



An
Bord
Pleanála

Inspector's Report

ABP-317188-23

Development	Construction of a solar farm and associated works.
Location	townlands of Bishopstown, Bridgetown, Ballyhest and Ballyneale, Carrick-on-Suir, Co. Waterford.
Planning Authority	Waterford City & County Council
Planning Authority Reg. Ref.	23/60089
Applicant(s)	BNRGN Mothel Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	<ol style="list-style-type: none">1. Pauline Hartley2. Patrick Baldwin and Catherine Twomey3. Edel Skehan4. Margueritte Kent, Frank Kevey & Kathleen Kent5. Des and Alan O'Donovan6. Paul and Aisling Power7. Cllr. Seanie Power8. Clonea GAA c/o William O'Brien9. Andrea Cummins, Martin & Bernadette Whelan10. Paul Fogarty11. Julia and Seamus Drohan

12. Josephine Curry (and others)
13. Henry De La Poer Marquis of Waterford
14. Martin Coughlan
15. Mervyn Cummins & others
16. Peter Sweetman & Wild Ireland Defence CLG
17. Board of Management of Clonea Power
National School and others

Observer(s)

1. Martin Doyle
2. Tom Coughlan
3. MCMPF Consultancy Limited.

Date of Site Inspection

24th October 2023

Inspector

Tomás Bradley

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1.0 Introduction

Under the provisions of Section 37 of the Planning and Development Act 2000, as amended (PDA), no. 17 third party appellants (see Section 7.0 for full list) have appealed the decision of Waterford City & County Council (WCCC) to grant planning permission subject to no. 22 conditions for a solar farm and associated works in the townlands of townlands of Bishopstown, Bridgetown, Ballyhest and Ballyneale, Carrick-on-Suir, Co. Waterford. The applicant is BNRGN Mothel Ltd (BNRG).

It should be noted at the outset that the proposed development, known as 'Mothel Phase 2' (60 Megawatt (MW)) is related to a wider solar energy project in the area. 'Mothel Phase 1' (30 MW) and related grid infrastructure has received permission and approval, respectively. This is set out in more detail in Section 5.0 Planning History.

2.0 Site Location and Description

The site of approximately 141 hectares (ha) is located in the townlands of Bishopstown, Bridgetown, Ballyhest and Ballyneale, Co. Waterford which is approximately 5 km south of the town of Carrick-on-Suir. It occupies lands between the village of Mothel to the north-east, the village of Clonea to the south-east, Ballyhest Cross Roads to the south-east and Ballynob to the north-west.

The R676 Regional Road is located on the western side of the site and the R678 Regional Road is located on the southern side of the site. There are local roads on the eastern and northern sides of the site, namely the L3059 and L7074, respectively. There is a lane (L7064) running through the centre of the site north from the R678. This lane, as you travel north, leads to the L7074.

There are several agricultural complexes located around the site, as well as single dwellings in linear form along roads. There are housing estates (Clodiagh Drive and Deerpark) in the village of Clonea, as well as other commercial and community and sporting uses. In Mothel there is a former public house and commercial premise.

A key feature transecting the site is the Ballygarret Stream, which flows south-east to the village of Clonea and meets the River Clodiagh. The River Clodiagh is a tributary of the River Suir, joining it just east of Portlaw, Co. Waterford. The Clodiagh River is part of the Lower River Suir Special Area of Conservation (SAC) (Site Code:

002137). The SAC on this river starts in Clonea, where the Ballygarret Stream meets the River Clodiagh. The Mothel Stream is also located to the north-west of the site and also flows into the River Clodiagh.

From the River Clodiagh, the topography of the land rises to the site reaching 130 m Ordnance Datum (OD) at one point. The elevated lands and network of fields are surrounded by hedgerows and in certain locations are treelined. The lands are largely in agricultural use. There are some existing agricultural tracks connecting the field network.

There are no specific natural heritage designations in respect to the subject site. As noted above, the Ballygarret Stream which flows through the site meets the River Clodiagh which is an SAC from Clonea. The River Clodiagh is part of a Fresh Water Pearl Mussel (FWPM) Catchment Area. Further downstream is Portlaw Woods (Site Code: 000669) and Lower River Suir (Coolfinn, Portlaw) (Site Code: 000399) which are proposed Natural Heritage Areas (pNHA).

In terms of built heritage, there are no specific designations in respect of the subject site. While there are no Recorded Monuments on the site, it is noted that there is a feature identified on mapping that was thought to be a monument but is now disproved. In terms of architectural heritage, there are, to the south east of the site, two distinct clusters of built heritage features recorded on the National Inventory of Architectural Heritage (NIAH) and Record of Protected Structures (RPS) at Clonea Village and separately at a farmhouse with outbuildings in the townland of Bridgetown. Clonea itself is an Architectural Conservation Area (ACA). In addition, a series of 'stone depots' are recorded on the RPS for the county along the R676 bounding the site.

There is no specific flood data in respect of the proposed site noted on mapping prepared by the Office of Public Works (OPW). On the roads surround the proposed site, namely the R678 at Clonea (ID-3912) and L3059 Bishopstown (ID-3914), there are flood events recorded in 2006.

There is no airport or registered aerodrome in proximity to the site.

3.0 Proposed Development

3.1. Development Description

The proposed development of a solar farm consisting of:

- photovoltaic panels on ground mounted steel frames with associated cabling and ducting;
- 28 no. single storey inverter stations;
- perimeter fencing;
- permeable gravel access track;
- 49 no. onsite pole mounted CCTV cameras;
- 4 no. new site accesses;
- 4 no. security gates;
- 3 no. temporary construction compound/material storage area;
- 3 no. temporary construction stage wheelwash systems (with overhead settlement tank);
- 6 no. temporary storage containers and
- all associated ancillary development services and works.

The appropriate period sought for the proposed development is 10 years and it is requested that the operational period of will be 40 years. Once commenced, it is expected that the construction phase will take approximately 10-12 months.

As noted above, the development description covers the particulars for which consent is sought but the purposes of the environmental screenings and assessment, the applicant describes both Phase 1 Mothel Solar Farm and associated grid infrastructure in the relevant documentation. These elements are factored into the assessment of this report below albeit permission is not sought for them.

The applicant indicated that these elements of the project have been or will be subject in due course to the relevant regularisation under the PDA.

3.2. Documents supporting the Proposed Development

The following documents were submitted to WCCC in the first instance in support of the proposed development:

- Statutory Particulars including Application Form, Public Notices (Newspaper & Site), Letters of Consent
- Drawing Pack including Schedule of Drawings
- Appropriate Assessment (AA) Screening Report
- Natura Impact Statement (NIS)
- Planning & Environment Considerations Report (PECR) including appendices:
 - Appendix A: Regional Site Location Map
 - Appendix B: Site Location Map
 - Appendix C: Stakeholder Consultation
 - Appendix D: Public Meeting Presentation
 - Appendix E: Site Master Plan
 - Appendix F: Typical Design Details (Drawing 11341-2050 to 11341-2055)
 - Appendix G: Construction Environmental Management Plan (CEMP)
 - Appendix H: Grid Connection Route Options
 - Appendix I: Noise Assessment
 - Appendix J: Biodiversity Management Plan
 - Appendix K: Flood Risk Assessment
 - Appendix L: Traffic Drawings
 - Appendix M: Glint and Glare Report
 - Appendix N: Landscape and Visual Impact Assessment
 - Appendix O: Landscape Mitigation Plan
 - Appendix P: Photomontages
 - Appendix Q: Archaeology and Cultural Heritage Impact Assessment Report

4.0 Planning Authority Decision

4.1. Planning Authority Reports

4.1.1. Planning Report

The Planning Report dated 27th of April 2023 sets out the site description, planning history, pre-planning meeting, the various internal and external referrals in respect of the planning application. It lists the names and dates of the submissions made by third parties and summarises their grounds. It goes on to summarise the development plan designations and several natural heritage designations in the

vicinity. The report notes an AA is required, but that an Environmental Impact Assessment (EIA) is not.

The planning assessment contains a substantive discussion on the principle of the development, the environmental impacts, amenity impacts, impacts to the adjoining roads and construction management.

On the basis of this assessment the report concludes that the proposed development is acceptable subject to no. 22 conditions. This report, prepared by the Executive Planner, was co-signed by the Senior Executive Planner.

4.1.2. Other Technical Reports

4.1.2.1. *Heritage (19/04/2023)*

The report is satisfied that the proposed development on its own or in-combination with other plans or projects will not give rise to adverse effects on the integrity of the River Clodiagh and Lower River Suir SAC. It is considered the land-use change may provide potential for increased biodiversity by increased habitat and wildlife value.

In the event of a grant of permission, it is requested a condition be included that the implementation of all measures contained in the Biodiversity Management Plan and in Sections 8.2 and 8.3 of the NIS shall be overseen by an Ecologist. Biodiversity Monitoring Reports shall be submitted post construction detailing effectiveness of measures also.

4.1.2.2. *Engineering (Roads) (17/4/2023)*

The Roads Engineer considers temporary construction arrangements acceptable. However, recommend enduring access to the L7064 and to avoid the regional roads. Sightlines requirements should be achieved for all temporary and permanent accesses. It also noted that construction traffic should only use internal roads and cross the L7064 rather than use the L7064 as an construction route.

Surface water from development and at all access locations should not be permitted onto public roads.

The proposed structures (bridges, culverts) to facilitate crossing of internal roads over existing streams are subject to Section 50 approval by Office of Public Works (OPW). Road Opening Licences are also required for ducting cable crossings.

Other requirements include parking being confined to the compounds, public roads being cleaned and damage to roads repaired.

4.1.2.3. Engineering (Environment) (24/04/2023)

Having considered topics such as noise, air and waste this report has no objection in principle to the proposed development provided certain conditions are attached.

These related to the provision of a Construction and Demolition Resource Waste Management Plan, restrictions on construction phase working hours, air and dust monitoring requirements and installation of silt fencing and dams.

4.1.2.4. Fire (04/04/2023)

The Fire Authority highlighted that a Fire Safety Certificate may be required in line with the building control regulations. The fire authority also requested they be consulted prior to commencement on the provisions for firefighting operations.

4.1.2.5. Conservation (19/04/2023)

This report provides an overview of the historical background of Clonea and its ACA. It goes on to set out the relevant policy context and development management standards in the WCCDP. It is recommended that Further Information be requested to carry out an Architectural Heritage Impact assessment (AHIA) detailing the potential impact of the development on the architectural heritage of Clonea Power.

4.2. Prescribed Bodies

4.2.1. Transport Infrastructure Ireland (TII)

TII had no observation in respect of the proposed development.

4.2.2. Department of Housing, Local Government & Heritage (DHLGH) (Development Applications Unit – Archaeology)

The Archaeological Assessment Report is largely desk-based and no field assessment is included such as geophysical survey and testing. It is recommended that Further Information be requested to carry out a field assessment.

