.1. This set ambitious legally binding targets for the reduction of greenhouse gases **establishing a new level of at least 55% below 1990 levels by 2030** and net zero

by 2050. The foundation for this accelerated change lies in the European Green Deal and the aim to pursue efforts to keep the rise in global temperatures to 1.5 degrees Celsius above preindustrial levels. The law addresses the necessary steps to get to the 2050 target.

- 6.1.2. To reach the 55% GHG reduction targets rapid penetration of renewable energy is promoted with a **doubling by 2030 of the share of renewable electricity production** to around 65% or more.
- 6.1.3. The **Fit for 55** package is a set of proposals to revise and update EU legislation and put in place initiatives which are in line with the agreed climate goals. This will include boosting the share of renewable energy by 2030 and will involve a revision of the **Renewable Energy Directive** resulting in an increased target of 40% of all energy being used in the EU to come from renewable sources by 2030 (an increase from the current target of 32% by 2030).

6.2. **Climate Action and Low Carbon Development (Amendment) Act 2021**

- 6.2.1. This commits to a binding target to reduce greenhouse gas emissions by 51% and increase the share of electricity generated from renewables by up to 80% by 2030 and achieving net zero emissions by no later than 2050. It makes provision for local authorities to prepare statutory Climate Action Plans for their own administrative areas. These plans will be required to specify the mitigation measures and adaptation measures to be adopted by the local authority.
- 6.2.2. **National Energy Security Framework**
- 6.2.3. Published in April 2022 this sets out the government's response to Ireland's energy security needs in the context of the Ukraine war and identifies a number of potential measures under the planning system that could support the timely delivery of renewables. This will include future national policy on renewables which will be given effect through implementation in the planning system including the plan making process at regional and local level.

6.3. **The 2023 Climate Action Plan**

- 6.3.1. Published in December 2022 this reiterates and reinforces previous objectives and targets. To meet the challenges posed by the climate crisis and achieve further

emissions reductions a major step up is required and the acceleration and increased deployment of renewable energy is one of three key measures.

- 6.3.2. For the solar electricity sector by 2025 a target of 5GW is set.
- 6.3.3. With respect to the agricultural sector the focus is on transformation in line with Food Vision 2030. It seeks to deliver the reduction in GHG emissions which is required and to further prioritise delivery of environmental, social and economic sustainability. Diversification and just transition is part of the approach. The agricultural sector is identified as having a role in renewable energy streams. Organic farming and food production are promoted.
- 6.3.4. Regarding the land use planning system a flexible and supportive spatial planning policy framework for renewable electricity is required – this will seek to deliver a strong pipeline of renewables. Regional Renewable Energy Strategies will be published by Regional Assemblies and these will identify areas suitable for renewable electricity deployment at regional and county level. Following this the local authorities shall include statements in their local authority climate action plans which will identify the methods or processes that will be used to implement the policy and achieve the renewable electricity targets.

6.4. Ireland's Climate Action Plan 2021– Securing Our Future

- 6.4.1. Published in the context of the European Green Deal and the EU wide targets for reduction of GHG emissions by at least 55% by 2030. The plan sets out the 'limited window for real action to reduce emissions'. The plan is a roadmap for taking decisive action to secure the reduction of emissions.
- 6.4.2. There is a commitment to publish (by Q1 2023) a framework to set out targets for onshore renewable electricity to inform spatial plans at a local authority level.
- 6.4.3. Among the most important measures is to increase the proportion of renewable electricity to up to 80% by 2030 - between 1.5-2.5 GW of solar energy will be required.

6.5. Food Vision 2030

- 6.5.1. This strategy for the Irish agri-food sector aims to achieve a balance between the economic, social and environmental sustainability aspects of food systems. It makes

reference to renewable energy in the context of scaling up of on-farm renewable energy sources and specifically mentions solar PV and other methods.

6.6. Project Ireland 2040 National Planning Framework (NPF)

- 6.6.1. The NPF is a high-level strategic plan to shape the future growth and development of the country to 2040 through delivery of 10 National Strategic Outcomes (NSOs) of which NSO 8 is 'Transition to a Low Carbon and Climate'. The national objective of achieving transition to a competitive, low carbon, climate-resilient and environmentally sustainable economy by 2050 will shape investment choices over the coming decades. New energy systems and renewables-focused energy generation system will harness the on-shore and off-shore potential from renewable energy sources.
- 6.6.2. Section 5.4 Planning and Investment to Support Rural Job Creation notes that rural areas will continue to significantly contribute to the energy needs of the country. 'In meeting the challenge of transitioning to a low-carbon economy, the location of future national renewable energy generation will, for the most part, need to be accommodated on large tracts of land that are located in a rural setting, while also continuing to protect the integrity of the environment and respecting the needs of people who live in rural areas'.
- 6.6.3. National Policy Objective (NPO)⁵⁵ is 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'.

6.7. Regional Spatial and Economic Strategy (RSES) for the Southern Region

- 6.7.1. RPO 87 sets out a commitment to implementing national policy including under the Climate Action Plan 2019 and to increase the use of renewable energy sources across the key sectors of electricity supply, heating, transport and agriculture.
- 6.7.2. RPO 95 sets an objective to support implementation of the National Renewable Energy Action Plan (NREAP) and the implementation of mitigation measures outlined in the SEA and AA and to leverage the Region as a leader in sustainable renewable energy generation.

6.8. Tipperary County Development Plan 2022-2028

6.8.1. Specific / noteworthy sections of the plan include:

- Section 3.4.1 states that the Council acknowledges the importance of agriculture as part of our rural economy, and its importance in carbon capture, and will support national programmes for sustainable agriculture as a key component in a sustainable and low-carbon economy.
- Introducing section 8.4 Rural Employment Strategy it is noted that Tipperary is renowned for its agriculture, horticulture and bloodstock industries which form a traditional base of economic activity and are significant employment generators.
- Section 9.3.3 which refers to the promotion of equine tourism which has been identified as a unique selling point and economic speciality and which is subject of the Failte Ireland plan 'Thoroughbred Country Destination Experience Development Plan' which will involve development of a 'Thoroughbred Trail' leveraging the development planned at Tipperary racecourse.
- Section 8.4.2 which notes the international recognition of Tipperary for its bloodstock industry including that it contains some of the world's best breeding and training establishments. The Council will seek to ensure that the vitality and viability of the equine industry is maintain through the appropriate management of the rural environment on which the equine industry is reliant. The Council will seek to protect, promote and enhance the development of the equine industry and continue to promote the county as a recognised centre of excellence for the bloodstock industry and equine based leisure and tourism.
- Renewable energy and the bioeconomy are described as important aspects of diverse and vibrant rural economy. The policy context for renewable energy is set out in the Renewable Energy Sector Volume 3 Appendix 2.
- Policy 10-1 is to support and facilitate new development that will produce energy from local renewable sources including solar subject to compliance with normal planning and environmental criteria, in co-operation with statutory and other energy providers. The provisions of the Tipperary Renewable Energy Strategy will apply to new development.

- Policy 10-5 is to support and facilitate the co-location of renewable energy development and technologies to ensure the most efficient use of land identified as suitable for renewable energy generation.
- New development within the Landscape Character Areas will be required to integrate with the character, sensitivity and value of the area in accordance with the LCA – Volume 3 Appendix 3. Based on consideration of the LCAs Primary and Secondary amenity areas are identified in Figure 1.1 and in these areas the Council will seek to ensure a balance is achieved between the protection of sensitive landscapes and appropriate socio-economic development of these areas and development proposals will be required to demonstrate that they integrate with and respect the visual quality of the amenity area. A series of scenic views and routes is set out and is illustrated in Figure 11.1.
- The subject site is not within the scenic views and routes. The site is not within or close to the Primary and Secondary amenity areas identified in Figure 1.1 of the development plan.

6.8.2. Based on the **Landscape Character Areas of Tipperary Appendix 1 of Volume 3** the site is within the River Suir Central Plains LCA4. The landscape character and capacity and sensitivities are further described in the assessment section of this report.

6.8.3. The **Tipperary Renewable Energy Strategy 2016** is contained within the development plan as Volume 3 and relevant policies and objectives contained therein include:

- RE1 – renewable energy projects shall be assessed in accordance with the environmental standards in the development plan and the development management standards in Chapter 10.
- In the absence of Irish guidelines, the provisions of 'Planning guidance for the development of large-scale ground mounted solar PV systems' BRE 2013, may be consulted.
- RE2 – facilitate new renewable energy development which integrates with and respects the character, sensitivity and value of the landscape in accordance with the 2016 LCA and the policies in the development plan.

- 6.8 refers to solar energy development which will be facilitated subject to demonstrating that there will not be a significant adverse impact on the built and natural environment, visual character of the landscape or residential amenity, in Primary and Secondary Amenity Areas particular care must be taken in respect to proposals for commercial solar PV and a Visual Impact Assessment may be required particularly where there is potential for cumulative visual impact as a result of existing and permitted solar development in the area.
- RE10 is to facilitate ground mounted solar PV installations where it is demonstrated that there will be no significant adverse impacts on the built and natural environment, visual character of the landscape or residential amenity.
- Objective S013 supports the objectives of the White Paper 2015 as they relate to energy storage.

6.9. Natural Heritage Designations

The following Natural Heritage sites are near the proposed development site.

- Lower River Suir SAC (Site code 002137) which is located 5.2km to the north, 1.3km to the east and 5.3km to the south.
- Galtee Mountains SAC (site code 000646) and Galtee Mountains proposed Natural Heritage Area is 8.1km to the south.
- Slievefelim to Silvermines Mountains SPA (Site code 004165) is 22km to the north-west.
- Moanour Mountain SAC(site code 002257) which is 15km to the southwest.
- Knockroe Fox Covert proposed Natural Heritage Area is 6km to the north east.
- Bansha Wood proposed Natural Heritage Area is 4km to the south-west.
- Scragh Wood proposed Natural Heritage Area is 8km to the south.

6.10. Environmental Impact Assessment

- 6.10.1. Solar farm developments are not a class of development set out in Parts 1 and 2 of Schedule 5 of the Planning and Development Regulations, 2001 (as amended). As such there is no legislative basis for the undertaking of EIA and no requirement for submission of an Environmental Impact Assessment Report in this case.

6.11. National Guidance

- 6.11.1. In the absence of ministerial guidance I reference the following which have no statutory basis and cannot be relied upon in terms of their detail and policy provisions – however, the documents do address the topics of relevance in the assessment of this case.
- 6.11.2. Planning and Development Guidance Recommendations for Utility Scale Solar Photovoltaic Schemes in Ireland (October 2016 report prepared by Future Analytics for the Sustainable Energy Authority Ireland/ SEAI).
- 6.11.3. Planning guidance for the development of large-scale ground-mounted solar PV systems (British Research Establishment/ BRE – 2016).

7.0 The Appeals

Grounds of Appeals

- 7.1.1. There is considerable overlap between the appeals in terms of the issues raised and the detail of the submissions and for ease of reading the contents of the appeals is summarised under topic headings.
- 7.1.2. The appellants are as listed on the front cover of this report.
- 7.1.3. **Roads and traffic**
- 7.1.4. The haul route passes through Golden over a narrow bridge which is listed and will also pass by national schools and is unsuitable. The traffic along the haul route will conflict with large agricultural machinery on the rural roads.
- 7.1.5. The HGV traffic of 662 deliveries to the site (20 per day) will adversely affect traffic safety and impact on a popular local walking route at the cul-de-sac. The nature of the L43061 and its use as the main access to the site is of particular concern

including by reason of the inadequate nature of the road, it's used for agricultural purposes, for walking and in the case of emergency services.

- 7.1.6. The existing site entrance is unauthorised as can be demonstrated from historic Google images presented. The sightlines at the site entrance do not comply with development plan policy being only 70m.
- 7.1.7. The alternative access to the site from the Thomastown Demesne North Road and should be seriously considered as a viable alternative. Its use would avoid the need to remove hedgerows and enable use of the farmyard as a construction compound.
- 7.1.8. The constraints at the junction of the two public roads are significant and are not resolved. There is a serious traffic hazard by reason of the sightlines at this junction. This is the risk to pedestrians and vehicles on the main road. It is of particular concern during construction. Referral to TII is required.
- 7.1.9. The construction phase impacts on the public roads include spillage of materials. There is a major stream along the side of the road which connects to the SAC. Wheel wash facilities cannot be identified on the application drawings.
- 7.1.10. During construction the use of the roads and the damage thereon would impact residents and their ability to move around the community and take recreational walks.
- 7.1.11. The proposed development appears to be within the red line boundary of the study corridor for the N24 upgrade and the development is premature until such time as the route selection is completed at which time a full assessment of the proposed development on the future road can be undertaken. A grant of permission would sterilise the lands. Potential impacts on the future N24 including related to glint and glare need to be assessed and the proposed development is inappropriate.
- 7.1.12. **Loss of Agricultural Land and Inappropriate Land-Use**
- 7.1.13. This is an industrial form of land-use which is not appropriate to this rural area and is contrary to the development plan. The history and tradition and importance and sensitivity of the existing equine and agricultural land uses in this area has not been recognised in the documentation.
- 7.1.14. There is an objection to the loss of prime land within the Golden Vale in the context of the international importance of the equine and beef industries.

- 7.1.15. The development is contrary to the NPF and the development plan. The Project Ireland documents emphasise the protection of agricultural land. This is not relatively poor agricultural land of limited productivity as described but is prime land of considerable value. A grant of permission would devalue other lands for agricultural purposes and take otherwise valuable grazing out of the market. This is bound to have a negative effect on farming communities. The land is not of 'medium value' as described and a farm recently sold at a value of €16,500 per acre.
- 7.1.16. The increased importance of food production and security will be undermined. The proposed development would be contrary to Food Harvest 2020 by reason of the taking out of high-quality land from the sector and will hinder our ability to meet national targets. The area is one of the most productive in the country.
- 7.1.17. The policy context in the development plan refers to the need to balance rural based activity, protection of the environmental quality of existing equine operations and high-quality agricultural land and seeks to ensure that the viability and vitality of these industries is maintained. The proposed development would undermine this centre of excellence for the sectors.
- 7.1.18. The significant number of equine and cattle rearing businesses in this area and the importance thereof to local employment is described. Individual appellants describe their own activities and the success of their businesses including in terms of breeding, training and winners and organic beef production.
- 7.1.19. An enclosed veterinary opinion is provided which states that the disturbance of the normal rest and sleep patterns over the 10 years of highly destructive building will effectively bring the long-established equine business to a halt. The increase noise levels in the construction phase would be unpredictable. During operation the inverters generate noise that could be intrusive. Animals will be impacted by inhalable particles which can cause acute respiratory disease and exposure to such allergens in early life can lead to long-term permanent impairment. The existing enterprise is ideally located at the moment for its intended purpose making farm suitable and safe for the rearing and production of young racehorses.
- 7.1.20. The equine industry is dependent on quiet rural landscape as the animals are prone to flight. The lands adjacent the proposed site will be used by mares and foals to yearlings and up to 3 years old and the construction phase will cause catastrophic and irrecoverable injury to the business.

- 7.1.21. Maintenance of the green image which is promoted by the landscape context is good for business. Our organic cattle business will suffer as the forty shades of green image will be replaced by a prison like vision.
- 7.1.22. UK Guidance states that projects of scale should be on brownfield sites or low value land. The proposed development would be on the highest value land in the country.
- 7.1.23. The noise impact undertaken is not targeted at the expected noise levels and impacts of the construction traffic and construction. The noise impact on clients livestock cannot be assessed nor can the cumulative effect with the proposed N24 as the route has not been chosen. Serious concerns about the noise levels during heavy rain, hail showers and strong winds. The humming from the inverters, transformer and substation will unnerve the animals. Who will compensate my clients if a horse runs through a fence in a hail shower for example?
- 7.1.24. The assessment undertaken has not targeted the impact of noise, traffic and air pollution in particular on the equine and cattle industries but has only addressed residential amenities.
- 7.1.25. The proposed development is incompatible with the existing land uses by reason of likely construction impacts, operational impacts including related to chemicals used in washing, flood risk, consequences of any fire or storm damage to panels. As such it is not demonstrated that there would be no significant impacts on the natural environment which is a requirement under the development plan.
- 7.1.26. The future use for grazing of sheep is unlikely.
- 7.1.27. **Landscape and Visual**
- 7.1.28. The government's planning policy statement 2015 outlined that planning must support the transition to a low carbon future including the conservation and management of landscape quality.
- 7.1.29. Objection to the proposed development on grounds of visual amenity impacts.
- 7.1.30. As this is an industrial form of development it is not acceptable under the LCA.
- 7.1.31. The proposed development lies within the expansive views of the mountains which are listed as V043. The development is contrary to the requirement that views are not obstructed or significantly altered and that the visual impact be minimised by careful design and siting.

- 7.1.32. The site layout is flawed as the eight receptors, substation and transformer are all proposed to be located on the highest part of the fields and no effort made to screen them. A coat of paint is mentioned which is not good enough.
- 7.1.33. It has not been shown that there would not be an adverse impact on the landscape on its own and there is a lack of information relating to cumulative impacts.
- 7.1.34. Particular concern relating to the security fence and substation and at minimum the development should be screened in its entirety.
- 7.1.35. Objection to the removal of roadside boundaries for road sightlines. It is not accepted that the existing hedgerows provided sufficient screening of the proposed development. On the western and eastern sides the hedgerows are not high.
- 7.1.36. There is a need for additional landscaping at the southern side of the holding to protect future road users on the N24 from glint and glare.
- 7.1.37. The proposed development will deter tourists. My farm has been welcoming visitors for decades including for walking and fishing. Even so, there are no photomontages taken from this land.
- 7.1.38. The visual assessment report for our house was based on Google imagery and does not take into account that the house is back from the roadside and at a higher elevation. The assessment therefore does not accurately measure the development's visual impact or glint and glare.
- 7.1.39. **Residential Amenity**
- 7.1.40. Impacts on local residents include glint and glare impacts, construction impacts and noise. The fumes and dust generated would adversely impact on health.
- 7.1.41. The effects during the operation of the development will include airborne chemicals from the solar panels which will have an adverse health impact.
- 7.1.42. The installation of CCTV cameras will impact on privacy. Even fixed cameras can move during stormy and windy conditions.
- 7.1.43. **Biodiversity**
- 7.1.44. The area is rich in biodiversity as it has been undisturbed for decades and included in the area apex predators which is proof of the health of the ecosystem.

- 7.1.45. The biodiversity surveys of April and September are inadequate. There is a need for a further survey to determine the full extent of species present. The timing of the surveys may preclude certain species being identified. There should have been a further visit in the winter months when water tables are highest and when the surface water linkages to the wider environment would be more evident.
- 7.1.46. Immediately to the east of the site is a pond which is in fact a turlough. This is visited by a range of birds. The development will have an impact on these birds as they are likely to mistake the panels for water courses.
- 7.1.47. There is an Annex I habitat alluvial forest in the location shown and the proposed development will put this habitat at grave risk of contamination.
- 7.1.48. There will be an impact on the bat population which is known to be present. The data compiled is insufficient.
- 7.1.49. The area is very important for hares which is a protected species. Hares will no longer be able to use the site in the same manner and the species will be adversely impacted. The site will decimate 50 ha of territory for badgers.
- 7.1.50. **Water**
- 7.1.51. The proposed development will impact a groundwater aquifer through seepage of harmful chemicals and could contaminate water supplies which extract water for private and public sources.
- 7.1.52. There is a hydrogeological connection with the regionally important Karstified aquifer which underlies the site. Cumulative impact of existing and permitted developments has not been assessed. It is incorrectly stated that there are no boreholes within close proximity to the application site as all of my 500 livestock on the farm use our own well water. I am concerned about potential contamination particularly when the panels start to age and during the proposed construction stage.
- 7.1.53. In addition there are large aquifer lakes in the area and one of the largest in terms of volume is a public water supply borehole well which is located 1.5 km from the site. The development will impact on all water systems in the area including this Thomastown well.

- 7.1.54. It is incorrectly stated that the drain on the southern boundary of field three and four is new. This has always been in place. It will now capture all the surface water run-off from the site.
- 7.1.55. There is a flood risk to our farmyard, house and the proportion of our lands which are at a lower level to the PDS and we have been flooded in recent times during flash floods. The applicant has not provided information relating to percolation tests to assess the potential for the ground to take run-off and we are concerned that there will be more flooding at our home and farm due to the higher concentrations of rainfall coming off the panels.
- 7.1.56. I do not accept that the rainfall on each panel will freely drain into the ground beneath. Rather I consider that the rainfalls of the panels will be in one line and thereby creating additional surface water run-off getting to the lowest point of the site at a much quicker pace and resulting in adverse impacts on biodiversity and flooding.
- 7.1.57. The proposed development will result in silt laden run-off and there is also potential for pollution from material during construction both of which will impact my wetlands and biodiversity corridor areas.
- 7.1.58. There is no plan to monitor the water quality at the outlet.
- 7.1.59. **Material Assets**
- 7.1.60. The water mains supply in the local road is not deeply laid and there is potential for impact by heavy vehicles which could result in health concerns – there is a need for this water supply means to be upgraded.
- 7.1.61. There will be damage to the local roads infrastructure.
- 7.1.62. **Other issues**
- 7.1.63. An oral hearing is requested.
- 7.1.64. The proposed development is not fully described in terms of the plans and drawings and the judgements of Humphreys J refer. Amongst the details lacking are the site layout, the nature and extent of the roads and crane standing areas and details of local road widening which will be needed to accommodate cranes.

- 7.1.65. The requirements relating to public notices have not been met and no notice appears to have been erected on the southern extremity of the site. The public notices do not identify the number of solar panel structures. The nature and extent of the proposed development is unknown.
- 7.1.66. There has been inadequate consideration of in combination effects including with respect to the N24 upgrade.
- 7.1.67. No development should be permitted to commence until the grid connection is resolved. There is no indication that the indicated connection to the Tipperary substation can be implemented and that there is landowner consent.
- 7.1.68. Inadequate consideration of decommissioning. The disposal of the solar panels should be addressed by a specific disposal and recycling plan.
- 7.1.69. There is a high level of archaeology in the area and the proposed development will also have a significant visual impact on Thomastown Castle, Athassel Abbey and a World War II airfield. Overall there has been an inadequate and underestimation of the historical and architectural impacts in the area as a result of the proposed development.
- 7.1.70. There is a danger of fire hazard which the local fire department may not be able to deal with as it will be industrial and large-scale site. Is there sufficient insurance to deal with this catastrophe? UK evidence indicates that fires are underreported.
- 7.1.71. There are potential issues relating to the release of toxic fumes in the event of fire. It cannot even be established if the site is subject to Seveso Directive as there is no legislation in place.
- 7.1.72. The development will not bring indirect socio-economic benefits to the local community and there has not been proper engagement with local communities and stakeholders and no public consultation took place. The Tipperary Renewable Energy Strategy 2016 sets down a strong statutory policy for the support of public consultation. Consultation is also a requirement under the policy of the Irish Solar Energy Association and Climate Action Plan and Habitats Directive.
- 7.1.73. There is considerable level of opposition to this development. One of the many submissions to the location contains a significant petition.
- 7.1.74. The proposed developments will attract criminals.
- 7.1.75. Property will be devalued.

7.1.76. Conditions

7.1.77. By allowing for a 10-year permission, which was not requested by the applicant there is the possibility of construction taking place over a decade which would be very disruptive.

7.1.78. The 35-year permission is excessive.

7.1.79. The conditions relating to landscaping should include that all hedgerows be augmented and all site boundaries should be replaced with sod and stone banks and native hedging. Fencing should be inside this natural bank and should be deer fencing. The eastern boundary in particular requires special consideration as the boundary which exists is low and dilapidated.

7.1.80. EIA and related

7.1.81. The individual components of the proposed development including the roads have not been considered in terms of EIA screening.

7.1.82. The EIA screening inadequately considers the impact on adjacent land uses and amenities.

7.1.83. Due to the failure to undertake EIA there has been inadequate assessment of the impact of the proposed development in terms of its impacts on the environment including noise, ecology, cumulative, material assets, water and flood risk.

7.1.84. It is not demonstrated how the grid connection would fit into national strategic plans of Eirgrid. The proposed development comprises project splitting.

7.1.85. Appropriate Assessment

7.1.86. There is a requirement for Appropriate Assessment.

7.1.87. There has not been proper assessment of the proposed development on the status of the water bodies, contrary to the WFD and development plan.

7.2. Applicant Response

7.2.1. The response includes a Natura Impact Statement. Revised public notices were subsequently submitted.

7.2.2. Lack of National Guidance:

- The Board have consistently ruled that a lack of national guidance for solar energy should not be a material consideration. There are sufficient local policies in the development plan. There are significant precedents.
- A review of national, regional and local policy support is presented.

7.2.3. Need for EIA:

- There is no requirement under Schedule 5 Part 1 for EIA. The proposed development is not a category or class of development listed in Part 2. Case law supports the above conclusion.
- It was determined in the Highfield Solar case which involved 3.2 km of maintenance track that the solar farm such as the proposed did not fall within Annex I or of Annex II of the EIA Directive.

7.2.4. Material Contravention of Development Plan

- While the proposed use is not a typical agricultural use the plan highlights that the rural economy extends beyond this traditional sector and supports the sustainable diversification of the rural economy. In recent years the county has become a leader in renewable energy and energy efficiency. The use will provide a stable and diversified source of revenue for the landowner for a sustained period thereby protecting the viability of his farm and is reversible.

7.2.5. Cumulative impacts with N24 corridor:

- Condition 7b was attached in the decision of the planning authority and the applicant is happy to comply with this. Cumulative visual impacts with the proposed N4 can be dismissed as views of the proposed development will be fully screened.

7.2.6. Equine And Beef Industries

- The Inspectors Report for ABP – 300389 – 17 stated that it is not reasonable that the equine/bloodstock/beef industry should seek to restrict the types of development which can be carried out on privately owned land where such development is in accordance with national policy and the development plan.
- Once constructed noise and traffic will be very limited. Most of the piling and construction of tracks will be completed within 6 months and therefore the construction phase noise impact is considered to be low and short term.

- The planner agreed with the assessment that the glint and glare would not have any significant impacts on surrounding area and while this referenced residential and road receptors it is also considered that it is relevant to the equine operations. Appendix 6G of the glint and glare report refers.
- Dust is inevitable but would be short-term and temporary and subject to mitigation within the submitted OECMP.
- The temporary traffic impact associated with the construction and decommissioning stages will be mitigated by measures within the submitted CTMP.
- The maximum predicted sound levels due to the proposed development at the nearest properties when operational will be 22dB and the contour map enclosed which shows the predicted sound footprint demonstrate that there will be no significant levels of noise at any adjoining land holdings.
- Regarding the 100dB and 65 dB which it is stated that horses cannot tolerate, and which can increase injury, it is clear that the operational noise will be well below these levels.

7.2.7. Appropriate Assessment Screening

- As a precautionary approach a NIS has been submitted.

7.2.8. Project Splitting

- The final grid route cannot be resolved until there has been a positive planning decision. It is not part of this application and may be exempted.
- The potential grid connection was a major consideration in the initial site appraisal. Had concerns arisen the application would not have progressed.

7.2.9. Landscape and Cumulative Assessment

- The proposed development will result in localised moderate/minor to moderate adverse effects.

7.2.10. Loss of Agricultural Land and Inappropriate Land-Use

- There will be no permanent loss of land and there will be dual use of the site for the production of renewable energy and continued sheep grazing on the site. Additional habitats will be created as outlined in the BMP.

7.2.11. Privacy

- The proposed 30 no. CCTVs will be fixed and angled towards the site to enable remote surveillance, identification of weather damage and breeches of fences. A condition should be attached to this effect.