4.2.3. Uisce Éireann (UÉ)

UÉ has no objection in principle and requests a condition relating to connection agreements, that the applicant does not build over or within separation distances of

UÉ assets. The proposed development shall be carried out in compliance with UÉ standards, codes and practices.

4.2.4. Other Referrals

It is noted that the following prescribed bodies were referred the file and provided no response: Environmental Protection Agency; Inland Fisheries Ireland; National Parks and Wildlife Service (NPWS), Department of Agriculture Food & the Marine; ESB Networks.

4.3. Third Party Observations

There was a significant response from third parties in respect of the planning application to WCCC in April 2023. All these submissions are noted. The issues raised in these submissions have been captured in the grounds of appeal which are detailed below in Section 7.0.

5.0 Planning History

A review of the WCCC Planning Portal and the Board's case files was carried out on the 13th of September 2023 to collate any relevant, recent (within 10 years) planning history for the site.

5.1. Subject Site

At the site there was no recent relevant planning history for the subject site, save for the planning application (Ref: 23/60081) the subject of this appeal.

5.2. Other Solar Farm Phases

In September 2019, the Board granted planning permission with revised conditions for a solar farm now known as Phase 1 (30 MW) (Ref: PL93.304651) to the north and north-west of the site. At the same time, an associated 110 kV electrical substation (VA93.303930) was also approved with conditions. In both instances, the applicant was BNRGN.

5.3. Along Lane (L7064)

Applications (Ref: 22/647, 22/648) were made to WCCC under Section 254 of the PDA (Licensing of appliances and cables, etc., on public roads) for licences for broadband infrastructure. Licences were granted in both instances in October 2022.

At the end of the lane (L7064) an application was made to WCCC for a cattle underpass and ancillary site works. The application was granted planning permission in October 2014.

5.4. Residential Developments

There are numerous planning applications around the site in respect of residential, developments which is to be expected in a such a rural location. These are all noted and considered in the assessment below.

6.0 Policy Context

At a high level, the Board should note several national and regional level policies which will be relied on in in the assessment below. These include

- Department of the Environment, Climate and Communications (2023) *Climate Action Plan 2023*.
- DHLGH (2019) *Project Ireland 2040: National Planning Framework.3*
- Southern Regional Assembly (2020) *Regional Spatial and Economic Strategy for the Southern Region 2020 – 2032*.

These are all directly and indirectly supportive of renewable energy projects which extends to solar energy.

Specifically, the Waterford City and County Development Plan 2022-2028 (WCCDP) came into effect on 19th of July 2022 and is the relevant plan for the subject site. Its policies are detailed below.

6.1. Zoning Objective

There is no specific zoning objective for the site. Such lands are considered ‘Agriculture A’ or ‘White Lands O1’ under the plan. These lands are primarily in agricultural use and may contain some isolated development.

6.2. Specific Objectives in respect of Solar Farms

Chapter 6: Utilities Infrastructure, Energy & Communication of the WCCDP has a strategic objective:

To promote and facilitate the provision of energy efficient, low carbon infrastructure and utilities and support infrastructure, whilst supporting industry to innovate,

decarbonising the energy sector in order to contribute to a national target of zero net emissions of greenhouse gases in Ireland by 2050.

The following policy objectives are considered relevant to solar farms:

- UTL 13 is specific to Renewable Energy and similarly seeks to promote and facilitate a culture of adopting renewable energy technologies. It goes on to promote and encourage the: use of solar photovoltaic and solar thermal among the agricultural sector; and community engagement and participation in renewable energy projects. UTL 13 places emphasis on the consideration of reasonable alternatives and utilisation of existing infrastructure assets such as substations, powerlines and roads when considering renewable energy developments. In addition UTL 13 insists a Decommissioning and Restoration Plan (DRP) accompanies any planning application.
- UTL 14 also addresses renewable energy developments in the context of human health and states any planning application shall demonstrate consideration of noise, ground conditions and geology, air quality and water quality.
- UTL 19 and UTL 24 is specific to Undergrounding of Cables and Electricity Infrastructure. The former policy objective seeks consideration of the following when considering undergrounding of cables in planning applications: habitat loss including hedgerows, archaeology, soil and drainage and surface water. The latter simply supports electricity infrastructure subject to other relevant provisions of the plan.

Other Policy Objectives which are related to solar farms include UTL 7 (Water Conservation), UTL 8 (Protection of Water Resources), UTL 9 (Storm and Surface Water Management), UTL 21 (CEMPs), UTL 22 (Construction Wastes), UTL 23 (Waste Minimisation).

6.3. Specific Policies in respect of Natural Heritage

Chapter 9: Climate Action, Biodiversity & Environment of the WCCDP considers a range of policy objectives to protect and conserve all sites designated or proposed for designation as sites of nature conservation value. It also considers non-designated sites including local sites of biodiversity value such as hedgerows and trees. There is also consideration to invasive species. These are all noted.

6.4. Specific Policies in respect of Built Heritage

Chapter 11 considers Heritage. There are numerous policies supporting the protection and conservation of protected structures, ACAs and archaeology. It is also noted that it is the policy of the WCCC to ensure the protection of the settings and vistas and retain character/uniqueness of protected structures, and historic buildings within and adjacent to ACAs from any works which would result in the loss or damage to their special character.

6.5. Specific Policies in respect of Landscape

Chapter 10 of the CCDDP considers Landscape. The key provision for solar farms is the requirement for a Landscape and Visual Impact Assessment (LVIA) to accompany any planning application.

In terms of specific designations, the R676, which travels to the west of the site is Scenic Route 13 in the WCCDDP. The site generally is considered 'Low Sensitive' in the Landscape and Seascape Character Assessment. Such a sensitivity is considered 'a common character type with a potential to absorb a wide range of new developments'.

6.6. Renewable Energy Strategy 2016-2030

Appendix 7 of the WCCDDP contains a Renewable Energy Strategy (RES). It is a strategic document which underpin the policies and objective of the WCCDDP. Its promotion and support for renewable energy, including solar, is balanced by other considerations including: the protection of the environment, landscape impact, infrastructure requirements (i.e. grid connections), socio-economic impact, community consultation, community ownership and community benefit.

6.7. Development Management Standards

DM 31 sets out the development management standards for solar farms. In an assessment of such scheme the following criteria shall be applied.

- landscape character and visual impact
- archaeological impact and heritage impact.
- glint and glare
- construction impacts
- incorporation of security measures

- suitability/strength of the grid and accessibility to it.
- the suitability of the site, having regard to other land use policies
- impact on drainage patterns and water tables.
- incorporation of green infrastructure elements
- opportunities to enhance/ improve biodiversity and biodiversity linkages.
- decommissioning of obsolete infrastructure and after-use.

Other requirements are set out under the following:

- 5.21 Electricity & Other Cables (undergrounding, setback from existing lines)
- 5.22 Utility Facilities/ Infrastructure (design & landscaping, sustainable design)

7.0 The Appeal

7.1. Grounds of Appeal

There are 17 no. third party appeals in respect of this file. The appellants are:

1. Pauline Hartley
2. Patrick Baldwin and Catherine Twomey
3. Edel Skehan
4. Margueritte Kent, Frank Kevey and Kathleen Kent
5. Des and Alan O'Donovan
6. Paul and Aisling Power
7. Board of Management of Clonea Power National School and others
8. Cllr. Seanie Power
9. Clonea GAA c/o William O'Brien
10. Andrea Cummins, Martin and Bernadette Whelan
11. Paul Fogarty
12. Julia and Seamus Drohan
13. Josephine Curry (and others)
14. Henry De La Poer Marquis of Waterford
15. Martin Coughlan
16. Mervyn Cummins and others
17. Peter Sweetman and Wild Ireland Defence CLG

It noted that, in certain parties listed above, the appeal is submitted under one name. However, in those certain parties, the appeal is supported by several other named

individuals, many of whom made observations to WCCC and appended letters of acknowledgement to the appeal. The appeals and all attachments have been read in full. The submissions of all individuals within a party are noted.

The issues are summarised thematically below due to the overlapping issues of many submissions. The grounds of the appeal may be summarised as follows.

7.1.1. Human Beings

- The population is declining and the proposed development will not attract people to the area and sustainability of the community will be impacted included the viability of the schools, local businesses and sports clubs.
- The proposed development will sterilise large tracts of lands and may displace and discourage the use of land at and close to the site for residential and community uses, such as the GAA Club, the Old School and Parish Hall, which sustain the community. It will also impact the value of existing properties.
- The proposed development will sterilise large tracts of lands and may displace and discourage the use of land for food production which sustain the community. The area has a high quality of produce which is purchased by several global companies.
- The proposed development is on an inappropriate site and it should instead be directed to brownfield and industrial lands as per guidance in the UK. There is no comparably sized solar farm permitted in the UK.
- The proposed development will be carried out on lands for which there is hunting, shooting and fishing right. Clonea Gun Club uses the area also. The proposed development will have a deleterious effect on this right.
- There are several individual appellants who adjoin or are adjacent to the proposed development. It is considered that the proposed development is too close in proximity and it will impact on the amenity of their landholding. In some instances this extends to private wells for drinking water.
- The proposed development will impact tourism in the area. The Clonea area is a prime location to take advantage of Waterford City, the greenway, the coast and the mountains.

- There is a concern about fire risk and the impact to surrounding receptors including the school. The Planning Report failed to address the issue completely and dismissed submission of the Fire Officer.

7.1.2. Traffic, Transport and Access

- There are general health and safety concerns due to the increased traffic expected to use the road network as a result of the proposed development. This includes those walking/cycling to school and users of the GAA pitch. Additional there will be noise, dust and visual impact as a result of the proposed development.
- The plans for traffic management do not take into account vehicles using bridges with weight restrictions, in particular at the Old Bridge in Carrick-on-Suir. No consultation has occurred with Tipperary County Council on traffic plans.
- There is no assessment of Ballyhest Cross Roads, which is a hazardous junction where fatalities have occurred.
- Condition 6 (g) makes reference to a road (“L6074”) which is not near the proposed development. The use of the laneway (L7064) is not appropriate and is used by walkers and cyclists at present due to its low traffic volumes and character.

7.1.3. Biodiversity

- There is a general concern that the proposed development will result in the destruction of natural habitats including hedgerows, trees, badger setts and other species including buzzards and otters. The will have a long term impact on biodiversity. These species are protected under the Wildlife Act
- The River Clodiagh is a catchment for the FWPM, which is a protected species. The objective is to improve the habitat for same rather than impact upon it. There are concerns of cumulative impact on the FWPS owing to the other solar farm in Mothel.
- The Comeragh Mountain SAC was not considered the AA of the proposed development. The Comeragh Mountains are also a pNHA.
- The proposed development is not consistent with the recommendations of the Citizens Assembly on Biodiversity Loss.