7.2.12. Flood Risk and Drainage

- Due to the minor impermeable infrastructure proposed on the site, surface water run-off will be minimal and should be directed to a percolation area for discharge to ground. Hardstanding areas can be constructed to allow water to seep into the sub- soils which have good opportunity for infiltration.
- The proposed drainage strategy aims to ensure no increase in downstream flood risk by managing discharges to the local water environment in a controlled manner.

7.2.13. Traffic

- The roads and traffic aspects of the development are acceptable and subject to mitigation.

7.2.14. Wildlife/Biodiversity

- Appropriate solar farm developments have the potential to support wildlife and increase biodiversity. A large proportion of the site is accessible for plant growth and potential wildlife enhancements. The BMP will minimise potential negative impacts and increase habitat diversity.
- The Irish Hare is a highly mobile species and is unlikely to be impacted by construction period from the current survey findings, it is considered that the proposed development will not significantly impact Irish hare.
- With respect to the impacts on wildlife/local ecology assessment of bats, badgers, otters, birds, herptiles and other mammals was undertaken.
- The applicant is happy to comply with condition 1C relating to preconstruction badger and breeding bird survey.

7.2.15. Property/business values decrease

- Section 3.2.2 of the Planning and Development Guidance Recommendations for Utility Scale Solar Photovoltaic Schemes states that a comprehensive

desk review has identified no studies from the case study countries which indicate that proximity to solar PV negatively impacts on property prices.

7.2.16. Community Consultation

- There is no legal imperative for the applicant to undertake any level of consultation for non-EIA projects.

7.2.17. Human Health, Safety and Fire Hazards

- Solar farms do not emit any harmful by-products during their operation. EMF levels decline very quickly with distance.
- The proposed development has been designed in accordance with ESB standards and any risks are minimised through good system design, product selection and installation practices and while fires using photovoltaics are rare they are in many respects little different from any fire involving live electrical and the fire service would be well equipped to deal with such a case should it occur. The fire service will be able to access all areas as there are adequate access tracks and sufficient distance between panels and hedgerows.

7.2.18. Landscape and Visual

- The LVIA recorded visual receptors and was in line with current guidance. In relation to residential development it determined that despite the presence of individual and small clusters of rural residential development in relative proximity to the site the proposed development will not be visible from most of these receptors due to the screening by hedgerows and buildings orientation facing away from the site which has a low topographical setting. Any potential views will be oblique. Most will be experienced from single upper floor windows the exception being one receptor next to viewpoint 2 which experiences oblique ground floor views from both houses and gardens.
- There will be no change to the existing views for residents in nearby villages and the proposed development will not be visible from most transport routes across the study area.

7.2.19. Archaeology

- The AAHIA was undertaken based on professional guidance and standards including the use of the zone of theoretical visibility. The indirect effects on heritage assets were thus evaluated and shown not to be inappropriate.
- The assessment agrees that there is a high to moderate potential for archaeological remains and recommends mitigation. Condition 16 of the consent refers. In situ preservation of known archaeology within the site and preservation in situ or by record will be undertaken.

7.2.20. Local Communities/Employment

- The benefits for the local community include a diversified source of revenue, multifunctional land-use including continued agricultural use in the form of sheep grazing, employment during construction, operation and decommissioning, creation of electricity and decarbonisation of the energy network, financial contribution as per condition 26 in the amount of €93,750 under the Development Contribution Scheme.
- There will be long-term environmental benefits in the form of hedgerow and biodiversity enhancement measures that will benefit a range of species and a positive legacy in the form of improved biodiversity and landscape value.

7.2.21. Conclusions

- The site is in an appropriate location and the proposed development complies with National Policy Objective 55 of the NPF.
- The solar panels are from single-crystal silicone which originates from sand.
- The full life-cycle greenhouse gas emissions of the electricity for this sector is very low.
- The project has been through various processes and considered relevant plans. Additional sites were evaluated, detailed constraints analysis undertaken and site surveys and assessments conducted and various iterations of the project design completed.
- The proposed development accords with policy and can make a positive contribution to the local community.

7.3. Planning Authority Response

No substantive response received.

7.4. Observations

None.

7.5. Further Responses

These submissions from the appellants were received in response to the letters issued by Board 16 June 2022. Again, to prevent undue repetition and for ease of reading the main points are summarised as a group.

7.5.1. Policy and the site suitability

The NPF and development plan policies support the protection of equine and agricultural land uses.

The site is unsuitable including under the provisions of the UK guidance which is referenced in the Tipperary Renewable Energy Strategy.

Policy RE10 is the only one specifically relevant to ground mounted solar PV installations and states that these will be facilitated where it is demonstrated that there would be no significant adverse impact on built and natural environment, visual character of the landscape and residential amenity.

The submitted appeal response which regurgitates national and regional policy provides no analysis as to the appropriateness of the location.

The national policy supporting renewable energy must be considered in the context of regional and local level policies including the requirement for appropriate locations. The climate crisis is not a unilateral basis to override the requirements.

It is not appropriate from the Tipperary Renewable Energy Strategy 2016 and the development plan that all agricultural lands are open to a change in use from agriculture to solar PV development. The capacity of the county to facilitate such development should be identified and the absorption capacity of the county to facilitate solar PV on agriculturally zoned lands should be understood. In the

absence of this information cannot be assumed that all agricultural areas are open to a change in zoning. A material contravention of that zoning use objective arises.

7.5.2. Impact on existing agricultural, equine and residential uses

It is reiterated that we selected the land for our equine business because of the absence of traffic and absolute quietness.

None of the assessments undertaken by the planning authority explore the effects of the development on our equine business.

Even over a six-month duration the construction will be catastrophic to horses.

No studies have been undertaken from our fields to determine the glint and glare impacts and bloodstock. The glint and glare assessment is inadequate.

Potential dust effects would be extremely damaging.

We at Good Herdsmen Ltd border the PDS for the full length of the southern boundary and half of the western side and deserve recognition and respect as neighbours. The applicant has not described what they are doing to mitigate the effect of this proposed solar development on the farming business.

As the landowner on the eastern side the consequences of the applicant's analysis being incorrect or insufficient will be catastrophic in terms of the impact on business and livelihood. There have been two floods within the last 10 years on lands. Our shared boundary is 1 km in length.

With respect to paragraph 1.95 and the limits on traffic avoiding early mornings, evenings and weekends 'when equestrians are most likely to be out', the stock graze the land day and night and the applicant clearly has no concept of the agricultural practices carried out what is required by the animals.

The report of the British Horse Society, which is referenced by the applicant states that the effect of solar farms should be carefully considered where horses are kept and trained. The appeal response is inadequate.

The mitigation measures presented in paragraph 1.176 are inadequate as damage will already have been done if there is a noise impact on the thoroughbred horses.

7.5.3. Landscaping

The landscaping proposals will not mitigate effects of visual amenity and glint and glare as there is a large gap at the entrance and the depth of screening at boundaries is insufficient. There is no cumulative impact assessment.

The permitted solar farm at Donohill presents an appropriate model in terms of landscaping and is similar to the approach taken in Germany.

7.5.4. Roads and traffic

It is reiterated that sightlines at the left of the junction of the two public roads cannot be mitigated. This remains potentially hazardous.

The pre-condition and post-condition survey and reinstatement does not address the fact that the road network is unsuitable.

The vehicle holding area discussed by the applicant in the appeal response has not been properly thought out and the unnamed local road is narrow and lacking visibility and will be needed for emergency and general uses. The alternative route would be safer and avoid the need to remove a stone wall, trees and reduce disturbance to habitat.

7.5.5. Natura Impact Statement

The application submissions do not meet the requirements under EU or Irish law to allow the Board to grant permission.

The submitted NIS is deficient for reasons of the zone of influence, the matters considered and the failure to assess the grid connection, safety, cumulative impacts and interactions.

The survey date and expertise on which it is based is not adequate.

The 15 km zone adopted is not a robust approach.

7.5.6. EIA

EIA screening has not addressed or has not properly considered the site drainage, restructuring of rural land holding, the proposed N24 upgrade, the cumulative impact and interactions and the grid connection. Omitting consideration of the grid connection is contrary to legal precedents.

7.5.7. Other

The applicant's response is deemed to be inadequate and is refuted.

The response relating to property values is undermined by documentary evidence.

The response does not address the matter of increased level of crime in the locality.

It is reiterated that decommissioning and funding is inadequately addressed.

The impact on hares which live in fields 1 to 4 is underestimated. The species will not breed near solar panels and will be driven off the site by the works. The surveys including two site visits by junior employees and desktop research is insufficient.

If permission is granted conditions are required relating to the use of the existing main entrance to the north, the set back of the security fences by 10 to 15 m from the west, south and eastern boundaries and the planting of 3 to 4 rows of evergreen trees in this corridor is required. The hedgerows will not grow tall enough to block views. No real effort has been made in the appeal response to screen the site from adjoining landowners.

If permission is granted trees should be planted three years before construction.

If permission is granted the development should be reduced to 24,000 panels instead of the proposed 44,000 panels.

Condition 7b of the decision of the planning authority imposes requirements which should be extended to the western site boundary.

The appeal response does not sufficiently address the negative impact on architectural heritage and failed to reference the Bronze Age artefacts discovered adjacent the site or take into account the nature and use of the solar farm and its industrial scale when considering the impact on Thomastown Castle and demesne and also discounted the effect on Athassel Abbey solely on visual impact grounds without addressing the cultural importance and touristic value of the Abbey to the area. In addition the proposed development abuts a World War II airfield which is historic and has not been fully explored.

The WHO states that there is a risk of electromagnetic hypersensitivity associated with living near solar farms and this matter needs a response from ABP.

8.0 **Assessment**

8.1. I consider that the significant planning issues in this case may be considered under the following headings:

- Policy and Principle
- Roads and traffic
- Impacts on existing land uses and residential amenities
- Site drainage and flood risk
- Landscape and visual impacts
- Cultural heritage
- Biodiversity
- Other matters
- Appropriate Assessment.

8.2. **Policy and Principle**

8.2.1. One of the key issues in the appeals is that the selected site is unsuitable in the context that there are far more suitable sites in the country and that Project Ireland 2040 NPF places utmost importance on preserving prime agricultural land. The UK government policy in relation to site selection to avoid developing green sites in favour of poor-quality land should be followed according to the appellants who also note that the Tipperary Renewable Energy Strategy references UK guidelines.

8.2.2. I will first address the national and regional policy provisions. It is clear that there is very strong policy support for this form of development at a national and regional context notably the following:

- National Policy Objective 55 of the National Planning Framework sets the tone of the national drive to promote renewable energy 'at appropriate locations' within the built and natural environment.
- Reflecting changes at international level and following the adoption of the Climate Act there is increased focus and urgency at a national level to

develop renewables in order to meet the increasingly ambitious targets for reducing reliance on fossil fuels.

- The recently published Climate Action Plan 2023 sets a target of 5GW for the solar electricity sector by 2025 (compared with a 6GW target for onshore wind). By 2030 the target is 8GW solar. The latter figure constitutes a large increase over the target of 1.5 GW to 2.5 GW set under the 2021 CAP.
- At regional policy level the provisions of the RSES provide further support for the development of renewables and support for the sector including for solar developments to ensure that national targets are met.

8.2.3. I am satisfied that the site is located in an area which is a national level would be deemed to be amongst the most productive of agricultural lands. It is also evident that the established equine and high-quality organic cattle businesses to the east, south and west of the site are highly successful enterprises which might be described as flagship developments and which operate in an international context and receive visitors from abroad. I accept that the marketing of these enterprises would benefit from the green image portrayed by the existing landscape. However, I am not convinced in principle that a solar farm development could not be accommodated without undermining the viability of adjacent land uses. With respect to the policy context for agricultural lands I have not identified any measures which would preclude consideration of solar energy proposals for reason that the land is highly productive and should be reserved for agricultural use. In contrast as noted in the Policy Context section of this report the vision for agricultural lands includes that renewable energy developments including solar PV would be developed.

8.2.4. As is pointed out by appellants there remains no national strategy or ministerial guidance to assist in the designation of appropriate locations or the assessment of solar farm applications and appeals. There is an absence of spatial guidance to direct solar farm developments other than to 'appropriate locations' as described in the NPF. There are references in relevant document to future spatial planning guidance being formulated.

8.2.5. While the NPF supports the protection of agricultural land it also supports the promotion of renewable energy developments including solar PV. It does not contain any explicit statements that solar PV should be guided to less productive lands including brownfield sites or peatland. The appellants in dealing with the issue of

land use and siting of solar farms rely heavily on UK guidance stating that the avoidance of good agricultural land should be a fundamental principle in the selection of sites for development of this nature. The approach in the UK guidance is to direct developments of this type away from the highest quality agricultural lands. I also note the reference to the Joint Oireachtas Committee On Agriculture, Food and Marine which is stated to be engaged in drafting a report on the use of solar energy on agricultural and industrial buildings. Under the Policy Context section I have noted that there are moves to provide for the setting by regional and local authorities of how they proposed to meet targets. The appellants state that it is only a matter of time before planning policies will emphasise protection of the best and most versatile agricultural land. Other comments made including with respect to the need to identify a quota of output for the county are noted.

8.2.6. I am not satisfied that there is any support at all for the appellant's case. My overall response to the appellants' comments is that future policy direction cannot be speculated upon. Furthermore, the existing policy context or lack thereof is not a sustainable reason for refusal. In a previous decision the Board refused permission for a solar farm development noting that there is a lack of guidance at national, regional and local level in relation to the appropriate location and other matters and that the development might be premature pending adoption of national, regional or local guidance or strategy for solar power. The said decision under ABP-301321 was quashed. The applicant references cases ABP-311460 and PL-248939 on the same issue. While I note the appellant's comments relating to what may be the emerging policy context the Board must operate within extant policy and in any case, there is no indication that high quality lands will be excluded from consideration. Based on legal precedent therefore there is no basis for refusing permission on the basis of lack of more detailed policy or guidance.

8.2.7. In terms of county level guidance the recently adopted Tipperary County Development Plan provides robust and relevant policy. I note that the UK guidance (BRE 2013) is referenced in the Tipperary Renewable Energy Strategy 2016 which in turn is part of the newly adopted development plan. However, the Strategy does not adopt the UK provisions. Rather it is simply stated that they may be consulted. Similarly I note the existence of the Irish SEAI guidance which have no direct statutory basis in themselves in terms of planning decisions and cannot be relied upon for assessment of this appeal.

- 8.2.8. Appellants refer to the then extant policies ED7 and ED8 to protect farms and high-quality agricultural lands from proposals for development which results in negative impacts on their viability and requirements to balance the need for rural based activity and promote and enhance the viability and environmental quality of existing equine operations and high-quality agricultural lands. Their contention is that the proposed development cannot be reconciled with these policies and that it amounts to a material contravention. My consideration in relation to the proposed development in terms of current development plan policy follows.
- 8.2.9. Firstly, I agree with the conclusion presented in the planning report prepared by the planning authority that the site is not within or affected by listed views and the landscape is not designated as being of prime or secondary value. The detail of the LCA is relevant also in this respect and it is noted that the area within which the PDS is located would be deemed have a traditional base of rural economic activity based on agriculture, horticulture and the bloodstock industry and that other industries including renewable energy have developed.
- 8.2.10. The policies set out in the development plan relating to the protection of agricultural and equestrian industries include section 9.3.3 refers to the promotion of equine tourism which was identified as a unique selling point and economic speciality and is subject of the Failte Ireland plan 'Thoroughbred Country Destination Experience Development Plan' which will involve development of a 'Thoroughbred Trail' leveraging the development planned at Tipperary racecourse. In the 2022 adopted development plan there is similar support for the agricultural and equine industries and their importance including with respect to employment. I note in particular section 8.4.2 which I have set out earlier in this report. This confirms support for the vitality and viability of the equine industry ensuring that it is maintain through the appropriate management of the rural environment on which the equine industry is reliant.
- 8.2.11. I note the planned development of tourist activities in the area. This will be based on the agricultural and equine industries and which have the involvement of local authorities and Failte Ireland, none of which have objected in principle or made any comments relating to the detail of the proposed development. Again, I am of the opinion that the renewable energy development of the type which is proposed could be accommodated without undermining these planned tourist projects. However, I do

think that it would be reasonable having regard to the policy context that there would be a requirement for a high standard of landscaping.

- 8.2.12. I conclude following a review of the development plan policy that there is no explicit statement which supports a conclusion that renewable energy proposals would not be compatible with agricultural or equine activities. Indeed it is noted in section 8.4.1 of the plan that the Council will favourably consider projects ancillary to existing farming activities such as renewable energy in agricultural, which contribute toward the viability of the farm and the rural community. I consider that it is difficult to conclude that the proposed development does not partly meet those criteria by contributing to the viability of the farm at which it is sited.
- 8.2.13. In principle therefore unless the Board decides that some aspect of the development and its associated environmental effects would significantly affect the operation of agricultural or equestrian activities and the vitality and viability of such enterprises there can be no question of a material contravention.
- 8.2.14. On the other hand in the event of significant adverse effects on resources which the development plan seeks to protect the Board might conclude that the proposed development contravenes the development plan.
- 8.2.15. I am also satisfied that the tourist related policies have to be given weight in terms of the detail of the landscaping proposals.
- 8.2.16. I conclude that the development is acceptable in principle and subject to further detailed assessment does not constitute a material contravention of the development plan and is in accordance with the national and regional policy provisions.

8.3. Roads and traffic

The appeal issues relevant to roads and traffic relate to the proposed development in terms of its impact on the existing roads infrastructure and matters relevant to a future road scheme. I separately consider these aspects of this case. I also comment on the suggested relocation of the entrance to the northern site frontage in terms of traffic safety and further consider this matter in terms of land use impacts.

Roads and Traffic – Existing

Suitability of the use selected entrance and northern alternative.

- 8.3.1. The selection of the site entrance off the minor cul de sac lane L-43061 is claimed by appellants to be aimed at avoiding impacts to the applicant's house and farmyard / stables at the northern side of the site. The selection of the cul de sac road as the main access is deemed to adversely impact on the use of third parties lands (which is considered in the next section) and to be unsuitable and unsafe give the sightlines at the junction of the L-43061 and the L-4306 and the use of the cul de sac as a walking route.
- 8.3.2. It is evident that the PDS could have been accessed either from the west as selected or from the north as the appellants suggest. There is no evidence on file that any consideration was given to the northern option. The use of the northern option would require construction of a temporary access route through demesne lands which contain trees which were planted as part of the Thomastown estate and would be considerably less favourable in terms of cultural heritage impacts. The western access it is eminently more favourable than the northern in terms of ease of construction in addition. For these reasons I consider that the selected access is the most logical and efficient means of accessing the PDS.
- 8.3.3. For the purposes of roads and traffic issues the question arises as to whether the board can support the conclusions of the planning authority that the western entrance selected is safe. I consider that the primary issue in this respect relates to the adequacy of the junction of the cul de sac road L-43061 and the L-4306. The planning authority accepted that the 90m x 2.4m sightlines were adequate and ultimately accepted that these sightlines could be achieved. Taking the setback distance of 4.5m into account only a 70m sightline is achievable – this setback was deemed not to be warranted following consultation with the Council's engineers in view of the narrow width of the minor road. Accordingly condition 13 was attached which required that as part of the initial phase of development and prior to construction works on the PV panels or access tracks the works proposed by the applicant to improve visibility at the junction of the L4306 and L43061 would be undertaken. Sightlines at the left side at the junction of the cul-de-sac with the local road cannot be mitigated according to the appellants who refer to the residential property. However the drawing submitted in response to the further information shows that the restriction in sightlines is primarily to the east where a wall is the main impediment. The submitted documentation presented by the applicant includes a letter of consent from the relevant owner in relation to the removal of 33m of a wall.

- 8.3.4. I concur with the conclusions of the planning authority. While the subject junction has deficiencies it is relevant to note that it is already used by large vehicles. The works proposed would result in an improvement of the existing sightlines and in the context of HGV deliveries of around 15 per day for a six-month period, the implementation of a traffic management plan and having regard to the relatively low levels of traffic on the L4306, I consider that the Board may conclude that the development would not give rise to traffic safety issues at this junction.
- 8.3.5. I inspected the suggested alternative access point to the north of the site and note that the sightlines are restricted in both directions. The lands on both sides of the road adjacent the existing entrance are in the applicant's ownership but to upgrade the entrance would be likely to involve considerable works and removal of existing boundary features which are of cultural heritage value. I do not consider that an entrance at this location would be demonstrably preferable in terms of traffic safety and having regard to the works which would be required to upgrade the sightlines and the landscape and visual impacts, I do not favour this option. If the Board concludes that the noise, disturbance and other construction phase impacts are unacceptable in terms of impacts on the existing agricultural and equestrian uses, further consideration could be given to the northern entrance option.
- 8.3.6. Other aspects of the proposed vehicular entrance assessed by the planning authority include whether the sightlines at the site entrance were adequate and if vehicle turning manoeuvres would encroach onto third party lands. I consider that the applicant's submissions are acceptable in this respect. Further detail of the site entrance drainage arrangements were presented in addition. Comments to the effect that the site entrance is unauthorised are not especially material to the determination of the appeal in my opinion and I would note that the enforcement period may have lapsed in any case.
- 8.3.7. The L43061 is stated to have been subject to financial investment by landowners and it is deemed to unreasonable that it would now be subject to potential construction phase damage. The cul de sac road is narrow at 3m width there is potential for roadside drainage channels to be impacted during the construction. I consider that it is appropriate in the circumstances that this road and associated drainage be subject to a pre-construction condition survey and that the developer be responsible for the funding of any post construction remediation works. A proposal of this nature was presented by the applicant as part of the CTMP but should be

highlighted as a planning condition. The survey should also consider the watermain which is discussed below.

- 8.3.8. I am satisfied that the proposed passing bay which is within the applicant's holding and is located at the L43061 will serve its purpose and there is no likelihood of vehicles having to make long reversing movements. I also consider that the passing bay will provide a safe refuge for any pedestrians on this road, although I equally consider that recreational walkers may avoid this area during the peak construction phase.

Haul route and levels of construction traffic

- 8.3.9. In strategic terms the site is proximate to the national and regional road network and the proposed development can be readily accessed for the purposes of deliveries and other purposes in the construction phase. The haul route described will involve the motorway and the N74 including Golden village (and the bridge which is protected) and only the last 3km will involve travelling on local roads. In general I consider that it may be concluded that the site is well located in terms of the requirements of staff and HGV deliveries in the construction phase.
- 8.3.10. I note that the observers query the need for local road widening to accommodate cranes. The applicant in the CTMP has confirmed that the haul route has been assessed in terms of its suitability for the longest vehicles to be used and has also stated that as there are no abnormal loads there was no need to assess the strength of bridges and other structures. I accept the applicant's conclusions.
- 8.3.11. The applicant clarified that the construction phase traffic anticipated is 15 HGV deliveries per day. This level of traffic would not be significant in the context of the wider road network and while it will constitute an increase at the cul de sac it is not a heavy traffic volume by any measure. Impacts on the wider network and the local roads is to be subject of a Construction Traffic Management Plan. I note that the submitted CTMP contains a range of mitigation measures which will ensure that congestion and general disturbance in the area is avoided notably by use of a delivery booking system for the construction phase delivery, erection of clear construction warning signs at the site entrance and the junction of the L4306 and L43061 and measures to control, prevent and minimise dirt on the access route. I am satisfied that these measures can provide suitable mitigation.

- 8.3.12. At the construction compound there will be provision for 25 car parking spaces and also a holding area for HGVs. The amount of car parking provides for one space per staff at peak periods. I agree with the applicant that there is likely to be a degree of car sharing and therefore that there will be available parking to cater for any unforeseen demand which might arise from time to time. The HGV holding area will ensure that vehicles do not depart the site unless the road is clear and I consider that there will be adequate visibility from high level trucks. I am satisfied that these measures will ensure that there will be no congestion on the adjacent public road.
- 8.3.13. I agree with the overall conclusion presented in the CTMP that the construction phase traffic volumes may be considered to be low. I also concur with the applicant's submission that there will be negligible operational traffic. I have considered the matter of the decommissioning traffic also and am satisfied that no significant adverse impacts are likely and that a condition relating to decommissioning is appropriate.
- 8.3.14. In summary I consider that the proposed development is acceptable in terms of effect on existing roads and traffic issues.

Impact on future road scheme

- 8.3.15. A planned road realignment of the N24 Cahir to Limerick Junction scheme is under consideration and two emerging route options are proximate to the site and could potentially be impacted by the solar PV development in the operational period. It has however been confirmed that the PDS is not within the study area. This N24 Project Team noted concerns relating to the mitigation of glint and glare and the potential for impacts on users of the future scheme. I consider that it is reasonable and appropriate that the applicant's proposals include full mitigation of potential glint and glare impacts because to address such effects as part of the road scheme could involve erection of intrusive screens. The further information response presented by the applicant included revision D of Figure 1.12 which shows additional planting, which I consider is of minimal depth. The planning authority also deemed that the revised landscaping was insufficient and supporting technical reports noted that screening should be of suitable type and density, 3m in height and extending along the full length of the southern boundary. The planning authority addressed this by condition.

8.3.16. Taking into account the nature of the potential impacts on the future N24 which are amenable to mitigation and in the context of my conclusions elsewhere relating to landscape and visual impacts I consider that potential glint and glare on the future N24 can be dealt with by condition. I note that the applicant references condition 7b which was attached in the decision of the planning authority and is willing to comply with this.

8.4. Impacts on land uses and residential amenities

8.4.1. The lands surrounding the PDS comprise three major landholdings and some scattered residential development, which is mainly positioned along the local road to the north of the cul de sac. As the site entrance and construction compound are to be at the western side of the site it is reasonable to conclude that area would be the focus of the most significant impacts during the construction phase. The driving of piles is however likely to give rise to the most significant noise levels and this work necessarily is spread across the PDS albeit for short duration. The landscape and visual impact assessment and other topics in this assessment section include comments with respect to residential amenities also.

8.4.2. In general I consider that the nature of the construction phase impacts in this case is such that they are amenable to being mitigated by adherence to best practice, implementation of the mitigation measures presented by the applicant and compliance with the planning conditions below. The proposed development will include standard construction techniques and no particularly intrusive noise generating equipment will be utilised. No significant groundworks are required and while there is potential for dust and water quality emissions arising from the removal and storage of topsoil and construction of the construction compound, access tracks and crane hardstanding areas with the site, the impacts would be similar to any construction project. The applicant's submissions include an Outline Construction Environmental Plan which will be developed and finalised by the contractor and an Outline Construction Traffic Management Plan. The OCTMP and OCEMP include measures to limit working times and delivery times and to control dust and emissions.

8.4.3. I consider that it is reasonable to conclude that the construction phase of the proposed development would not adversely impact residential amenities of the area

having regard to the nature of likely impacts and mitigation measures, which are well understood and highly likely to be successfully implemented.