- An appellant questions the requirement for Condition 9 (a) which restricted artificial lighting. There is no requirement for this condition given the applicant does not propose any.
- There are several species related to the SAC which are sensitive to noise impacts. The noise generated from the proposed development will impact qualifying interests.
- There was no proper assessment carried out of the sediment which may enter the Clodiagh River and its impact on FWPM. The proposed mitigations in this respect are not certain and may not result in impacts being avoided.
- What is proposed for the crossing (clear span bridge) of the Ballygarret Stream is not defined and the impacts may be significant.
- An appellant notes that the AA relies on conditions which are not sufficiently detailed to remove all reasonable scientific doubt as to the effects of the works on European sites.
- Due to the lack of certainty in the NIS, the Board are precluded in law from granting permission for this development.
- The biodiversity surveys are insufficient and not complete. Only one survey was completed in February which is insufficient for certain species.
- There is concern about the impact too water quality and the aquifers that feed to the River Clodiagh.
- The proposed development is located in Flood Zone A and B.
- Impact to riparian corridors

7.1.4. Landscape & Visual

- The proposed development will result impact in the character of the landscape due to the installation of an industrial facility at this location which is rural in nature. It will sterilise large tracts of lands and will change the nature of the land currently in use for agriculture.
- The condition requiring a reinstatement bond of €160,000 is undercalculated and were it required would not result in the full reinstatement of the site in question given the size of the proposed development. There is concern in respect of that decommissioning phase and who is responsible and liable for cost.

- The proposed development is within 4-6 km of landscapes which are 'most sensitive', particularly the Comeragh Mountains, and on a scenic route – these areas will be impacted by the proposed development. The proposed development does not comply with the landscape policies of the WCCDP. Equally there is no assessment of the topography and elevation of the site itself.
- There is an effort in the planning application to use the language to portray the area at the site as uninhabited or of little or no value, whereas it is in fact prime agricultural land.
- There is a concern about psychological impact to surrounding receptors including the GAA pitch of such a development. There are several requests for a mental health impact assessment.

7.1.5. Architectural Heritage & Archaeology

- The proposed development will have a significant impact on the ACA at Clonea village and its related protected structures. It will in particular on their vistas and setting which contribute to their character - no visual assessment was provided in this context
- The recommendation of the Conservation Office that a AHIA be requested through Further Information was not fully considered in the Planning Report. Based on their opinion the information provided was not sufficiently detailed.
- Ballyneale House is on the Landed Estates database which is a funded research project that details landed estates and historic houses in Munster around 1700-1914.
- Clonea Castle, a Banshee Stone and Mikey the Yanks are considered of built heritage importance and were not fully considered by WCCC.

7.1.6. Glint and Glare

- There will be an impact from glint and glare on several properties due to the elevated and southerly aspect of the site. Specific issues were noted about the assessment on House 25, 55.
- The GAA pitches will be directly impacted by glint and glare due to their location south of the proposed development. This impact may have a detrimental impact on the operation of the pitches.

7.1.7. Policy

- While each solar farm is considered on its own merits the proposed development in questions is not consistent with several local, national and internal policy documents. There is a policy vacuum at national level and no overarching guidance.
- There should be a policy for community ownership and microgeneration rather than the corporate approach taken here. There can be sufficient space on and output from rooftops on farms and domestic dwellings.

7.1.8. EIA Issues, Other Decisions

- The applicants have another planning application north of the site which is undeveloped. There are cumulative impacts arising with same. Given the other planning application has not proceeded to date, the viability of the current planning application is questioned.
- Reference are made to other solar farms both in counties Waterford and in Kildare which were refused and it is suggested that similar reasoning applies here particularly in terms of landscape. An appellant questions the consistency in approach to decision making.
- Reference is made to solar farm in Kilbarry, Co. Waterford (Ref: 19/370) where an EIA was submitted with the planning application. The appellants requests the Board have regard to Schedule 7 of the PDA. and the requirement for EIA as well as Schedule 5 Part 2 Class 3 Energy Industrial Installations. The proposed development is an installation for the production of electricity.
- The proposed development is premature and no consideration of alternatives is provided or considered.
- The planning application is not complete and a full assessment of all aspects of the proposed development can be carried out. Therefore 'project splitting' is occurring in the context of the O'Grianna judgement.

7.1.9. Other Attachments and References

- An appellant included an funding application by WCCC to the DHLGH for the Local Biodiversity Action Fund. The application was titled 'Environmental DNA

Survey for the FWPM in the River Clodiagh, Co. Waterford'. It is unclear whether the survey was ever undertaken.

- An appellant included a copy of a 'Lease of Sporting Rights' between Curraghmore Estates and certain individuals for lands in the townland of Ballyneale.
- An appellant includes a copy of 'Decommission Solar Energy Systems Resource Guide' prepared by Centre for Rural Affairs (2022)
- An appellant includes copies of an Access to Information (AIE) request to WCCC.
- An attachment from Evelyn Moorkens on FWPM is included by several parties. In summary, it makes the following points:
 - The NIS contains a number of defects including a lack of surveys or investigations for FWPM, historical mapping, and details for the management of FWPM during the operational phase.
 - The proposed development will have a hydrological impact which will not result in the restoration of the population to a favourable condition.
 - No consideration of FWPM has been made in the context of the FRA, Biodiversity Management Plan or CEMP
 - The conditions related to the monitoring of water are not precise or sufficient to prevent impact to the FWPM.

7.1.10. Procedural

- The planning application should be considered invalid as the applicant does not hold the requisite title or entitlement to interfere with the rights to hunting, shooting and fishing right on the subject lands.
- The planning application was not subject to the same scrutiny as it would were it a single rural dwelling which are often refused for a myriad of minute reasons (e.g. WCCC Ref: 22/849). The short timeframe to make a decision, chronology of reporting to WCCC by internal officers and absence of third party submissions summarised in the decision is also concerning.
- There has been little to no consultation and engagement between the applicant and the local communities to address concerns being raised.

- The planning application should have been subject to independent assessment by WCCC and indeed separate assessment by the Environmental Protection Agency (EPA).
- The EPA have no involvement in solar farm evaluation in spite of the significant environmental issue involved. Correspondence between the EPA and an appellant is included to this effect.
- The Planning Report failed to address all submissions made to it in particular that by Josephine Curry which included 16 submissions within it and had set out specific issues which were not summarised as issues. These include issues related to topography of site, zoned lands and future development. electromagnetic fields, biodiversity, data centres, “the language” of the application, perimeter fencing, project splitting and rural disadvantaged areas.
- WCCC have a conflict of interest as they are both assessing information submitted in planning applications by Tobin Consulting Engineers while concurrently employing them to carry out other projects for them for amenity projects.
- The application for an appropriate period of 10 years is too long, as is the operational phase of 40 years.

7.2. Planning Authority Response

A submission was made by WCCC on the 20th June 2023. WCCC states it is satisfied it assessed the planning application appropriately and any clerical error were not material in its assessment.

WCCC is wholly satisfied that subject to conditions attached in the notification to grant planning permission that the proposed development would not seriously injure the amenities of the area, would not result in significant impacts on the visual or residential amenities of the area, would be acceptable in terms of traffic safety, would not negatively impact upon the ecology or cultural heritage of the area and would not be prejudicial to public health.

Having reviewed the appeal it is the opinion of the WCCC that no new information has been provided which would alter the decision to grant permission.

7.3. Observations

There are 3 no. observations in respect of this file. The observers are:

1. Martin Doyle
2. Tom Coughlan
3. MCMPF Consultancy Limited.

The issues raised in these observations are summarised thematically above in Section 7.1 Grounds of Appeal due to the overlapping issues of many submissions.

7.4. Applicant's Response

The submission is prepared by Tobin's Consulting Engineers on behalf of the applicant, BNRG. The response to the appeal may be summarised as follows:

- All relevant information required for the consideration of the planning application is provided. There is no material deficiencies in the documents. The applicant is willing to provide any further information the Board requires.
- The proposed development is not a class of development in the PDR and there are numerous precedent cases in respect of this. In addition the NIS concluded that there will be no adverse effects on any European site.
- As the proposed development does not require EIA, the term project splitting does not apply. The full project, in any case, has been assessed in the PECR and NIS including the grid connection.
- The duration of planning permission for 10 years is based on the likely grid connection from EirGrid which is a separate process with unspecified timeframes. A 40 year operation life is required to make the proposed development financially viable.
- In relation to future phases, the applicant has stated the Mothel Phase 1 and Phase 2 are the only phases of the project. Both phases will likely utilise the same grid connection.
- The proposed development is plan-led as opposed to developer-led. Given the climate emergency, there is significant impetus on solar farms generally to meet legal obligations and commitments.
- There are several measures in place to mitigate the risk of fires including the CEMP which includes the requirement for a Fire Risk Assessment annually. It is also noted that there are no batteries proposed.
- There are numerous measures in place to ensure full and complete decommissioning in time. The cost of same will travel with any party who take

over the company and associated liabilities. There is no example of decommissioning in Ireland, as the first solar farm was only connected in 2022.

- Concurrent land uses can occur with the proposed development including certain agricultural practices. Certain lands are identified for amenity uses which will progress at a future time. The applicant considers this a community benefit.
- The CEMP have several measures which will mitigate the impact on residential areas in proximity to the proposed development. In terms of sporting rights, the applicant is aware of this issue and is discussing directly with the appellant in question to accommodate their needs.
- The proposed crossing of the L7064 (DWG11341-2068) will be trench crossings only with no additional access or opening in the existing boundary required.
- On biodiversity matters, the submission sets out the methodology and approach to certain species and its compliance with the provisions of the development in this respect. Certain points of note:
 - In relation to the FWPM, there is no negative hydrological impacts as evidenced in the NIS and PEDCR submitted with the application.
 - There will be the removal of 108 m of hedgerow to facilitate access requirements. It is expected 1311 m of hedgerow and other planting will be planted also
 - The Biodiversity Management Plan is complete and robust.
- In relation to Landscape, it is accepted that a larger amount of fields in the local area will be covered by solar panels but not to the extent that the landscape character will be effected significantly. There would be no significant landscape and visual impact at Clonea Village and private properties. The significance of the impacts can be mitigated through hedgerow screen planting.
- The proposed development will not hinder future development of GAA facilities to the south of the R678.
- The proposed development is not in close proximity to any specific tourist attraction and indirect landscape impact is contained through the topography

of the area. It is not considered the proposed development is contrary to the Local Economic and Community Plan 2023-2029.

- The submission provides a rebuttal on the issues raised in relation to hydrology and hydrogeology including flooding, water quality, water features, built heritage, traffic, noise and vibration.