- 8.4.4. I note that appellants consider that the assessment undertaken is unduly limited and that the potential for health impacts relating to fumes and dust and noise and electromagnetic radiation has been insufficiently considered. Having regard to the considerable separation distance between houses and the substations and the nature of the construction phase I am satisfied that the proposed development would not give rise to significant health effects.
- 8.4.5. Noise impacts, particularly construction noise, which is the focus of much of the concern identified in the appeals does warrant further comment. Regarding the decommissioning impacts these would be similar in nature but of less intensity and duration to the construction period.
- 8.4.6. The applicant's submission is that most of the noisiest activity (piling and construction of tracks) will be completed within six months. The British Horse Society Guidance referenced by the parties references in particular the potential impacts from glint and glare and construction noise related to driving of piles. The application documents do not provide a detailed assessment of the noise impacts from piling. This noise impact would be most relevant in my opinion in relation to the minimisation of adverse effects on adjacent equestrian land uses. It would be appropriate that the type of piling and mitigation measures be agreed with the planning authority prior to commencement. I do not consider that this information is necessary for the assessment of the Board and am satisfied that having regard to the short duration of the construction phase and subject to the recommended condition the noise from construction (and decommissioning) would not adversely impact equestrian land uses so as to warrant a refusal of permission. Any conclusion drawn in relation to noise impacts on horses would be equally relevant to other animal rearing activities.
- 8.4.7. A further significant potential source of noise and disturbance is traffic. It is acknowledged by the applicant that there would be an increase in volumes of traffic during the short construction period with overall volumes of traffic generated being quite low. The level of traffic which would be associated with the temporary construction impacts including the peak construction phase of 6 months duration would not exceed 15 HGVs with an additional 25 or so car trips per day. The

temporary traffic impact associated with the construction and decommissioning stages will be mitigated by measures within the submitted CTMP. Traffic will be restricted by condition and will avoid the early hours of the morning, the evenings and weekends, when the applicant states most equestrian use will take place. The appellants are of the opinion that this response demonstrates a complete lack of understanding of the nature of the surrounding land uses, the sensitivities of the animals and the importance of the quiet environment to ensure protection of animals.

- 8.4.8. I have given particular consideration to the suggestion by appellants relating to the use of the existing northern entrance for the construction access and to the associated relocation of the construction compound, in order to minimise effects on animals including horses. I do not consider that it is reasonable to conclude that the use of the northern entrance as an alternative would be warranted in the interest of preventing noise effects on surrounding land uses. In this respect I have taken into account the low level of HGV traffic, the potential for noise mitigation, the fact that the cul de sac is already in use on occasion by large vehicles, the relative significance of noise from piling which would not be mitigated by a revised layout.
- 8.4.9. In relation to construction noise effects my conclusion is that while these effects are not addressed in detail in the planning application documentation, further consideration of this matter is not warranted having regard to the alternatives for addressing piling and minimising traffic related noise and the fact that relevant mitigation measures are routinely addressed by agreement with the planning authority. I am satisfied that subject to suitable conditions there is no likelihood of significant noise being generated during construction of the proposed development.
- 8.4.10. The operational phase acoustic impact assessment presented utilises a sound propagation model to predict sound levels at nearby residential properties. In my opinion this report has been prepared by suitably qualified and experienced persons, presents a worst-case scenario and assesses the operational noise from the inverters and transformers. I note the comments of observers relating to matters of detail such as the number of houses at particular locations and I am satisfied that the conclusions of the report are not undermined. The conclusions presented in the report are that the WHO night-time limits will be met by a considerable margin. Appellants consider that the assessment focuses on residential receptors and does not adequately consider animals present at adjacent lands. On this point I refer to the zone of noise propagation contour map presented as Figure 1 of the applicant's

response which shows that any relevant noise impacts would be limited to and would not extend beyond the applicant's land holding. As such I find it difficult to agree with the third-party submissions to the effect that there would be any significant adverse impacts on residents or horses as a result of operational noise effects. In the circumstances of this case given the nature of the proposed development I disagree with the suggestion that there is a need for the Board to obtain specialist information on the impact on equestrian land uses. Based on the submitted report I am satisfied that the proposed development will not give rise to significant adverse noise effects during the operational phase. I am satisfied that the map of the predicted sound footprint demonstrates that no significant levels of noise will be experienced by any of the neighbouring properties or landholders and that the noise levels of the operational solar farm are well below the levels which are stated not to be tolerated by horses and to result in panic.

- 8.4.11. The potential for glint and glare impacts was subject to assessment as part of the application documentation and the findings predicted no impacts. The appellants state that there has been no assessment or analysis of the calculations behind the glint and glare assessment and no explanation of what a road receptor is and equine receptors potentially impacted were not taken into account. I consider that the latter point is relevant and I note in response to the appeals a further desktop analysis was undertaken. This considered the potential impacts on the fields surrounding the PDS and acknowledges that fields to the north/north-west of Field 4 and to a lesser extent the fields to the west of Field 4 are likely to experience some impacts, which are assessed as being minor. The applicant's submission is that measures in the LEMP will provide some mitigation. It will not address the impacts arising from Field 1 and 2 which will impact on lands to the west. The applicant's position is that the impacts for these fields will potentially occur in early morning from April to September and that the sun will be the dominant source of glare. Additional hedgerow planting along the western boundary of Field 1 will also provide some screening for views from the west. A similar analysis refers for the fields to the east and south of the application site. It was concluded that on any given day, glare impacts should last no more than 30 minutes and only low/not significant impacts will be experienced in the surrounding fields associated with neighbouring equestrian and beef farms. The appellants' primary response on this topic is to again note the sensitive nature of the surrounding land uses and the need for a robust protection to be in place having

regard to the development plan and the value of the enterprises. The appellants refer to the landscaping proposals at other sites in this regard. I am not convinced that the residual glint and glare effects would significantly impact on adjoining land uses. I consider that the topic has been addressed in detail in the applicant's submissions and there is no basis for contradicting the conclusions presented. In the context of the landscape and visual impact assessment below I consider the applicant's proposals with respect to the additional landscaping measures and concluded that they should be enhanced. That conclusion has not been drawn in relation to potential glint and glare effects as I am satisfied that these effects would generally not be significant except in the context of the N24; the conclusion is generally relevant to protection of landscape character and minimising visual effects.

- 8.4.12. On the topic of agricultural land use the applicant notes that there will be no permanent loss of land and there will be dual use of the site for the production of renewable energy and continued sheep grazing on the site and additional habitats will be created as outlined in the BMP. Appellants note that there has been no previous use of the land for sheep grazing and that the proposed development results in the removal of lands which are designated as organic and which contain a gallop. In terms of the long-term use I agree with the applicant's comments that there will be minimal ground disturbance and that the structures in place can be removed and land fully reinstated. I revert to my earlier statements on this matter and reiterate that in the absence of policies to protect high quality lands from non-agricultural development the appellant's comments can have no bearing on the decision of the Board.
- 8.4.13. I note that the appellants including the adjacent landowners call for the engagement by the Board of specialist expertise in the assessment of equestrian impacts. I consider that there is no basis for concluding that the nature or intensity of impacts would warrant more detailed assessment than that provided having regard to the nature and duration of the construction period and the effects in the operational and decommissioning.
- 8.4.14. I conclude that there would be no significant residual impacts relevant to residential amenities or use of land by cattle or horses taking into account the construction, operation and decommissioning impacts and subject to the conditions recommended below.

8.5. Hydrology and related

- 8.5.1. A number of the appellant's comments relate to groundwater, hydrology and water supplies and one of these submissions is from an environmental consultant. There is stated to be potential for direct negative hydrological impacts on the site and downgradient.
- 8.5.2. Regarding the potential for impact on groundwater the main concern expressed in appeals is that the proposed development will impact the aquifer through seepage of harmful chemicals due to washing and erosion of panels and could thereby contaminate agricultural, private and public water supplies. The site is underlain by a regionally important Karstified aquifer and it is stated that the cumulative impacts of existing and permitted developments and the effect on wells have not been assessed. Concern is also raised relating to the potential for construction phase effects on wetlands and biodiversity areas which are maintained by adjacent landowners.
- 8.5.3. I note that the OCEMP which the applicant submitted addresses measures to ensure that potential spillages in the construction phase are prevented or mitigated and I am satisfied that these measures are suitable and if properly implemented should prevent construction related effects. As such I do not consider that there is a reasonable basis to conclude that there is a need for additional mitigation measures other than the finalisation of the CEMP in association with the planning authority.
- 8.5.4. I reject the appellants claim that there would be any significant effect as a result of the wearing of solar panels and the discharge of chemicals into the water or soil. The solar panels used may comprise materials such as single-crystal silicone which originates from sand according to the applicant. Notwithstanding that the site and some of the surrounding lands are in organic use I do not consider that there is any likelihood that the soil and water would be significantly impacted by chemicals as a result of deterioration of the panels. I am unaware that such concerns have been raised in policy documentation or have influenced decisions of the Board. The need for cleaning of the solar panels should not arise according to SEAI, who note that PV modules in Ireland will generally self-clean in the rain.
- 8.5.5. Regarding the potential for impact on the mains water supply pipeline which is stated not to be deeply buried, I consider that this should be evaluated in connection with

the preconstruction survey of the road network and I note that no issues were raised in this respect in the processing of the appeal by the planning authority.

- 8.5.6. Regarding the potential impact on public and other water supply boreholes including Thomastown well, I do not consider that there is any such likelihood given my conclusions in relation to construction phase and the measures to prevent construction phase pollution, my conclusion that there is no likelihood of operational phase pollution of surface water or groundwater as a result of chemical run-off from panels and given that there is no other significant source of relevance.
- 8.5.7. An adjacent landowner has stated that there is a flood risk to our farmyard, house and the proportion of our lands which are at a lower level to the PDS and we have been flooded in recent times during flash floods. The appellant also raises concerns relating to the provision of information relating to percolation tests to assess the potential for the ground to take run-off and the intensity of rainfall coming off the panels. The submission of VESI Environmental includes that there will be alterations to the site hydrology and soil structure due to the interception of rainfall by the panels and that this will result in the soil being less permeable and lead to increases in surface water flow during high rainfall and this matter has not been considered.
- 8.5.8. The applicant's submission is that the proposed drainage strategy which is part of the proposed development aims to ensure no increase in downstream flood risk by managing discharges to the local water environment in a controlled manner. Any existing on-site drainage ditches or features will be retained and will continue to intercept overland flows from the site and a new swale will be introduced at a location near the substation and one of the inverters substations. I consider that the basic strategy proposed together with the impermeable nature of access roads and the limited amount of development on the site will avoid significant changes to the hydrological regime in the area. Contrary to the appellants views I consider that it is demonstrated in the application submissions that there would be minimal surface water changes and no change once the attenuation storage proposed is taken into account. The flood risk assessment provided includes relevant calculations which set out the basis for the total storage volume and the greenfield run-off rates. The overall design takes into account that the hardstanding areas will have a lower permeability than the greenfield and for this reason the SUDs measures are incorporated. I am satisfied that the drainage strategy which is proposed will mimic the greenfield drainage arrangements and avoid increases in discharge of site and flood risk. I note

the response to the appeal does not specifically address some of the detailed issues raised in relation to for example the pattern of rainfall within the site and the possible intensity of run-off from the panels. I consider that this matter is suitable for consideration by the planning authority as part of the agreement of the surface water drainage proposals. However, but I consider that it is unlikely to be a significant issue and certainly would not warrant a substantial amendment to the proposed development or a refusal of permission. It is appropriate that the Board's standard condition relating to details of surface water drainage to be agreed with the planning authority be amended in this case.

- 8.5.9. I conclude that the construction and operation of the proposed development would not increase flood risk or adversely impact surface water or groundwater sources and would therefore be compatible with the objectives of the Water Framework Directive.

8.6. Archaeological and Architectural Impacts

- 8.7. Many of the appellants, in common with the submissions to the planning authority, indicate concerns to cultural heritage impacts. The comments made largely relate to impacts beyond the PDS and to the adequacy of the assessment undertaken.
- 8.8. The applicant submitted an Archaeological and Architectural Heritage Impact Assessment, which I accept is based on professional guidance and standards. It identifies potential significant impacts based on a desktop study and site visits and use of a zone of theoretical visibility. Within the PDS are three sites which are recorded monuments and at the north-eastern boundary of the PDS is a group of five sites including a moated complex. In the environs within the 5km study zone is one national monument and 22 Heritage Gardens and Designed Landscape including the large area at Thomastown Castle to the north and Bansha Castle to the southwest and Rathduff House a protected structure 150m to the north of the site. In the wider area is Athassel Abbey to the northeast of the PDS and a number of demesne landscapes and protected structures including the bridge at Golden.
- 8.9. There is potential for direct effects on hitherto unidentified archaeological remains within the proposed development site and the assessment is that the potential is high to moderate. Mitigation is recommended and condition 16 of the consent of the planning authority refers. The applicant states that in situ preservation of known

archaeology within the site and preservation in situ or by record of hitherto unknown archaeology will be undertaken. I consider that this is appropriate and sufficient.

- 8.10. Regarding the potential indirect effects on heritage assets the applicant's evaluation is that these were shown not to be inappropriate. I submit that there is sufficient evidence presented to support this conclusion. The AAHIA provides a detailed written description of the monuments or landscapes and in particular of the potential intervisibility between the heritage item and the solar farm site. As such it is discussed for example that there is intervisibility between the PDS and core elements of Bansha Castle HDGL but having regard to the separation distance of over 3km and likely screening of most views the impacts are anticipated to be low. Similar assessments and conclusions are drawn for a range of sites in the area which are of heritage value and I note particularly the assessment relevant to Bansha House, Rathduff House and Rathduff Cottage and I accept the findings presented. I am in agreement with the conclusion presented that the impacts on protected structures and demesne landscapes would in general be low or negligible.
- 8.11. Of the sites which may be impacted by the proposed development further reference to Thomastown Castle is warranted as it is proximate to the proposed development. This large demesne landscape is defined in the National Inventory of Architectural Heritage as extending to include the PDS, which would be the southern extremity of the former estate. The NIAH notes that the main features which are located 1km to the north of the PDS are substantially intact but that the peripheral features are unrecognisable. The PDS is very much at the periphery of Thomastown Castle and as reported in the AAHIA the fields within the PDS do not contain any remains as recorded on the first edition OS map and there has also been a significant amount of development and visual changes which have compromised the visual connectivity between the core assets and the wider setting. The northern part of the landholding contains trees which would be associated with Thomastown demesne and the AAHIA conclusion is that these lands retain most of the original character and therefore is considered to be sensitive to potential visual changes and the assessment of impacts on the HDGL is anticipated to be moderate to low. I consider that this assessment is reasonable and note that there will be views from the lands to the north to the PDS and that the development would fail to enhance the character of the demesne and would have indirect effects which can only be described as negative in character. However, as stated there are no direct effects as there are no

remnant landscape features within the PDS and on maturation of the proposed boundary planting the views to the development will comprise views to the existing hedgerows and the associated planting and views to the solar panels would be obscured. I therefore conclude that the proposed development would not significantly affect Thomastown Castle HDGL and that a refusal of permission or reduction in the extent of the development is not warranted.

- 8.12. In terms of cultural heritage impacts third party observers and the appellants have raised other issues including Bronze Age finds from the area should have been included in the AAHIA, that Athassel Abbey needed to be addressed and that the overall heritage of the area which includes Golden village and indeed in the wider environs the Rock of Cashel should be assessed. Comments are also made in relation to a World War II airfield and the historic value of the gallops.
- 8.13. I do not consider that the inclusion of the Bronze Age find would particularly add to the understanding of the relevant baseline environment but note its omission. The wider area contains a wealth of archaeological reserves and potential. While the bridge at Golden is a remarkable feature and is protected its inclusion on the haul route will not be likely to give rise to adverse impacts as this is a main road. Athassel Abbey is an important monument in the area but it is located 2.5km to the north-east of the PDS and is at a low-lying riverside location from which there would not be expansive views. This monument would not be affected based on the ZTV. For this reason together with the orientation of the topography at the PDS which very much limits the potential for views from the abbey to the solar farm development, I consider that there is no requirement for detailed assessment of the indirect effects and indeed no likelihood of significant indirect effects. Regarding the World War II site and the gallops as none of these are protected through the development plan or under National Monuments Acts, I do not consider that there would be a basis for requiring an amendment to the scheme or a refusal of permission for reasons of adverse effects on these features. I conclude therefore that the applicant has presented a comprehensive evaluation of the baseline conditions and sufficiently assessed the likely potential impacts. Although not all features or monuments are assessed in detail, they are all mapped and all were considered under the zone of theoretical visibility assessment. I refer to Table 2 in Appendix 3B which provides a summary conclusion in relation to the identified impact.

8.14. I note that in the vicinity of the site including to the west and south are enclosures. One of these is described by the owner / operator of the farm to the south as a visible enclosure which is stated to be a highlight of tours undertaken by international visitors to his farm. Having regard to the topography and proximity of the proposed solar farm there is a likelihood of significant intervisibility and there are likely to be views from the enclosure to the solar farm. These views have not been assessed in the application submissions and no photomontages have been prepared from the lands to the south or other lands in the environs. I consider that as the relevant lands are in private ownership, do not contain publicly accessible monuments and given the agricultural use of lands it would not be normal practice to provide a detailed assessment of indirect effects on the archaeological monuments in the vicinity. The location of all the monuments is shown on Figure 3.4 and an indication of the indirect impact is given in Table 2 and in the case of the monument within the Good Herdsman lands a negligible indirect impact is predicted. I consider that this conclusion is reasonable in the context of the planned landscape mitigation measures and taking into account the low number of visitors and the more attractive views to the mountains. The additional planting is likely to both screen the proposed development and also in itself become a highly visible landscape feature which will be prominent in views. Although I have specifically addressed the likely indirect impacts on this monument (NA41) the reasoning set out would also be relevant to the effect on the setting of the other archaeological monuments in the vicinity of the PDS.

8.15. To conclude, I am satisfied that the assessment of direct and indirect impacts is sufficient and that having regard to the nature and scale of the development and the planned mitigation and recommended conditions the development is acceptable in terms of cultural heritage.

8.16. **Landscape and visual impacts**

8.16.1. In principle there is considerable support for renewables energy and in the national and regional policy and in the development plan. Considerable emphasis is placed by appellants on the need for the appropriate siting of developments of this nature. The appellants' concerns relating to siting encompasses more than landscape and visual concerns but these are raised as an issue of significance in most appeals.

8.16.2. I agree that the requirement for appropriate siting is relevant to national and local policy. In the absence of policy relating to land quality and assuming no other demonstrable significant adverse effects, I consider that landscape capacity and sensitivity are the key considerations in determining whether the development may be described as being appropriately located.

8.16.3. The LCA may be considered to comprise a comprehensive and independent assessment of the landscape as well as being part of the adopted development plan. I refer to the text of the LCA 4 which is contained in the development plan and which I consider is useful in terms of describing the baseline environment. I present a summary of its contents below:

- LCA 4 is a wide fertile band characterised by fertile agricultural lands used for both arable and pastoral farming. It contains wide rolling vistas with large fields surrounded by dense hedgerows. Agriculture is intensive and the equine industry is especially noticeable. There is a strong settlement network built on an extensive transport network. There are views to mountain ranges from almost anywhere in the LCA. Man-made features are present and are distinctive. The established and extensive equine industry and associated infrastructure and employment base in the area is related to the rich limestone-based soils. There is also a rich and established arable and pastoral agricultural focus on dairying and open fields of tillage crops.
- Amongst the conservation values listed are the rich architectural heritage of the area especially large demesne houses and estates, the amenities and facilities including the River Suir , the protection of water quality and agricultural lands and soil and the protection of the viability of these lands. In addition the loss of hedgerows in favour of open land and more intensive farming practices will alter the character of the landscape and reduce biodiversity. The recognition of tourism in the context of the Rock of Cashel is referenced.
- In general new development will sit comfortably in this landscape and not interfere with or eliminate its character subject to appropriate siting and design. In the south of the county especially the visual aspect of the landscape is remarkable due to breath-taking views to the mountains . Elsewhere the landscape is more robust in its capacity to absorb. The

protection of the agricultural viability of the Suir River Valley in the water quality of the river must be a key considerations in future growth. Facilitating the ultimate use of the area's agricultural and settlement values should be the ultimate objective in the management of this area on the conservation and improvement of the visual and environmental quality of the area. In terms of the landscape condition it is stated that it has been heavily influenced by man's activities and a widespread change in farming practices to intensive open plan farming with the removal of field patterns would alter the character of the landscape.

- In terms of landscape sensitivity and capacity there is a high capacity/low sensitivity meaning that change or development is generally acceptable subject to all relevant objectives and policies as it may beneficially alter, enhance or reinforce landscape character and value – the landscape is robust in its character and is capable of absorbing considerable change.

8.16.4. The PDS is within a landscape which broadly speaking can be described as being of considerable amenity value including by reason of the views to the distant mountains. However the site does not lie within protected views or routes and is not in a primary or secondary amenity landscape. In such areas as there would be more onerous requirements including in terms of submission of information with the application.

8.16.5. Relative to LCA 4 there are more sensitive and highly valued landscapes within the 5 km zone defined by the applicant in figure 1.3 (appendix 1A-C) notably the Glen of Aherlow Marginal and Farmland Mosaic which is about 3 km to the south-west of the site. It is also noteworthy that there are two relevant scenic routes in the vicinity, which require consideration.

8.16.6. The proposed development takes up 4 no. fields and I consider that it may be described as a form of development which is low-lying and which would be capable of screening by appropriate boundary treatment. In general the application documentation shows that field boundaries will not be altered and will be strengthened where possible. Having regard to the nature and scale of the development and the general parameters of its design and layout I consider that the siting of the proposed development is acceptable in principle in terms of its landscape and visual impacts.

- 8.16.7. Before turning to the detail of the proposed development and the appeal submissions I will further consider the specific landscape and visual impacts and the potential for effects on protected views and landscapes.
- 8.16.8. The LVIA examines the potential for impacts on the Glen of Aherlow and Galtee Mountain Primary and Secondary Amenity Areas noting that the proposed development is outside of the designated landscape areas and that inter-visibility is blocked by hedges and other planting and by topography. It is also acknowledged that there will be distant views from elevated mountainous areas and that the proposed development will constitute a new distant feature in the rural landscape. I consider that the assessment that there will be indirect minor adverse effects, or at most localised moderate adverse effects on the rural landscape is a reasonable conclusion. I also agree that there is potential for these adverse effects to be minimised by mitigation in the form of strengthening of landscape boundaries.
- 8.16.9. Regarding the potential for adverse effects on views which are listed in the development plan, there is no significant change resulting from the adoption of the 2022 development plan and as such the LVIA captures the relevant routes. The scenic routes are along the N24 a few kilometers to the southwest of the site and the other is the view along the R663 which traverses the regional route from Bansha and onwards further to the south-west. I agree with the conclusion presented by the applicant that the key views in terms of their scenic value along these routes are towards the mountains and not towards the site. I consider that this is a reasonable conclusion to draw and I note that views from the N24/R663 towards the site would be screened by roadside hedges and would not contain features such as mountain ranges which would warrant their designation under the development plan. I therefore accept the submission of the applicant that the proposed development will not be visible from any of the protected routes within the study area and that there would be no change to the routes. I note and accept the similar assessment which was undertaken in relation to recreation routes.
- 8.16.10. The LVIA examines the potential for impacts on the historic gardens and designed landscapes within 5 km of the site. This includes Rathduff 0.6km to the north where there is a road surrounded by mature trees and Athassel Abbey 2.75 km to the north-east which is a National Monument and which is the particular subject of comment in appeals. I have considered the potential effects on built heritage and archaeology in the relevant section of this report.

- 8.16.11. I note that some appellants query the adequacy of the submitted LVIA and whether it was based on inspection of the area at all. I consider that it is evident from the written text as well as the presented images that the detailed characteristics including of individual houses was considered and I have no concerns about the adequacy of the LVIA. It is not an elaborate or highly detailed presentation but it is very suitable for the purposes including the requirements of this appeal and in addition it is very readable by members of the public. I consider that it has been prepared by suitably qualified and experienced personnel. It is also reasonable and would be accepted practice that the majority of assessments will be made from the adjacent road rather than entry onto private property.
- 8.16.12. The immediately adjacent landowners are concerned to minimise the disruption to the image of their enterprises which attract international visitors and also to minimise disruption to animals using these lands. In the context of the LCA which identifies that the protection of the landscape character is connected to not undermining the viability of agriculture or significantly altering the field pattern and maintaining hedgerows I agree with the appellants comments relating to the need for enhanced boundary landscaping proposals. I do not consider that the revised LEMP is sufficient and I recommend a condition below to address this topic.
- 8.16.13. The LVIA examines the impacts on residential amenities with reference to a number of viewpoints which were selected to be representative of views from private residential lands and public roads. These include an assessment of various phases including construction and operation and decommissioning. I do not consider that the temporary construction impacts are of widespread concern to the general population in the locality and I note that they are assessed in the LVIA.
- 8.16.14. The residential receptors in this area have also raised issues relating to operational phase views from their dwellinghouses and the applicant's assessment in the LVIA includes an assessment of two groups of houses from which viewpoints to the site in general are restricted by field boundary hedgerows or garden hedgerows and orientation. A small number of residents will experience minor to moderate adverse effects. I would consider that the introduction of boundary fencing and CCTV raise reasonable concerns relating to residential amenity and privacy but that both can be easily addressed by condition.

8.16.15. Accordingly I have drafted conditions which I consider are reasonable requirements which will not undermine the viability of the proposed development and will at the same time provide for an outcome which minimises landscape and visual impacts. The recommended condition relating to CCTV will allow for minor adjustments if needed subject to agreement with the planning authority and if agreement cannot be reached a further application and if necessary an appeal may be made. Subject to the attachment of the recommended condition I conclude that the proposed development is acceptable in terms of landscape and visual impacts.

8.17. **Biodiversity**

8.18. The submitted EclA addresses biodiversity and the key points from this and other submissions of the applicant, excluding matters relating to European sites, are as follows:

- The site is of low ecological value comprising primarily improved grasslands.
- The surveys undertaken to identify potential for the habitats to support protected and notable species in the local area.
- The mitigation to protect badger includes a 30 m buffer from the badger sett, pre-commencement surveys and provision of a gap under the fencing.
- The design incorporates 5m buffers from all watercourses or ditches and from hedgerows.
- There will be no significant adverse effect on habitats or species of note and the Biodiversity Management Plan (BMP) which has been prepared will result in a net beneficial effect for local wildlife.

8.19. Having regard to the site context and the nature and scale of the development I am satisfied that the EclA documentation is adequate and its conclusions are robust. The report has regard to relevant guidance and local policy. The identified zone of influence is more than sufficient. I note that appellants refer to the undertaking of survey work by relatively inexperienced members of the team. I am satisfied that the team expertise was suitably utilised having regard to the nature and scale of the proposed development, the site layout and the location of the site relative to known locations of importance to protected habitats and species and designated areas and in the absence of any comment from the relevant prescribed bodies. I also note that

the surveys undertaken straddled two seasons (September and April) which would include the commencement of the recommended period for botanical surveys. I later address the appellants' comments relating to the need for further winter surveys of water levels and the turlough to the east of the site.

- 8.20. Regarding the potential for impact on protected habitats I accept the applicant's statement that there will be no impact on the pNHA Bansha Woods 5 km away as it is not hydrologically connected. I note that appellants have referred to the Annex I habitat alluvial forest which is located downstream. The origin of concern relating to this habitat appears to relate to the avoidance of this habitat as part of the consideration of the N24 upgrade. It is less clear in terms of the detail of the appellant's submissions what exactly is the concern relating to the proposed development and how it could impact the habitat. Having regard to the proposed 5m buffer zones from water courses, the location of any potential sources of significant of pollution including the construction compounds, refuelling areas and the standard best practice measures identified in the CEMP I consider that there will be no significant effects and no need for specific mitigation targeting this habitat.
- 8.21. I refer to the stated need to further survey the site to take account of the highest possible water table, which is relevant to the alleged turlough to the east of the site as well as the intermittent drainage ditch along the western site boundary. I do not consider that such survey would be necessary in the context of a potential turlough, and also taking into account the fact that the applicant's submissions assume a hydrological connectivity along the western drain, which is a worst-case scenario in terms of impact identification. With respect to the possible turlough feature I note that the appellant has not provided information to support the classification of this feature and I also refer to the lack of significant/noteworthy karst features in the general area. I have considered whether there is any reasonable likelihood of impact as a result of water quality deterioration during construction or operation. I consider that the potential for significant effects can be dismissed having regard to the nature of the proposed development which does not involve works likely to give rise to significant pollution incidences including sedimentation and taking into account the separation distances. In this regard I have had regard also to the limited excavation depths and the applicant's submission that there will be no significant effects on groundwater, which I consider is reasonable given the nature of the development

and the mitigation in the OCEMP and subject to finalisation and implementation of a detailed CEMP.