8.0 Assessment

Having examined the application and appeal documentation on file and having regard to relevant policy and guidance, it is considered that the key issues in this appeal are those raised in the grounds of appeal namely:

- Principle of the Development
- Flood Risk
- Land Use, Adjoining Land Uses and Amenity
- Human Health (Noise, Light, Air & Climate)
- Traffic & Transport
- Glint & Glare
- Major Accidents or Disasters (Fire)
- Landscape & Visual
- Biodiversity
- Soil and Water
- Built Heritage (including Archaeology)
- Interaction between the factors
- Other Matters

Technical matters relating to EIA and AA will also be addressed:

- Likely Effects on the Environment
- Likely Significant Effects upon a European Site

In considering the matters above, the cumulative impacts and in-combination effects of both the Phase 1 Solar Farm (Ref: ABP-304651-19) and associated grid infrastructure (Ref: ABP-303930-19) has been factored into the assessment for the subject application under appeal. The PECR and NIS submitted by the applicant reflects the overall development also.

8.1. Grounds of Appeal

8.1.1. Principle of the Development

The site is located outside zoned lands as such. The WCCDP define these lands outside of settlements and zoning maps as ‘Agriculture A’ or ‘White Lands’. Such lands have no zoning objective and are not considered in any zoning matrix.

In the absence of any specific zoning objective for the site, the proposed development will be considered on a case-by-case basis having regard to the proper planning and sustainable development of the area and compliance with the relevant policies and objectives, standards and requirements as set out in this WCCDP, guidelines issued in accordance with Section 28 of the PDA and guidance issued by other government bodies. In considering the acceptability of the proposed development, it is also necessary to assess the development in the context of national, regional and local planning policy.

Several appellants point to the fact that there is an absence of national guidance for solar farms and any further consideration would not be legally valid. It accepted that there is no national guidance specifically in place for solar farms, however, this does not mean the proposed development cannot be considered further. Guidance can be derived from the prevailing development plan for the area which provides sufficient basis for an assessment. On this basis, continued assessment of the proposed development in subsequent sections is considered appropriate.

In addition, and regardless of lack of specific national level guidance for solar farms, such renewable energy developments enjoy widespread policy support at all levels:

- In the *Project Ireland 2040: National Planning Framework*, the transition to a low carbon and climate resilient society is a key strategic outcome and specifically it is National Policy Objective 55 “*to promote renewable energy use and generation at appropriate locations.....*”.
- In the *Regional Spatial Economic Strategy for the Southern Region*, there are several policies supporting such developments including RPO 50 Diversification in Agriculture and RPO 221 Renewable Energy Generation and Transmission Network.

Both national and regional level policy, along with local policy as set out in Section 6.0 of this report are clear in their support for renewable energy generation, which

includes solar. On this basis, the principle of the development is sound in a policy context and should at least be considered subject to the range of other criteria required by the WCCDP.

Therefore, the principle of a solar farm on agricultural lands is acceptable subject to compliance with the proper planning and sustainable development of the area and compliance with the relevant *plan*.

8.1.2. Flood Risk

A Flood Risk Assessment (FRA), which included a site-specific hydraulic assessment, is set out in Section 12 of the PECR which concluded that the risk of flooding to the proposed development is minimal, and that the development will not increase the risk of flooding elsewhere. The assessment focused particularly on the Ballygarret and Mothel Streams which may be liable to fluvial flooding during an extreme event. It should be noted, however, that there are no known flood events at the site.

Notwithstanding the hydraulic assessment, the flood risk to the actual development has been largely mitigated by avoidance with the solar panels enjoying a reasonable set back from the banks of the watercourses. Additionally, the applicant is satisfied that the solar panels are flood resilient given they are mounted and raised above the ground. As such the applicant consider them 'water compatible'. The inverters are not located in proximity to the streams. The tracks and clear span bridge crossing the streams on site, may find themselves in flooded in an extreme flooding event, but it is agreed that these are not highly vulnerable infrastructure and can be managed in such an event.

On the basis of the information provided by the applicant, relevant mapping and data from the OPW and the nature, characteristics of the site and design of the proposed development– this conclusion of the FRA is considered reasonable

It is considered unlikely, that significant impacts would arise from flood risk.

8.1.3. Land Use, Adjoining Land Uses and Amenity

The appellants are concerned that the use of the site as a solar farm will directly displace traditional agricultural practices and indirectly displace the population who would not willingly choose to live beside such a facility. The absence of traditional

agricultural practices and a decline in the population will, in turn, directly impact the viability of the community and the related social and commercial facilities it relies on. The appellants are of the view that solar farms should be directed to brownfield or industrial lands which is the practice in the UK.

8.1.3.1. *Agriculture Uses*

The displacement of the current agricultural practices on lands that make up the site is accepted – the production of dairy or beef will cease as it currently cannot be farmed concurrently with the solar farm. However, other livestock such as sheep can be farmed alongside the solar farm. While the current (or familiar) farming practice may cease, there is a strong policy support for the diversification of farming practices – it is considered that a solar farm can provide this diversification along with sheep farming and a range of biodiversity measures. It is also noted that the solar farm is in effect temporary and the lands could revert to beef or dairy use if desired.

The landowners are entitled to diversify their incomes and work the land in the most resourceful way possible subject to relevant consents and licences. A farm income is not always assured given the market for products such as milk and beef. The displacement of food production, namely beef and milk (and indeed tillage were it viable), will be negligible in the national context.

It may be preferable to direct these solar farms to brownfield and industrial use and indeed domestic and agricultural rooftops, to avoid the potential displacement of food production, however, there is similar contest for land use on this type of site which are predominantly in urban areas. It should also be assumed that promoters of solar farms may be examining these type of site concurrently with rural areas – it is not simply one or the other, both are likely required to meet the energy and climate targets.

In the absence of any prescriptive policy prohibiting and/or directing solar farms to certain locations, the report defers to the arguments set out in Section 8.1.1 of this report which considers the principle of a solar farm on agricultural lands is acceptable subject to compliance with the proper planning and sustainable development of the area and compliance with the relevant plan.

It is considered unlikely, that significant impacts would arise on agricultural uses.

8.1.3.2. *Residential Uses*

The appellants make the point that the population has been declining in this rural area in any case and that the solar farm may be the action that serves as the *coup de grâce* for the community. On a cursory review of the census for the electoral divisions that make up the site, namely Clonea and Mothel, the population has been declining - going from 907 (2011) to 892 (2016) to 881 (2022) over the years. While this decline is consistent, it is not considered substantial and it is unlikely that a solar farm in of itself would meaningfully aggravate the decline. This is based on a consideration of the range of topics discussed in this report.

The solar farm will result in certain lands not being available for single rural housing, however, it is unknown whether this land would have ever been made available for such use in any cases and it may have simply continued in traditional agriculture. The argument around displacement of residential uses is therefore moot and there is sufficient land in the area for such a use.

Dissatisfaction is raised by appellants in respect of the predisposition toward renewable energy in policy, whereas there is always a presumption against single rural dwellings in the area – many residents find it difficult to receive permission for housing. This report is satisfied it has applied the policies required by the WCCDP for solar farms and that housing, is a different use with different impacts, and the assessments are not comparable.

No specific evidence has been provided to indicate that there will be an impact on property prices due to the existence of a solar farm, nor has any corroborated evidence been supplied to indicate that this is the case elsewhere.

It is considered unlikely, that significant impacts would arise on residential uses.

8.1.3.3. *Residential Amenity*

There are several individual appellants who adjoin or are adjacent to the proposed development. It is considered that the proposed development will impact on the amenity of their landholding. In some instances this extends to private wells for drinking water.

The applicant has pointed out in its PECR that there has been extensive mitigation through the design of the proposed development. It is stated that the inverter stations will be located at a distance of approximately 200 m from the nearest residential dwelling and the closest solar panel to a residential dwelling is located at a distance

of approximately 50 m. This is considered reasonable given the solar panels and generally do not give rise to significant pollution during the operation phase.

It is accepted the proposed development will be a significant intervention in the landscape, and the amenity impact may predominantly be related to landscape or visual impact. The topic of landscape and visual issues is addressed in Section 8.1.8 of this report. However, in the context of residential amenity, it is considered that the proposed development will be reasonably screened with existing treelines and hedgerows as well as supplemental planting. – such planting will provide screening and privacy to the residential dwellings which may not have been available previously. It should be noted that attendance at the site during operation stage will be minimal and primarily for maintenance purposes.

Other operational impacts such as glint and glare are addressed in subsequent sections of this report. The construction phase impacts will be temporary and short term and are addressed in subsequent sections also.

It is considered unlikely, subject to mitigation measures, that significant impacts would arise on residential amenity.

8.1.3.4. *Tourism*

There is significant concern among appellants that the proposed development will impact tourism in the area. The site does not host any significant tourist features, but the appellants consider the Clonea area a prime location to take advantage of Waterford City, the greenway, the coast and the mountains. There is also a scenic route passing by the site. While there may be potential for Clonea to expand its tourism potential and offering, it is not considered the solar farm would inhibit the promotion of such industry given its location and relationship to Clonea Village and surrounding landscape.

It is considered unlikely, that significant impacts would arise on tourism.

8.1.4. Human Health (Noise, Light, Air & Climate)

During the construction phase there will routine construction related pollution and nuisance generated including noise (pile driving), light, dust and traffic related impacts with the potential to cause nuisance and impact on the amenities of adjoining dwellings and the neighbouring amenities such as the GAA pitch. These

impacts will be temporary and short-term and would be controlled as part of the standard and best practice construction measures as well as specific mitigation measures set out in the PECR.

During the operational phase there will be some pollution and nuisance associated with the maintenance of the solar farm owing mainly to noise (inverter stations), light, traffic. It is noted that the inverter stations are located among the panels and the closest residential dwelling will be 200 m away. The operational phase may see small numbers of people using the site as well as remote operation of CCTV and lighting for security purposes. These impacts will be controlled as part of the standard and best practice operation measures. In addition, a condition limiting noise output is recommended to ensure compliance with established standards for rural areas.

There is no significant risk to human health. During the construction and operation phases risk to human health arising from pollution and nuisances listed above would be controlled as part of the standard and best practice construction and operation measures.

In respect of Electro-Magnetic Fields (EMF), the applicant has designed, the proposed development in accordance with recommendations made by national and international agencies including the International Commission for Non-Ionizing Radiation Protection (ICNIRP).

It is considered unlikely, subject to mitigation measures, that significant impacts would arise on human health.

8.1.5. Traffic & Transport

The proposed development does not generate significant traffic volumes and access during the operational phase will be negligible. Any construction measures required are addressed in the CEMP, which includes a framework for a Construction Stage Traffic Management Plan (CSTMP), which should be implemented in full.

It is considered that the cumulative impacts arising from Phase 1, Phase 2 and grid infrastructure can be reasonably mitigated through good practice and several construction entrances would not be uncommon for such works. The regional road network has the capacity to accommodate it.

Several appellants raise concern about those walking/cycling to school and users of the GAA pitch. This concern is noted and it is the responsibility of the applicant to ensure the safety of all road users, not just users of motor vehicles. Several measures in relation to traffic management are included in Section 13 of the PECR. However, it is considered that a condition requiring a CEMP is required to ensure WCCC can enforce relevant standards for all road users including vulnerable road users.