- 8.22. The remainder of this section considers the likelihood of significant impact on species including birds, badger, bats, otter and hare.
- 8.23. Incidental recordings of birds reported during surveys in support of the EclA comprise typical farmland species. The broader picture as set out in a table in the report highlights some species which may be engaged in feeding or nesting based on desktop research. I accept the baseline survey reported by the applicant notwithstanding the absence of full bird surveys having regard to the dominance of the improved grassland habitat, the lack of designation of the site for birds, the nature of the surrounding hedgerows and trees and I have had regard to the absence of comments from prescribed bodies. I note that the appellants refer to other species present including buzzards and I have no doubt from time to time there is occasional use of the site including by species which are listed in the Birds Directive as noted in the EclA. The applicant acknowledges the potential for disturbance of breeding birds where construction activities occur during the breeding season and which in the absence of mitigation is likely to be significant. I note the suggestion in the EclA that during the breeding season there may be hedge realignment, hedgerow trimming and removal of trees. While the applicant is happy to comply with condition 1C of the decision of the planning authority relating to pre-construction breeding bird survey I suggest that it is also appropriate that the removal of hedgerow and trees be outside the breeding season and I have amended the condition accordingly. On that basis I am satisfied that the proposed development will not adversely impact birds.
- 8.24. I consider that the claim that birds may mistake the panels for a pond is not supported by evidence. Similar arguments to this effect have been made in other appeal cases including at lands close to habitats of international importance to birds. The Board has not accepted this argument in previous cases and I see no particular reason why it should be relevant at this site.
- 8.25. I accept as a general principle that subject to implementation of the BMP and LEMP the ecological value of the site will increase and there will be a net biodiversity gain for bird species once new planting matures. I do not consider that there will be any adverse effects on birds subject to mitigation, which can be addressed by condition.

- 8.26. Badger setts have been recorded within the PDS and it is assumed that the species could be present during construction / operation. A number of mitigation measures are recommended including a pre-commencement survey, provision of a 10 cm gap at the base of fencing so as not to impede free movement and closure of exposed excavations at the end of each working day to prevent accidental trapping. I consider that these measures are appropriate and sufficient to ensure that there would be no adverse impacts on the species. The attachment by the planning authority of the pre-construction survey as a planning condition is noted.
- 8.27. The potential for bats in the area is reported in the EclA. One mature tree was observed to have bat roost potential and has been avoided. There is very little loss of hedgerow or trees (68 m of hedgerow will be realigned, 15m trimmed and 3 no. trees will be removed). I accept the applicant's statement that with the implementation of tree and hedgerow planting the ecological value of the site will enhance the area for bats. The enhanced habitats and specific measures for bats under the BMP also refer. I recommend a planning condition requiring a pre-construction bat survey.
- 8.28. Otter are present in the wider environs of the Suir. The applicant's position is that it is unlikely that the species would be present within the site but due to the presence of drainage ditches which could be used for commuting otters in the wider area there is stated to be potential for impacts on the otter populations. I note that it is also stated that the habitat within the site is suboptimal for foraging and for commuting. In addition, no evidence of otter was recorded during the site inspection. I consider that the approach in the EclA relating to otter is precautionary in the extreme. There is a drainage ditch at the western side of the site boundary which sometimes holds water but there is no real prospect that this would hold fish which would be prey for otter. While security fencing has been designed to retain a gap between fence and ground-level the motivation for this appears to be related to badger and ensuring that species which is present in the area is not impeded in terms of its movement. I consider that no predicted impacts for foraging/commuting otter are likely as a result of construction phase disturbance. The reason for this conclusion is there is no realistic likelihood of the species being present and if present no real likelihood of significant impacts on this species which can tolerate a level of disturbance and whose presence in the area, if it occurred, would be fleeting.
- 8.29. The appellants comments include a lot of concern relating to the impact on hares. I agree that the evidence presented shows that it is likely that there is intensive use of

the site by hares. However I do not conclude that permission for the proposed development should be withheld for this reason. The proposed development could significantly impact the species in the event that it led to destruction of breeding sites for example but the species is highly mobile and easy to detect. I see no reason why appropriate ecological mitigation measures cannot be drafted including to prevent breeding on site within an appropriate period prior to construction. There is ample habitat of similar nature in the vicinity which can be utilised by hares and no reason why the population cannot be maintained. Once operational the solar habitat should be again suitable for occupation by hares. Therefore, subject to pre-construction surveys and implementation of appropriate mitigation with the agreement of the planning authority I conclude that the development is acceptable subject to a pre-construction survey.

8.30. In general in terms of the biodiversity impacts I consider that there are no likely significant adverse effects following mitigation. I also it reasonable to conclude that the measures in the biodiversity management plan and landscape and ecology management plan including with respect to creation of additional habitat and planting of species rich grassland as well as measures such as bird and bat boxes will result in a positive effect. When taken into account with my recommendation to increase the width of the boundary landscape treatment it is reasonable to conclude that there may be a net beneficial effect on biodiversity.

8.31. **Other matters**

8.32. The conditions of the decision of the planning authority included a ten year permission, which had not been part of the proposed development as described by the applicant. In the context of the ambitious targets set by government and the pace of roll-out of mechanisms to facilitate development of solar PV energy, I see no need for a 10 year permission. I recommend that this condition be omitted.

8.33. A 35-year operation period has been sought which I consider is acceptable. It is perhaps unnecessary to clarify this aspect of the development except in the context of the decommissioning plan. A condition is accordingly attached.

8.34. Financial contributions apply in this case under the terms of the Scheme. There is no requirement for special or supplementary contribution.

- 8.35. I am satisfied that for the purposes of assessment of environmental topics there are no significant permitted developments which would give rise to in combination effects. With respect to the N24 upgrade in particular this is at the early stages of design and any in combination effects would fall to be considered as part of the assessment of consent for the road scheme.
- 8.36. A number of detailed comments are presented by appellants in relation to the undertaking of EIA Screening and in addition some of the third-party submissions rely on the EIA Screening Report in terms of its contents and conclusions as the basis for making arguments on environmental topics. The nature of the EIA screening report is such that it presents an overview and aims to draw conclusions and is not focused on detailed arguments. As such it is appropriate that when considering particular topics the information is gleaned from the primary documents on each of the environmental issues. For this reason I do not propose to respond to comments set out within the EIA screening report or to 3rd party observations which present a critique of that report. The matter of EIA must be closed off on the basis of the legal position that this development is not a class for EIA. My assessment of this case is based on the specialist reports.
- 8.37. As there is no requirement for EIA in this case there can be no question of project splitting with respect to the grid connection. The grid connection is a separate development which may or may not require a further planning consent and which has been adequately outlined for the purposes of consideration of this case and the impacts on the proper planning and sustainable development of the area.
- 8.37.1. Solar farms do generate low levels of electromagnetic fields but contrary to the submissions in the appeals I consider that there is no basis for concern relating to effects on animals or residents. The applicant states that a study of EMF has found no evidence that it is harmful to human health according to the World Health Organisation and other publications state that the very low electromagnetic fields produced would deteriorate quickly over a short distance. The Board has not determined in other cases of similar nature that there are health issues associated with this type of development. I consider that the same conclusion is relevant in this case.

- 8.37.2. I agree with the applicant's submission that having regard to the high levels of access to the fire services and the design in accordance with ESB standards there is limited risk and a means of remedy if a fire did occur.
- 8.37.3. The detail of information provided in relation to the decommissioning phase is in my opinion acceptable. It is clearly set out that the nature of the decommissioning impacts would be not dissimilar to those arising during construction. However, decommissioning traffic levels will be higher as materials to be brought away would not be as compactly packaged, the access roads will be removed and all materials suitably reused and recycled or disposed of at suitable facilities. All of the decommissioning phase would have to be undertaken in accordance with any prevailing licences and to meet the standards then applying and, in this context, it is appropriate that the detail of the decommissioning plan including waste management be agreed with the planning authorities prior to commencement of that phase of the proposed development. I consider that none of the third-party comments demonstrate any likelihood of significant adverse effects from the decommissioning phase. It is reasonable and standard practice that decommissioning plans be agreed with the planning authority at the relevant time and given the type of works and likely impacts arising in this case I recommend that this matter be subject of a planning condition.

9.0 Appropriate Assessment (AA)

9.1. Appropriate Assessment (AA) Screening

Compliance with Article 6(3) of the Habitats Directive

- 9.1.1. The requirements of article 6(3) of the Habitats Directive, as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act, 2000 (as amended) are considered fully in this section.

Background

- 9.1.2. The application is accompanied by a Screening for Appropriate Assessment report and a Natura Impact Statement was submitted in response to the appeals.

- 9.1.3. The Screening report presented with the application is entitled Appropriate Assessment Screening – Rathduff Solar Farm. It is dated 12 April 2021 and was prepared by Neo Environmental Limited for Renewable Energy Systems Limited.
- 9.1.4. The Natura Impact Statement was received by the Board on 31 May 2022. It is entitled Natura Impact Statement – Rathduff Solar Farm and is presented as Volume 1 of the response to the appeals.
- 9.1.5. Both documents have regard to current best practice guidance and provide a description of the proposed development and identify European Sites within a possible zone of influence of the development.
- 9.1.6. The AA Screening report concluded that no significant effects arising from the proposed development are likely to occur in relation to the Natura 2000 sites Moanour Mountain SAC (Site Code 002257), Galtee Mountain SAC (Site Code 000646) and Philipston Marsh SAC (Site Code 001847).
- 9.1.7. The submitted Natura Impact Statement is described as precautionary and focuses on the Lower River Suir SAC (Site code 002137) to which it is stated that the PDS is ecologically and hydrologically connected and, therefore, the potential for significant effects is considered under the NIS.
- 9.1.8. Having reviewed the documents and submissions I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Applicant's Screening statements

- 9.1.9. The Screening Report concluded:

‘To minimise potential impacts on Natura 2000 designated sites, ecological measures have been incorporated into the proposed development as part of the iterative design process. These include buffers from potentially sensitive ecological receptors. Standard best practice pollution prevention measures have also been outlined and considered as part of the impact assessment stage (see Technical Appendix 7: Outline Construction Management Plan for further details).

Within the 15km zone of influence surrounding the application site there are four Special Areas of Conservation (SACs) consisting of the Lower River Suir

SAC, Galtee Mountains SAC, Philipston Marsh SAC and Moanour Mountain SAC. There are no Special Areas of Protection (SPA) with the 15km study zone.

It has been concluded that connectivity exists between the application site and the Lower River Suir SAC, providing an ecological / hydrological pathway for potential impacts.

With the implementation of integral design measures and best practice construction methods, it can be concluded that there will be no significant effects on the integrity of all SACs within the zone of influence.

It is therefore considered that the next stage of the Appropriate Assessment is not required .’

9.1.10. The applicant does not re-visit the AA Screening in the submitted NIS.

Screening for Appropriate Assessment – Test of Likely Significant Effects

9.1.11. The project is not directly connected with or necessary to the management of a European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

9.1.12. The proposed development is examined in relation to any possible interaction with European sites designated Special Areas of Conservation (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European site(s).

Brief Description of the Development

9.1.13. In summary, the solar farm which is the subject of this planning application (as revised) comprises:

- A solar energy development spread over a single plots of land which is divided into 4 no. fields.
- Inverter/transformer stations and other equipment and a substation.
- Security fencing.
- CCTV and other infrastructure.
- Permeable access tracks.

- 1 no. existing agricultural field entrance which will be upgraded. Works to improve a junction of two public roads.
- A temporary construction compound.
- Landscaping and ancillary works.

9.1.14. The stated area of land occupied by the revised development comprises a total area of 42.68 hectares. The development site comprises improved agricultural grassland. The fields are all bounded by hedgerows with associated drainage ditches on two boundaries. The drainage ditches were dry at the time of inspection but are known to hold water from time to time.

Potential Impact

9.2. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, I consider that the following are relevant for examination in terms of implications for likely significant effects on European sites:

- Habitat loss/fragmentation– direct and indirect effects including from species disturbance.
- Construction-related – uncontrolled surface water/silt/construction related pollution.

Submissions and Observations

- 9.2.1. None of the prescribed body reports raise specific issues of relevance.
- 9.2.2. Appellants state that the submitted NIS is inadequate.
- 9.2.3. Reference is also made to the screening undertaken and the need for a NIS.
- 9.2.4. The submitted NIS is deemed to be deficient including with respect to the zone of influence which was considered. Adoption of a blanket 15km zone is not best practice or compliant with European guidance.
- 9.2.5. On the specific matter of hydrological connectivity one submission is that habitat survey was undertaken on 2 October 2019, a very dry month and not representative of conditions during the majority of the year when there may be water in the drains. Therefore it is stated, the screening for AA is undermined.
- 9.2.6. Another submission is that has been a failure to carry out a screening for AA in the first instance. The approach is stated to highlight the lack of expertise, understanding

and appreciation for the impact on Natura 2000 sites. There is insufficient information available to provide any degree of certainty that the proposed development will not have an impact on the integrity of European site and the Board is obliged to refuse permission.

9.2.7. It is also claimed that large solar farms pose a hazard for birds.

European sites with potential pathways to proposed development

9.2.8. The PDS can be considered to be in the vicinity of the Lower River Suir SAC, Philipston Marsh SAC, Moanour Mountain SAC, Galtee Mountains SAC and the Slievefelim to Silvermines Mountains SPA. I agree with the appellants that the applicant's approach in adopting a 15km blanket boundary is not appropriate. In my screening assessment below I have included the Slievefelim to Silvermines Mountains SPA. Therefore 5 no. European sites are presented in the table below as being within the zone of influence of the proposed development.

Where a possible connection between the development and a European site has been identified this is referenced and the relevant pathway of potential impact is described. Where there is no pathway, the European site can be eliminated from further consideration and this is noted.