The CEMP and CSTMP should be finalised prior to the commencement of the proposed development. Regardless, these impacts will be temporary and short-term and would be controlled as part of standard and best practice construction measures included in the CEMP.

It is considered unlikely, subject to mitigation measures, that significant impacts would arise on the traffic and transport.

8.1.5.1. *Access and Crossing Locations*

The proposed access locations will be located onto the regional road network primarily with a minor crossing point on a local road. Having reviewed the relevant drawings, it is considered the access arrangement designs can achieve the sight line visibility requirements as set out in Section 8.6 of Volume 2 Development Management Standards of the WCCDP. To achieve this hedgerow removal is required. At the operational phase WCC would like to see the enduring access onto the L6074 rather than directly onto the regional road. There is very limited operational access required for maintenance only. It is considered both scenarios are acceptable generally. A condition is attached to agree the final details, prior to commencement of development..

There is significant concern raised by appellants about the use of the L6074 road which transects the site. The Board should be clear that this road will not be used for the purposes of the proposed development except for a single point where construction traffic will cross perpendicular to the road. This crossing facilitates access from the eastern to the western side of the site during construction and operation. While conflict may occur between users of the L6074 and construction traffic at this point the impacts will be temporary and short-term and would be controlled as part of standard and best practice construction measures included in

the CEMP. The Board may also consider a condition appropriate for restricting use of the L6074 to firm up on this commitment by the applicant.

The access and crossing locations are considered acceptable.

8.1.5.2. *Haul Routes*

The appellants raise a discrepancy in the illustration (Appendix L Drawing 11341-2069) of haul routes at Carrick-on-Suir and in particular use of the Old Bridge which has a weight restriction. While the discrepancy is noted, on reading the text in the PECR (Section 13.7.3) it is also stated that the haul route will use the R676 or the Dillon Bridge which is part of the R676. Such discretion in the planning application is not considered material and, regardless, it is the responsibility of applicant to protect the Old Bridge from excessive burdens in accordance the Road Traffic Acts – to do otherwise would be considered an offence.

Another issue raised by appellants is the use of the Ballyhest Crossroads (junction of R678 and R676) and the fact that there was no assessment of same. It is pointed out by the appellants that the crossroads is hazardous and there have been fatalities. The Road Safety Authority are in the process of reviewing the road traffic collision data sharing policies and procedures so details of collisions and fatalities on at this location are unavailable. Regardless, this is an established junction on the regional road network and is well signalled and lined on all approaches. HGVs from the proposed development will be able to manoeuvre the junction like every other vehicular user. It is not considered the proposed development in of itself would result in an increase in collisions.

The haul routes are considered acceptable.

8.1.6. *Glint & Glare*

A Glint and Glare Assessment is set out in Appendix M of the PECR which concluded that there will not be any significant nuisance effects from glint and glare at dwellings within the study area, nor is there likely to be any hazardous glint and glare effects upon either road or aviation receptors resulting from the proposed development. However, it is noted that there is currently no regulation or guidance as to acceptable levels of glint and glare effects at receptors in Ireland. The applicant's consultant has established categories of effect to assist in the determination of the impact.

The assessment sets out the times of day and months of the year that glint and glare effects could theoretically be experienced at residential and road receptors within the study area. Receptors (house and road points) situated to the west of the solar array can only be affected by morning reflectance when the sun is rising in the east. Receptors situated to the east of the site can only be affected by evening reflectance when the sun is setting in the west.

In cases where the calculated total minutes per day for a dwelling receptor is less than 15 minutes and for a small number of days, less than 36 days, the magnitude of impact is deemed to be Very Low and has been assigned accordingly

The assessment considered that 64 dwellings were within the study area and following an initial analysis considering the terrain only, it was considered that glint and glare is geometrically possible at 44 dwellings. When factoring in the existing vegetation at the site 10 dwellings are actually likely to have the potential to be materially affected by glint and glare. Following mitigation planting a potential residual impact remains for 7 dwellings. The assessment considers each of these properties separately and concludes that the impact will either be 'low', 'low-very low' or 'very low'. The impact at these dwellings range from up to a maximum of 6-20 minutes per day across 32-116 days a year. Many are only affected at the first floor. At certain locations, the residual magnitude of impact will remain unchanged following planting. This planting is on the site only.

The assessment provided has provided sufficient detail with regard residential receptors, however, fails to consider facilities like the GAA pitch as noted by the appellants. However, the GAA Pitch falls outside the areas theoretically exposed to glint and glare effects. This theoretical determination is based on a digital terrain model and does not include vegetation, buildings or screening which would serve to block glint and glare impacts.

In terms of road receptors, route points have been positioned along all the potentially affected roads within the study area. A total of 214 receptor points were examined. The analysis identifies that glint and glare is theoretically possible along 17 route points which have been examined further. An assessment of each of the 17 route points was undertaken with consideration of the screening provided by existing and proposed vegetation. The analysis indicates that there is potential for glare for

certain timeframes but that the glare is unlikely to present as anything more than fleeting glints to a passing motorist and that any glare will be oblique to the driving direction. A driver travelling along the roads in the study area may glance towards/at the reflecting panel, but their main focus is likely to be on the road ahead.

In terms of aviation receptors, it was determined that there is no potential for hazard glare effects at the aviation receptors which included Waterford Airport.

It is considered unlikely, that significant impacts would arise from glint and glare.

8.1.7. Major Accidents or Disasters (Fire)

Several appellants point to the issue of fire risk associated with solar panels. The appellants are right to raise concern about such a risks given this is a novel and unfamiliar technology in their community. However, given the technology will have to comply with EU safety legislation, it is presumed unlikely to pose a significant risk for fire. Like any technology or indeed structures such as dwelling houses, risk of fire will always unfortunately be present for a variety of reasons.

The applicant has identified the issue in its PECR and has set out reasonable mitigation measures to reduce this risk in so far as possible. It is also noted the Fire Officer for WCCC has not raised any material objection.

It considered unlikely that significant impacts would arise in relation to major accidents and disasters and specially fire risk.

8.1.8. Landscape & Visual

There is significant concern from appellants in respect the landscape and visual impact of the proposed development. A primary criticism of the proposed development from appellants is it will in effect 'industrialise' high quality agricultural land. In addition, owing to its nature and scale, it will significantly impact the character of the area and indeed wider views to and from the area. The applicant is of the view that the proposed development will have a low impact on the landscape and can be screened with existing and proposed hedgerows.

A LVIA, which is a requirement for solar farm planning applications in the WCCDP, was carried out by Macro Works Ltd. It concluded that the proposed development will not give rise to any significant landscape and visual impacts. This conclusion is qualified with both computer-generated Zone of Theoretical Visibility (ZTV) mapping

and an assessment of viewshed reference points with photomontages from certain locations.

The site generally is considered 'Low Sensitive' in the WCCDP. Such a sensitivity is considered 'a common character type with a potential to absorb a wide range of new developments'. On this basis and having visited the site and its surrounding area, the conclusion of the LVIA is considered reasonable.

While the proposed development will be a significant intervention in the landscape, and there will be certain impacts from certain receptors and viewpoints, the landscape has the capacity to absorb the proposed development in the context of the wider rural area which is intensively used for agriculture. The site is reasonably screened with existing treelines and hedgerows. While the appellants are right to be concerned about the landscape and visual impact, the impact is not considered significant and solar farms are likely to become increasingly part of the rural fabric and diverse agricultural sector, which is well supported by policy.

In addition, where existing treelines and hedgerows may not provide sufficient screening in of itself at a localised level, the applicant has proposed a Landscape Mitigation Plan which should reduce further any impacts. Up to 1,311 m new sections of hedgerow are proposed to be planted in certain locations mainly to screen residential properties and roads. Additionally it is proposed to bolster 17,110 m existing perimeter hedgerows with under-planting and inter-planting.

The appellants refer to several precedent cases where planning permission was refused for solar farms primarily based on landscape ground and given the scenic route and views to the Comeraghs at this location, question the consistency in decision making. In this instance, it is considered that the proposed development is consistent with the relevant landscape and visual objectives of the WCCDP – notwithstanding the scenic route designation this is not a highly sensitive landscape as defined in the WCCDP.

Overall, it is considered unlikely, that significant impacts would arise in respect of landscape and visual.

The appellants refer to several locations where they consider specific significant impacts will occur, these are considered individually below.

8.1.8.1. Regional Road R676 (Scenic Route 16)

In terms of specific designations, the R676, which travels to the west of the site is Scenic Route 16 in the WCCDP. The route as it travels by the site has views generally east, where the solar farm will be located, and west, to the Comeragh Mountains. While there may be some impact from the proposed development as you travel south along this route, it will not be significant owing to the existing screening along the road. In addition the applicant is proposing additional planting of hedgerows to further screen these views. Views to the Comeraghs, which could be argued are the primary focus of the scenic route, will not be impeded to any great extent.

8.1.8.2. The Comeragh Mountains

On the basis of the Zone of Theoretical Visibility (ZTV) there may be full, partial and intermittent views of the proposed development from the certain locations at the Comeragh Mountains which are considered 'Most Sensitive' in the WCCDP. However, the solar farm will not become a prominent feature on the skyline and will be visually contained between existing field boundaries. Overall, it is considered the visibility of the proposed development is unlikely to draw attention to itself and even if noticed, is unlikely to detract from the inherent visual amenity of any setting from the Comeragh Mountains.

8.1.8.3. Stone Depots (Protected Structures)

A series of 'stone depots' are recorded on the RPS along the R676 bounding the site. These are evident along the road albeit overgrown somewhat with bramble. The mitigation measures include planting behind the RPS which will ensure the proposed development is screened. Overall, it is not considered that their visual setting will be significantly impacted by the proposed development.

8.1.8.4. Clonea Village (Architectural Conservation Area)

The appellants raise concern about landscape and visual impact to the setting of the ACA in Clonea and the vistas from certain protected structures in it. Clonea is an attractive village with a distinct character. However, in considering the Zone of Theoretical Visibility (ZTV) modelling provided in the LVIA and on visiting the site and its surrounding area it is not considered there would be any significant impacts to the ACA or its protected structures. This is simply owing to the topography of the land.

It is noted that the Conservation Officer's report detailed in Section 4.1.2.5 requested an AHIA in respect of architectural heritage features in Clonea. Many appellants consider that this information should have sought by WCCC through further information and its absence makes the assessment deficient. However, it is considered that the Archaeology and Cultural Heritage Impact Assessment (CHIA) submitted by the applicant in Appendix Q of the PECR serves this purposes and enables such an architectural heritage assessment at Clonea. In short, the conclusion of the CHIA is considered reasonable and there will be no impact on any sites of architectural significance or interest – this includes Clonea, its ACA and protected structures.

8.1.8.5. GAA Pitch

The appellants raise concern about landscape and visual impact to the setting of the GAA pitch and indeed its use during operation. However, in considering the Zone of Theoretical Visibility (ZTV) modelling in the LVIA and the specific photomontage taken at a location near the GAA pitch and on visiting the site and its surrounding area it is not considered there would be any significant impact following mitigation planting due to the intervening features including dwellings in Clodiagh Drive.

8.1.8.6. Ballyneale House

Ballyneale House is located centrally in, albeit outside of, the site. It would have been the primary residence for the wider lands at this location based on a Landed Estates database of historic houses in Munster. However, it is not a protected structure or recorded on the NIAH and it has been significantly altered since its construction.

The solar farm will be in close proximity to Ballyneale House and will in effect surround it. The occupier of this property will have a sense of being within the solar farm effectively, however this is still in the context of farmed fields. The owner of said property, agricultural complex and associates landholding is a party to the planning application and has given his consent to the making of the planning application. The solar panels in that instance may be perceived as a complementary and diversified land use. Regardless the landscape and visual impact would not be considered significant.

8.1.8.7. Residential Dwellings

There will be an impact at certain dwellings in respect of the proposed development. However, as described above the proposed development will not have significant impacts overall. The mitigation measures include planting at several location which will ensure the proposed development is reasonably screened. Overall, it is not considered that visual setting of any residential dwelling will be significant impacted by the proposed development.

8.1.8.8. *Clonea Castle*

On the basis of the Zone of Theoretical Visibility (ZTV) there may be full, partial and intermittent views of the proposed development at Clonea Castle. However, the solar farm will not become a prominent feature on the skyline and will be visually contained between existing field boundaries. Overall, it is considered the visibility of the proposed development is unlikely to draw attention to itself and even if noticed, is unlikely to detract from the inherent visual amenity of the setting at Clonea Castle.

8.1.8.9. *Farmhouse and Outbuildings in Bridgetown*

The cluster of built heritage features recorded on the NIAH is close, but the view is heavily filtered by the vegetation on either side of the Ballygarret Stream. While at certain locations there may be glimpses of the solar farm. Overall, it is not considered that their visual setting will be significantly impacted by the proposed development.

8.1.9. Biodiversity

This section concerns general biodiversity and in particular the potential for impacts on habitats and species which are not qualifying interests of European sites. Matters relating to European Sites will be considered below in Section 8.3. Similarly, issues related to soil and water will be addressed in the subsequent Section 8.1.10 to avoid repetition and duplication. However, it is acknowledged that these topics interact.

The site itself does not have any specific natural heritage designations. The area may be used by mammals, birds and other species. The use of the site by any species is limited in any case given the existing use for agriculture. As a result of the agricultural use the majority of the site is improved agricultural grassland. Overall, the site is not considered to be environmentally sensitive and has capacity to absorb the proposed development subject to standard and best practice construction and operation measures.

The proposed development will result in the direct loss and potential disturbance to a certain amount of trees and hedgerows as well as the loss of certain areas of improved agricultural grassland for access tracks and inverter stations. The environment of wider areas of improved agricultural grassland will be changed as a result of the installation of the solar panels. The improved agricultural grassland and the wider site will be managed as part of a Biodiversity Management Plan to introduce measures for biodiversity but also landscaping and soil management.

Temporary construction phase impacts including noise, dust and traffic impacts may also arise and disturb hedgerows and trees. In terms of biodiversity, the proposed development will result in some disruption of existing habitats on site and disturbance/displacement of species using the site. This includes species such as otters, bats, badgers, and rabbits. There is also potential to impact the streams crossing the site, although there are no instream works proposed.

Details of habitat and botanical survey are limited as it was not carried out in the optimal season for certain species. While Further Information could be requested in this respect, it is considered that this is not warranted in the context of the proposed site and the mitigation measures set out. Such species are unlikely to occur in the areas of improved grassland and the field verges, where the species might occur, are not being impacted significantly through mitigation by avoidance (i.e. setback established). This being said the field verges and hedgerows will be impacted as a result of access tracks and bolstering of hedgerows. It is considered that the mitigation measures proposed by the applicant, including translocation of such species should they be found, is reasonable given the intensity of works at the verges. Any grant of permission should require further surveys to be completed prior to construction.

Badgers setts, potential bat roosts and commuting corridors and potential otter holts, have been recorded in site. There are no significant works proposed to the locations in which there are found and overall hedgerows are intended to be retained and indeed bolstered which may have a positive effect for these species. While conscious that some sections of hedgerow will be removed, primarily to provide access, it is not considered to be significant and on the basis of the mitigation measures the proposed development will not have an adverse impact on badgers, bats and otter.

The construction of the clear span bridges is raised by the appellants as having the potential for significant impacts. However, this does not involve in-stream construction works and there will be no direct impacts to the watercourses subject to standard and best practice construction measures. The potential for indirect impacts from runoff of pollutants and sediment is comprehensively mitigated including the provision of double row silt fence due to the sensitivity of the water course.

Given the nature and scale of the proposed development, the distance to one NHA, Slievenamon Bog NHA, and several pNHAs and the identified mitigation measures including those set out in the NIS, there will be limited connectivity between the proposed development and these habitats. There is unlikely to be any significant impacts to same. It should be noted that no birds of high or medium conservation concern were recorded.

The appellants raise the recommendations of the Citizens Assembly on Biodiversity Loss which would have been published contemporarily when the subject planning application was submitted to WCCC in March 2023. The recommendations are comprehensive and well-founded but are such, recommendations. The Board should note that the biodiversity is safeguarded in the WCCDP and, in this instance, the proposed development is considered consistent with same.

It is considered unlikely, subject to mitigation measures, that significant impacts would arise on biodiversity.

8.1.10. Soil and Water

It can generally be accepted that the solar farm can provide a number of longer-term benefits to the stream quality as the after use of the site is low-intensity agricultural with reduced nutrient inputs. In addition, it is stated that the absence of more intensive farming activity will reduce soil compaction which should improve the soils water acceptance potential and run-off from the site.

There is potential impacts through disturbance of the site and an increased risk of pollution events to soil and water. The construction phase of the site will involve management of discharges and emissions to ensure they do not cause pollution or deterioration in the status of surface water or groundwater bodies. These impacts will be temporary and short-term and would be controlled as part of best practice construction measures outlined in the CEMP, the comprehensive monitoring

arrangements which are undertaken by the applicant which will be in agreement with WCCCC.

Concerns are raised about the aquifer vulnerability in the area. The applicant refers to the source-pathway-receptor model. The applicant considers that the source being the solar farm and associated activities does not present a significant source of contamination. It is considered that the excavations are limited on site and the machinery is comparable in scale to existing farm activities and therefore the risk is low in terms of the potential source. The assumptions of the applicant are considered reasonable in this context and it is accepted the risk to water is low risk.

As noted above, an NIS was submitted with the application which details the potential impact on the nearest designated sites and concludes that there will not be a significant impact on the Lower River Suir SAC, as set out below.

The appellants raise concern about water quality in the context of potable sources and suggests wells in the area will be impacted. It is considered that there will not be a significant impact on water quality as a result of the proposed development.

There is no likelihood of impacts to geological heritage sites.

It is considered unlikely, subject to mitigation measures, that significant impacts would arise on soils and water.

8.1.11. Built Heritage (including Archaeology)

In terms of built heritage and archaeology, there are no specific designations in respect of the subject site. While there are no Recorded Monuments on the site, it is noted that there is a feature identified on mapping that was thought to be a monument but is now disproved.

This is intensively worked agricultural land and it is unlikely that the proposed development would directly impact any feature of archaeological significance. The submission of DHLGH recommended further field surveys given the assessment is largely desk based. However, the consideration given to archaeology in the application particulars is considered appropriate. This is due to the nature and characteristics of the proposed development and the fact there is limited foundation works required. On this basis it is unlikely that significant impacts would occur. This

being said, it is considered that a condition related to archaeological monitoring is attached to any grant of permission.

Consideration of the visual impact to certain built heritage features is provided above in Section 8.1.8.

It is considered unlikely, subject to mitigation measures, that significant impacts would arise on built heritage and in particular archaeology.

8.1.12. Interaction between the factors

There is potential for interactions between various environmental factors, notably between land, water, soil and biodiversity and population. These would be controlled as part of the standard and best practice construction and operation measures. On this basis it is considered unlikely that significant impacts would arise from the interaction between factors.

Cumulative Impacts

Consideration of cumulative impacts is considered below in Section 8.2.4. It is considered unlikely that cumulative impacts with other existing and/or approved projects would arise including Mothel Phase 1 and associated grid infrastructure.

8.1.13. Other Matters

8.1.13.1. *Construction Period*

The applicant has applied for planning permission for an appropriate construction period of 10 years. The applicant has stated that there is uncertainty in respect of the grid connection for the proposed development which is dependent on other external parties, EirGrid and the Electricity Supply Board (ESB). Once commenced, it is expected that the construction phase will take approximately 10-12 months.

The concern of the appellants in respect of unremitting construction phase impacts is noted. However, the fact that the permission is for ten years will not mean, in practice, that there will be ten years of continuous construction occurring on the site. Once a firm grid connection is received it would be in the applicants interest to complete the proposed development as expeditiously as possible to ensure its economic viability. The applicant has stated that the construction phase should only take a year to complete. Such a timeframe can be managed by the local authority through an appropriate condition agreeing the details of the CEMP.

An appropriate period of ten years is considered appropriate.

8.1.13.2. Operational Period

The applicant has applied for a planning permission for an operational period of forty years. The applicant has stated that such an operational period will increase the economic viability of the proposed development both for the project promoter and the government who may be providing certain supports to the proposed development under the Renewable Energy Support Scheme (RESS).

Notwithstanding the validity of this submission, consideration must be had to the wider project and the operation period given planning permission at Mothel Phase 1 (ABP-304651-19). In this instance, a twenty-five year operational period was permitted to enable the planning authority to review the operation of the solar farm, having regard to the circumstances then prevailing. To ensure appropriate coordination and orderly development of the wider project, which will share a grid connection, an operational period of twenty-five years would seem applicable in this instance. This would bring both Phase 1 and Phase 2 into temporal alignment.

An operational period of twenty-five years is considered appropriate.

8.1.13.3. 'Project Splitting'

The term 'project splitting' is associated with avoidance of EIA requirements. As noted below, a solar farms is not of a class that requires an EIAR, in of itself, and there is no associated works (like hedgerow removal) or ancillary development (such as grid infrastructure) associated with the proposed development that would result in it requiring an EIA. Either alone or cumulatively, it is not considered an EIA is required as set out below in Section 8.2.

The planning application, including the PECR and NIS, have been explicit and circumspect to present and assess the overall project. The cumulative impacts and in-combination effects of both the Phase 1 Solar Farm (Ref: ABP-304651-19) and associated grid infrastructure (Ref: ABP-303930-19) has been factored into the assessment for the subject application under appeal.