Table of European Sites Within the Zone of Influence of the Proposed Development

European Site (code)	List of Qualifying Interest (QI) / Special Conservation Interest (SCI)	Distance from PDS (km)	Connections
Philipston Marsh SAC (001847)	Transition mires and quaking bogs [7140]	14.5km to the northwest.	This European site is in the Mulkear river catchment. There is no potential hydrological or ecological connectivity. No further assessment.
Lower River Suir SAC (002137)	Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]	This European site is located	The subject site comprises a sprawling and extensive river channel which is

	<p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane levels with the <i>Ranunculus fluitans</i> and <i>Callitriche-Batrachion</i> vegetation [3260]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Taxus baccata</i> woods of the British Isles [91J0]</p> <p><i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</p> <p><i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092]</p> <p><i>Petromyzon marinus</i> (Sea Lamprey) [1095]</p> <p><i>Lampetra planeri</i> (Brook Lamprey) [1096]</p> <p><i>Lampetra fluviatilis</i> (River Lamprey) [1099]</p> <p><i>Alosa fallax fallax</i> (Twait Shad) [1103]</p> <p><i>Salmo salar</i> (Salmon) [1106]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>	<p>5.2km to the north, 1.3km to the east and 5.3km to the south of the PDS.</p>	<p>designated for a range of species and habitats.</p> <p>As discussed below I consider that there is potential for hydrological and ecological connectivity.</p> <p>Further discussion below.</p>
Moanour Mountain SAC (002257)	<p>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</p> <p>European dry heaths [4030]</p>	<p>15km to the southwest</p>	<p>This is an outlying ridge of the Galtee Mountains and lies entirely about the 220m contour.</p> <p>There is no potential for ecological connectivity between the PDS and this European site and no</p>

			hydrological connectivity. No further assessment.
Galtee Mountains SAC (000646)	<p>Northern Atlantic wet heaths with <i>Erica tetralix</i> [4010]</p> <p>European dry heaths [4030]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Species-rich <i>Nardus</i> grasslands, on siliceous substrates in mountain areas (and submountain areas, in Continental Europe) [6230]</p> <p>Blanket bogs (* if active bog) [7130]</p> <p>Siliceous scree of the montane to snow levels (<i>Androsacetalia alpinae</i> and <i>Galeopsietalia ladani</i>) [8110]</p> <p>Calcareous rocky slopes with chasmophytic vegetation [8210]</p> <p>Siliceous rocky slopes with chasmophytic vegetation [8220]</p>	8km to the southwest	<p>The qualifying interests are all habitats and are all located in an upland area.</p> <p>There is no hydrological or ecological connectivity between the PDS and this European site.</p> <p>No further assessment.</p>
Slievefelim to Silvermines Mountains SPA (004165)	Hen harrier	20km to north-west	<p>I consider it reasonable to conclude that there is no connectivity between the PDS and this European site by reason of the habitat preferences for the special conservation interest which are uplands, moorland and immature coniferous</p>

			forests none of which are at the PDS. See further discussion below.
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Identification of Likely Effects

- 9.3. The conservation objectives of the Natura 2000 sites are as set out in the documents published by the National Parks and Wildlife Service (NPWS).
- 9.4. The likely direct, indirect, or secondary impacts of the proposed solar farm development on European sites are considered in the applicant's AA screening report and are discussed below.
- 9.5. The table above identifies three sites to which there is no potential ecological or hydrological activity and in relation to which significant effects can be ruled out. These sites are:
- Galtee Mountains SAC (000646)
 - Moanour Mountain SAC (002257)
 - Philipston Marsh SAC (001847).
- 9.5.1. This conclusion is in keeping with the applicant's screening report.
- 9.5.2. In my opinion the Screening stage should consider Slievefelim to Silvermines Mountains SPA notwithstanding that it is outside the indicative 15km boundary mentioned in NPWS guidance. For completeness any potential for significant effects on this European site should be closed off. Notwithstanding the lack of consideration of this European site in the applicant's AA Screening, I am satisfied that there is sufficient information available in the terms of the description of habitats at the PDS and the NPWS publications, for the Board to screen out this site. I consider that it can be concluded that there is no ecological connectivity between the PDS and the European site taking into account the habitat requirements of hen harrier. The distance of 20km separation is a further consideration. Therefore, I am satisfied that the Board can conclude 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 004165.

- 9.5.3. The assessment of likely effects takes into account standard best practice measures which will reduce the potential for impacts on ecology during the construction stage as set out in section 1.36. These include but are not limited to pollution prevention, waste management and environmental monitoring. I have examined the documentation submitted and am satisfied that none of the described construction practices as set out in this section are intended to address any likely significant effects on qualifying interests and would not be considered to comprise mitigation measures. In particular the proposed drainage strategy including SuDS (briefly described in sections 1.42 and 1.43) is not designed in the context of ensuring no potential effects on the European sites, is an inherent part of the design of the proposed development and does not constitute mitigation in the context of AA screening.
- 9.6. I now refer to the assessment of likely effects on Lower River Suir SAC which is addressed in sections 1.49 to 1.57 of the applicant's AA Screening. This European site is hydrologically and ecologically connected. The hydrological distance is 4.2km but the closest section of the SAC boundary is 1.52km.
- 9.7. I note that in section 1.53 there is reference to particular SAC qualifying interest species within the aquatic environment including freshwater pearl mussel and white clawed crayfish. I consider that it would have been appropriate that the nearest known populations be identified as the applicant's conclusions rely on the 'significant distance' from the SAC. However, in general I accept the conclusions relating to these species and in this regard, I note the comments relating to their location and lack of mobility.
- 9.8. In section 1.54 the hydrological connection with the Lower River Suir SAC is noted and there is stated to be potential for SAC qualifying species Atlantic salmon, twaite shad, three species of lamprey and otter. I consider that it is clear that the suitability of the drainage ditches for lamprey was assessed in the habitat survey and I am satisfied that the Board can rely on the submission that the dry ditches which occasionally hold water have a substrate that is unsuitable for Atlantic salmon, twaite shad and lamprey. There is no potential for significant effects on these species, therefore.
- 9.8.1. That leaves on a potential for direct effects on otter which could occur through land-take or fragmentation of habitats. The applicant's AA Screening notes that the

species are highly mobile with territories up to 20km. The species scoping survey undertaken during the extended phase 1 habitat survey did not find evidence of otter activity within or adjacent the PDS. However, suitable habitat for foraging / commuting otter was noted in the survey and it was considered therefore that potential impacts will be limited to foraging / commuting otter only. Based on the current survey findings the applicant concluded in section 1.55:

From the current survey findings, it is considered that the proposed development will not lead to direct disturbance of otter, and as the security fencing has been designed to retain a 10 cm gap between the fence and ground level, **no direct impacts** are predicted for foraging / commuting otter.

- 9.9. I consider that the documentation provided in relation to this species is adequate in terms of the requirements for screening for appropriate assessment. The surveys report no evidence of otter but the drainage channels are described as potential commuting routes. If the Board was to base its conclusions that there is no potential for impacts on otter movement due to the 10cm gap under fences then that conclusion would be based on a mitigation measure, and would not therefore comply with the legal requirements for the screening stage. I have earlier noted the presence of badger within the site and concluded that it is for the protection of that species that the gap was provided. The drawings show that the proposed fence is set back from the western site boundary and there is clear passage available for any otter, if present. As such the gap under the fence which is referenced in the applicant's screening assessment is in fact wholly irrelevant. The gap is not relevant to the passage of otter along the ditch as this access would not be impeded.
- 9.10. For different reasons to those presented by the applicant, I am satisfied that the Board can support the conclusion that there would be no direct or indirect effect on otter. This conclusion is entirely reasonable having regard to the following factors. The evidence presented is that otter does not use the watercourse as a commuting channel and would not be likely to do so for reasons of its distance to the nearest substantial stream where there might be a food source or even a holt. The potential for significant effects on otter due to disturbance during construction is absent due to the fleeting nature of any passage by the species and the lack of physical or significant disturbance which might otherwise be a barrier to that movement.

- 9.10.1. I am satisfied that it can be concluded that there would be no direct or indirect impacts on otter.
- 9.11. The AA screening report outlines cumulative impacts with other plans and projects in the area. The report concludes that there would be no negative in-combination effects. I consider that this can be accepted.
- 9.12. In response to the appeal the applicant presented a document entitled Natura Impact Statement Rathduff Solar Farm. This does not re-visit the screening stage and does not provide any additional survey material or expertise and in my opinion, it is an unnecessary and inappropriate submission in the context of the Screening Report, the conclusions of which I support.
- 9.13. I conclude that there would not be a significant effect on European site Lower River Suir SAC (002137).

Screening Determination and Conclusions

- 9.14. My overall conclusion therefore is as follows.
- 9.14.1. The proposed development was considered in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended). Having carried out screening for Appropriate Assessment of the project, I conclude that based on the available information the project individually (or in combination with other plans or projects) would not have a significant effect on European site Lower River Suir SAC (002137), Galtee Mountains SAC (000646), Moanour Mountain SAC (002257), Philipston Marsh SAC (001847) and Slievefelim to Silvermines Mountains SPA (004165) in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

10.0 Recommendation

I recommend that permission be granted for the reasons and considerations and subject to the conditions below.

11.0 Reasons and Considerations

Having regard to:

- (i) European, national, regional, and county level support for renewable energy development including :

Climate Action Plan 2023

Project Ireland 2040 National Planning Framework

Regional Spatial & Economic Strategy for the Southern Region

Tipperary County Development Plan 2022-2028,

- (ii) the nature, scale, and extent of the proposed development,
- (iii) the documentation submitted with the application
- (iv) the landscape character and absence of any specific conservation or amenity designation for the site
- (v) the mitigation measures proposed for construction, operation, and decommissioning of the site, and
- (vi) the submissions on file including those from prescribed bodies, the planning authority, and other third parties,

it is considered that, subject to compliance with the conditions set out below, the proposed development:

- would be in accordance with European, national, and regional renewable energy policies and the provisions of the Tipperary County Development Plan 2022-2028,
- would not seriously affect the existing agricultural and equestrian land uses,
- would not seriously injure the visual or residential amenities of the area, or otherwise, of property in the vicinity,
- would not detract from a protected view or prospect, or have an unacceptable impact on the character of the landscape or on cultural or archaeological heritage,
- would not have a significant adverse impact on ecology,
- would be acceptable in terms of traffic safety and convenience, and,
- would make a positive contribution to Ireland's renewable energy requirements.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 13 August 2021 as amended by further information received on 6 January 2022 and clarification of further information received on 9 March 2022, 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. All of the environmental, construction, ecological and heritage-related mitigation measures, as set out in the technical reports submitted including the Planning Report, Ecological Impact Assessment, the Landscape and Visual Impact Assessment, Archaeological and Architectural Heritage Impact Assessment, Flood Risk Assessment, Construction Traffic Management Plan, Glint And Glare Assessment, Outline Construction and Environmental Management Plan, Noise Impact Assessment and EIA Screening and AA Screening, and other particulars submitted with the application, shall be implemented by the developer, except as may otherwise be required in order to comply with the conditions of this Order.

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

3. 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.

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, control building, CCTV cameras, fencing and site access to a specific timescale, shall be submitted to, and agreed in writing with, the planning authority.

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.

4. The revised landscaping and environmental management plan shall be carried out within the first planting season following commencement of development and shall be subject to the following amendments:
 - (a) The security fence shall be set back 10 m minimum from the western, southern and eastern site boundaries
 - (b) The area between the security fence and the site boundary shall be heavily planted with a mix of semi-mature woodland mix / thicket species and hedgerows

All planting shall be adequately protected from damage until established. Any plants which die, are removed, or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

5. The following shall apply in relation to the detailed design of the proposed development:
 - (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 and control building shall be dark green in colour.

Reason: In the interests of clarity and of visual and residential amenity.

6. The construction of the development shall be managed in accordance with a Construction Management Plan and Construction Traffic Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

The Construction Management Plan shall contain details of the method of piling and associated mitigation which shall minimise construction noise effects.

The improvement of the junction of the L3406 and L34061 and the provision of a layby at the L34061 shall be completed prior to the commencement of the substantive part of the development.

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

7. Details of site drainage arrangements, including the attenuation and disposal of surface water, shall be agreed with the planning authority in writing prior to the commencement of development. The details to be submitted to the planning authority shall include a technical report which shall address the potential for changes in rainfall patterns and, if necessary, incorporate this effect into the drainage calculations. The proposals shall otherwise comply with the requirements of the planning authority for such works and services.

Reason: In the interest of preventing surface water effects at adjacent lands.

8. The developer shall comply with the following nature conservation requirements:

- a. No tree felling or vegetation removal shall take place during the period 1st March to 31st August.
- b. An updated pre-construction mammal survey shall be carried out by a suitably qualified ecologist to check for the presence of any protected species including badgers, bats, otter and birds.
- c. Any resulting amendments to mitigation shall be subject of prior discussion with NPWS and compliance with any requirements, including for derogation licences.

Reason: In the interest of protecting breeding birds, biodiversity and nature conservation.

- 9. Prior to the commencement of development the development shall engage a suitably qualified and experienced ecologist to carry out a survey of the works area to update the ecological surveys with respect to the presence of badgers, bats and otter on site and if necessary to amend the mitigation previously presented.

Details shall be maintained on the file as part of the public record.

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

- 10. 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) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess and monitor all preparatory works and all site development works.
 - (b) investigate areas of archaeological potential by means of geophysical survey and, depending on the findings, carry out test excavations if deemed necessary following consultation with the National Monuments Services Section of the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media.
 - (c) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development, and

- (d) submit a report to the planning authority, containing the results of the archaeological investigations and assessment.

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.

- 11. All road surfaces, culverts, watercourses, verges, and public lands shall be protected during construction and, in the case of any damage occurring, shall be reinstated to the satisfaction of the planning authority at the developer's expense. Prior to commencement of development, a road condition survey shall be carried out to provide a basis for reinstatement works. This shall take into account the presence of and protection of watermains. 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.

- 12. 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.

- 13. 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.

Mairead Kenny
Senior Planning Inspector

9 January 2022