Several appellants raise the O'Grianna judgement and the assessment of the grid connection. Issues in this respect arise where there is a requirement for EIA. It is therefore a matter for the applicant to present and apply for planning permission as

they see fit. However, it is considered that, again, the applicant has been explicit and circumspect to assess the overall project including grid connection in their PECR and NIS and the assessment in this report does likewise.

It is not considered that 'project splitting' is occurring.

8.1.13.4. *Consideration of Alternatives*

It is a policy objective under UTL 13 of WCCDP to consider reasonable alternatives and existing infrastructural assets at initial design stage. The appellants draw attention to the fact that scant information is provided in this regard – this point is agreed with.

The applicant has not provided any information addressing reasonable alternatives for the location of this new energy development. While Further Information could be requested by the Board in this regard it is not considered necessary in this instance. This is on that basis the principle development, set out in Section 8.1.1 of this report, was considered acceptable subject to compliance with the proper planning and sustainable development of the area and compliance with the relevant plan. It is also assumed any consideration of alternatives would have likely identified available lands in close proximity to Phase 1 in any case.

8.1.13.5. *Administrative Issues in WCCC*

There is a raft of issue raised about how WCCC has administered the planning application including conflicts of interest, independent external assessment, consideration of submissions, timeframes of reporting and scrutiny of assessment. While these are noted, the issue of whether they are relevant or now largely immaterial. WCCC's statutory powers in respect of the planning application has ceased. Those who made observations have exercised their right of third party appeal.

It is now the duty of the Board to administer the application and consider it *de novo*.

8.1.13.6. *Requirements for EPA Involvement*

There is no statutory basis why the planning application should have been subject to referral and indeed separate assessment by the EPA. The planning authority, formerly WCCC, and now the Board is the competent authority for such a development under the legislation. The proposed development does not comprise or

is not for the purposes of an activity requiring an integrated pollution control licence or a waste licence.

The appellants provides no legal basis why such a referral to or assessment by the EPA is warranted.

8.1.13.7. Ownership and Burdens on Land

Several submissions raise issues of burdens on the land in respect of hunting, shooting and fishing rights. While this concern is noted, it does not hinder the assessment of the proposed development as it is presented. While all land title, burden and conveyancing issues may need to be resolved. The applicant will be aware that a person shall not be entitled solely by reason of a permission under the PDA to carry out any development and may need to resolve any other legal issues arising with the land and attain any other such licences or consents required.

This is a matter that cannot be address under this current planning process

8.1.13.8. Consultation and Engagement

In respect of perceived or actual lack of engagement between the first, second and third parties, this is not a matter for the Board to foster or facilitate in the circumstances of this appeal. In any case, and in the absence of any specific framework for consultation and engagement, the applicant has met the minimum requirements for same in the context of the planning process.

8.1.13.9. Bond for Decommissioning

The appellants raise issue with the calculation of the bond to ensure reinstatement of the lands should the proposed development be abandoned during operation or decommissioning. There is also a query of who is responsible and liable. It would seem the scrap value of the equipment exceeds the cost of removing the materials and there will be a high incentive to remove the infrastructure, even in 25-40 years. Accordingly, the bond as requested by WCCC coupled with the financial incentive there will be suitable imperative and means to ensure the full reinstatement of the site should WCCC ever be called on to do so. It should also be noted that the terms of this permission are subject to enforcement under Part VIII of the PDA and WCCC may take such further action necessary, through its own enforcement powers and

that of the judicial system as required to ensure the permission is complied with including its decommissioning phase.

8.1.13.10. Mental Health

Several applicants raise mental health impacts as a result of the proposed development, primarily owing to the alteration of the landscape. While the proposed development will alter the landscape fabric, it does not markedly affect the prevailing landscape pattern or overriding rural landscape character of the area. No specific evidence has been provided to indicate that there will be a mental health impact, nor has any qualified evidence been supplied to indicate that this is the case elsewhere. In addition, there is already energy infrastructure within the general area. Thus, while it is acknowledged that the proposed development is a change, it is not wholly at odds with the surrounding landscape.

8.2. Likely Effects on the Environment

8.2.1. EIA Screening

In the PECCR Section 3.6, the proposed development was screened for EIA, where it was concluded that the proposed development is not of a type included in Schedule 5 of the PDR and an EIA is not required.

The following matters are considered relevant in the assessment of whether the submission of an EIA Report is required:

- Assessment of project type/class of development under Schedule 5 of the PDR, relevant to the proposed development.
- Assessment of relevant thresholds under Part 2 of Schedule 5 of the PDR.
- Assessment of proposed development including its likely effects on the environment as set out above in Section 8.1.

8.2.2. Project Types / Class of Development

The applicant makes explicit reference to the a 2020 High Court judgment in Sweetman -V- An Bord Pleanála and others [2019 No. 33 J.R.] where it was concluded that solar farm infrastructure is not an EIA Project type identified in Schedule 5 of the Planning and Development Regulations 2001, as amended (PDR) and as such, does not require EIA.

This judgement concerns itself largely with the following provisions:

- Schedule 5, Part 2, Class 3 (a) Industrial installations for the production of electricity, steam and hot water not included in Part 1 of this Schedule with a heat output of 300 megawatts or more.
- Schedule 5, Part 2, Class 10 (b) (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
- Schedule 5, Part 2, Class 10 (d) (d) All private roads which would exceed 2000 metres in length.

The PECR is dated February 2023 and since then, S.I. 383 of 2023 *Planning and Development (Amendment) (No. 2) Regulations 2023* has been introduced which, amends Part 2 of Schedule 5 of the PDR, by inserting 'Projects for the restructuring of rural landholdings'. This now requires consideration.

The appellants make reference to a planning application for a 3.88 ha solar farm in Kilbarry, Co Waterford (Ref:19/370) that included an EIA. The Board should be clear that the particulars of this planning application are different to that before it now. The planning application in question was associated with an overall residential masterplan. It contained over 500 dwelling units which is a class and threshold for such type of development. This does not arise in this instance.

8.2.2.1. *Schedule 5, Part 2, Class 3 (a) Industrial installations*

It is not considered that this class of development is applicable. While the proposed development of a solar farm does generate electricity, there is no concomitant generation of heat and steam. The appellants view that the production of electricity alone prompts consideration of the class is noted, but current legal precedent suggests otherwise.

8.2.2.2. *Schedule 5, Part 2, Class 10 (b) (vi) Urban Development*

It is not considered that this class of development is applicable. The proposed development is not on zoned lands, as such, in the WCCDP. It is located on 'Agriculture A' or 'White Lands' which are specifically defined as lands outside of the designated settlements in Section 11.1 of the WCCDP. The site is not located in an urban environment.

8.2.2.3. *Schedule 5, Part 2, Class 10 (dd) All private roads*

It is not considered that this class of development is applicable. There is no private road described as part of the proposed development. It is not considered the tracks proposed constitute a private road. It is noted that the Board has previously determined that such access tracks in respect of solar developments do not fall under Class 10 (ABP-301028-18, ABP-302681-18, PL17.248146).

8.2.2.4. *Projects for the Restructuring of Rural Landholdings*

It is considered that this class of development may be applicable. This is a rural landholding and it is proposed to remove field boundaries removal. The threshold for this class is considered below.

8.2.3. Project Thresholds

As set out above, it is considered that the proposed development may be a class for the purposes of EIA, under S.I. 383 of 2023 Projects for the Restructuring of Rural Landholdings which includes:

Projects for the restructuring of rural land holdings, undertaken as part of a wider proposed development, and not as an agricultural activity that must comply with the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011, where the length of field boundary to be removed is above 4 kilometres, or where re-contouring is above 5 hectares, or where the area of lands to be restructured by removal of field boundaries is above 50 hectares

The proposed development will include the removal of 108 m of field boundary to facilitate access requirements, however, it is well below the 4 km threshold. Such removal is associated with access requirements and does not result in the amalgamation or enlargement of existing fields. It is also considered that significant effects on biodiversity are not likely as a result of such works.

There is no 'recontouring' included as part of the proposed development. While there may be localised earthworks or other use or drainage works, it is not considered that this would amount to 'recontouring'. In practice the ground levels across this area do not vary significantly and no significant excavation will be required. Overall the topography of the lands will not be impacted as the panels can be installed to existing topography, without excavation or alteration of levels. Access tracks, clear span bridges, inverter and transformer stations will require some localised levelling

and foundation works, however, such works are not significant in nature and would not constitute 'recontouring' of the lands.

In respect of the last clause, it is not considered that the proposed development is a projects for the restructuring of rural land holdings, undertaken as part of a wider proposed development, where the area of lands to be restructured by removal of field boundaries is above 50 hectares. While the overall site is 141 ha in total, there is no restructuring occurring - removal is associated with access requirements only. Such removal does not result in the amalgamation or enlargement of existing fields.

On the basis of the field boundary removal, the proposed development is 'subthreshold'.

The applicants raise the issue that the solar farm is larger than that identified and the applicant are effectively splitting several projects that make up the wider project, including Phase 1 at Mothel and the grid connection. The appellants a right to query this given there is a functional interdependence between projects. However, when entire project is considered wholly it is not considered that any specific threshold for any class of development is exceeded.

The appellants also consider that the structure of the planning permissions for the wider project is obscuring the wider impacts. However, the planning application, including the PECR and NIS, have been explicit and circumspect to present and assess the overall project. The cumulative impacts and in-combination effects of both the Phase 1 Solar Farm (Ref: ABP-304651-19) and associated grid infrastructure (Ref: ABP-303930-19) has been factored into the assessment for the subject application under appeal. On the basis that EIA is not required for the project as a whole, it is at the discretion of the applicant in seeking the execute a planning strategy to present these to the planning system as required – while not always desirable, it is often inevitable for companies undertaking large projects.

In conclusion, a mandatory EIA is not required. Where the development is 'subthreshold', and also considering Schedule 5, Part 2, Class 15 'Sub-Threshold' Projects, an assessment should be made against the criteria for determining whether development listed in Part 2 of Schedule 5 which are set out in Schedule 7 of the PDR.

8.2.4. Schedule 7 Assessment of the Characteristics, Location and Potential Impacts

The applicant has included a significant volume of information, in its PECR and NIS, in relation to the proposed development and the likely significant effects on the environment. This is coupled with the assessment carried out in Section 8.1 above and 8.3 below in this report as well as the various technical experts within WCCC who have considered the impacts of the proposed development acceptable.

While the proposed development will be a significant intervention in the rural area, and there will be certain impacts, it is considered that the environment has the capacity to absorb the proposed development in the context of that existing. The extent of field boundary removal is minimal and not significant in the context of this rural area, and the development will not result in significant emissions to the environment. The development is not associated with any significant loss of habitat or pollution which could act in a cumulative manner to result in significant negative effects to any ecological site.

Should the construction of the proposed development occur in tandem with other development considered in Section 5.0 of this report, in particular the other phases of the solar farm project, any impacts would be of a temporary nature and short-term given:

- the limited nature of works (no significant structures),
- the expected duration of the works (10-12 months),
- the location of lands to be developed (improved agricultural grassland),
- the location and distance to the other existing and/or approved projects.
- the implementation of standard and best practice construction, operation and decommissioning measures.

It is considered unlikely that cumulative impacts with other existing and/or approved projects would arise.

Having regard to the nature and scale of the proposed development, the environmental impacts are not complex or intense. Furthermore, the implementation of standard best practice methodologies during the construction, operation and decommissioning phase of the proposed development will result in a reasonable possibility of effectively reducing potential impacts.

Having regard to the nature and scale of the proposed development, it is expected that the impacts will be on-going, long term and will generally only be reversible if the

constructed elements of the scheme are removed. Such removal or at least reassessment of the solar farm's continuance will be part of the terms of permission. The construction phase impacts, will be of relative short duration and limited frequency.

On this basis and when considering:

1. Characteristics of proposed development.
2. Location of proposed development.
3. Types and characteristics of potential impacts.

it is considered unlikely that there would be significant effects on the environment arising from the proposed development.

8.3. Likely Significant Effects upon a European Site

The NIS submitted with the application concluded that, following the application of the detailed mitigation measures, the proposed development would not either alone or in combination with other plans or projects, adversely affect any European Site.

The application documentation includes information required in respect of the methodology applied, a description of the existing sites and 'Stage 1' and 'Stage 2' assessments. The areas addressed in this assessment includes the following:

- Screening for AA
- Natura Impact Statement
- AA of implications of the proposed development on the integrity each European site

The applicant has submitted an AA Screening Report and NIS which is dated February 2023 as part of the particulars supporting the application. The documentation is in line with current best practice guidance and 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. The documentation was prepared by Tobin Consulting Engineers and the qualifications and experience of the main author of the report is suitable and relevant.

This assessment has had regard to relevant guidance including:

- Department of the Environment Heritage and Local Government (DEHLG) (2009), AA of Plans and Projects in Ireland: Guidance for Planning Authorities.
- European Commission (2002), Assessment of Plans and Projects significantly affecting Natura 2000 sites. Methodological Guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC.

At a high level and to put the documentation in context:

- The proposed development will not be located within a European site and the closest European 2000 site is approximately 0.7 km from the site. There are three European sites within 15 km of the site.
- Some key features transecting the site are the Ballygarret Stream and Mothel Stream, both of which meet the River Clodiagh. The River Clodiagh is a tributary of the River Suir and is part of the Lower River Suir Special Area of Conservation (SAC) (Site Code: 002137). The SAC starts in Clonea, where the Ballygarret Stream meets the River Clodiagh.
- The river is also part of a Freshwater Pearl Mussel (*Margaritifera margaritifera*) catchment. There is significant discussion in this appeal about the FWPM and potential for adverse impacts to this species.
- Otters (*Lutra lutra*) and habitats suitable for such species are present on the site. Such species are listed as qualifying interests for a nearby European Sites. An otter slide was found within the site a

8.3.1. Screening for Appropriate Assessment

The AA Screening Report describes the proposed development, its receiving environment and relevant European Sites in the zone of influence of the development.

The proposed development 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 any European sites.

The AA Screening Report considers European sites within a 15 km range and with a hydrological connection. This Zone of Influence was established based on the extent at which potential impacts may be carried via identified pathways (i.e., watercourses). Having regard to the nature of the proposed development, the nature

of the receiving environment and the source-pathway-receptor model. It is considered that this is a reasonable Zone of Influence.

Having regard to:

- the information and submissions available.
- the nature, size and location of the proposed development.
- its likely direct, indirect and in-combination effects.
- the source-pathway-receptor model; and
- the sensitivities of the ecological receptors.

It is considered that:

- Lower River Suir SAC (002137)
- Comeragh Mountains SAC (001952)
- Nier Valley Woodlands SAC (000668)
- River Barrow and River Nore (002162)
- Hook Head SAC (000764)

are relevant to include for the purposes of initial screening for the requirement for Stage 2 AA on the basis of likely significant effects.

Table 1 below lists the qualifying interests of these sites, their conservation objectives, and possible connections between the proposed development (source) and the sites (receptors).

8.3.1.1. *Sites unlikely to be Significantly Effected*

On consideration of the European Sites set out in Table 1 and the source-pathway-receptor model which indicates any potential or meaningful connectivity between the proposed development. It is reasonable to conclude, on the basis of the information on the file, that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on any European Site, in view of the conservation objectives of the following sites:

- Comeragh Mountains SAC (001952)
- Nier Valley Woodlands SAC (000668)
- Hook Head SAC (000764)

This is because there is no potential for meaningful biological or relevant hydrological connectivity to these sites. Given the separation of the proposed development from this site, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.

Several appellants raise concern with screening for the Comeragh Mountain SAC (001952) and that it should be considered in the NIS. However, on review of its relationship to of the European site to the proposed development and the specific qualifying interests there is unlikely to be an adverse impact. The only overlapping qualifying interest between the Comeragh Mountain SAC (001952) and the Lower River Suir SAC (002137) is *Water courses of plain to montane levels with the Ranunculus fluitantis and Callitriche-Batrachion vegetation* [3260].

8.3.1.2. Sites likely to be Significantly Effected

However, as the proposed development is located upstream of:

- Lower River Suir SAC (002137)
- River Barrow and River Nore SAC (002162)

This raises the potential for indirect effects on it and its qualifying interests during the construction and operation phase. It is noted that the no instream works proposed and there is a reasonable separation between the proposed development and river. Notwithstanding this, potential impacts could arise from any deterioration in water quality as a result of the uncontrolled or unmitigated release of pollutants, including sediments and invasive species to the drains and streams that are hydrologically connect the site to the river. This in turn could have adverse impacts on European Sites

On this basis, it is considered that it cannot be excluded, on the basis of the information before the Board, that the proposed development, individually or in combination with other plans or projects, would have a significant effect on the Lower River Suir SAC (002137) and River Barrow and River Nore SAC (002162).

It is determined that an AA of the proposed development is required.

This conclusion is consistent with the documentation submitted by the applicant except for consideration of the River Barrow and River Nore SAC (002162). This SAC is a considerable distance from the proposed development but should be

considered further out of an abundance of caution and using the precautionary principle. The relevant qualifying interests that may be affected are common to the Lower River Suir SAC (002137).

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Table 1: European Sites considered for Stage 1 Screening				Source-Pathway-Receptor and Potential for Likely Significant Effects
European Site (Code)	Distance	Qualifying Interest(s)	Conservation Objectives	
Lower River Suir SAC (002137)	Approximately 700m southeast	<ul style="list-style-type: none"> Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachion vegetation [3260] Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430] Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] Taxus baccata woods of the British Isles [91J0] Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] Austropotamobius pallipes (White-clawed Crayfish) [1092] Petromyzon marinus (Sea Lamprey) [1095] Lampetra planeri (Brook Lamprey) [1096] Lampetra fluviatilis (River Lamprey) [1099] Alosa fallax fallax (Twaité Shad) [1103] Salmo salar (Salmon) [1106] Lutra lutra (Otter) [1355] Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110] Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachion vegetation [3260] Northern Atlantic wet heaths with Erica tetralix [4010] European dry heaths [4030] Alpine and Boreal heaths [4060] Blanket bogs (* if active bog) [7130] Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) [8110] Calcareous rocky slopes with chasmophytic vegetation [8210] Siliceous rocky slopes with chasmophytic vegetation [8220] Hamatocaulis vernicosus (Slender Green Feather-moss) [6216] 	To maintain or restore the favourable conservation condition of the Annex I habitats for which the SAC has been selected	The site is hydrologically connected to the River Clodiagh through the Ballygarret and Mothel Streams.
Comeragh Mountains SAC (001952)	Approximately 4km west	<ul style="list-style-type: none"> Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110] Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachion vegetation [3260] Northern Atlantic wet heaths with Erica tetralix [4010] European dry heaths [4030] Alpine and Boreal heaths [4060] Blanket bogs (* if active bog) [7130] Siliceous scree of the montane to snow levels (Androsacetalia alpinae and Galeopsietalia ladani) [8110] Calcareous rocky slopes with chasmophytic vegetation [8210] Siliceous rocky slopes with chasmophytic vegetation [8220] Hamatocaulis vernicosus (Slender Green Feather-moss) [6216] 	To maintain or restore the favourable conservation condition of the Annex I habitats for which the SAC has been selected	No potential for meaningful biological or relevant hydrological connectivity to this site. Given the separation of the proposed development from this site, it is considered that the potential for impacts to arise from the construction, operation and decommissioning phase of the proposed development is unlikely.
Nier Valley Woodlands SAC (000668)	Approximately 11km west	<ul style="list-style-type: none"> Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] 	To maintain or restore the favourable conservation condition of the Annex I habitats for which the SAC has been selected	No potential for meaningful biological or relevant hydrological connectivity to this site. Given the separation of the proposed development from this site, it is considered that the potential for impacts to arise from the construction, operation and decommissioning phase of the proposed development is unlikely.

River Barrow and River Nore SAC (002162)	Approximately 25 km west	<ul style="list-style-type: none"> • Estuaries [1130] • Mudflats and sandflats not covered by seawater at low tide [1140] • Reefs [1170] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330] • Mediterranean salt meadows (Juncetalia maritimi) [1410] • Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260] • European dry heaths [4030] • Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430] • Petrifying springs with tufa formation (Cratoneurion) [7220] • Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] • Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] • Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016] • Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] • Austropotamobius pallipes (White-clawed Crayfish) [1092] • Petromyzon marinus (Sea Lamprey) [1095] • Lampetra planeri (Brook Lamprey) [1096] • Lampetra fluviatilis (River Lamprey) [1099] • Alosa fallax fallax (Twaité Shad) [1103] • Salmo salar (Salmon) [1106] • Lutra lutra (Otter) [1355] • Trichomanes speciosum (Killarney Fern) [1421] • Margaritifera durrovensis (Nore Pearl Mussel) [1990] 	To maintain or restore the favourable conservation condition of the Annex I habitats for which the SAC has been selected	Some potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the River Suir. Given the separation of the proposed development from this site and the dilution and dispersion action of the sea, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.
Hook Head SAC (000764)	Approximately 38 km south-west	<ul style="list-style-type: none"> • Large shallow inlets and bays [1160] • Reefs [1170] • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] 	To maintain or restore the favourable conservation condition of the Annex I habitats for which the SAC has been selected	No potential for meaningful biological or relevant hydrological connectivity to this site as it is connected via the river. Given the separation of the proposed development from this site and the dilution and dispersion action of the river, it is considered that the potential for impacts to arise from the construction and operation phase of the proposed development is unlikely.

8.3.2. Appropriate Assessment ('Stage 2')

8.3.2.1. *Potential Adverse Effects*

The proposed development is not directly connected with or necessary to the management of the Lower River Suir SAC (002137) or any other European sites in the surrounding area. However, as the proposed development is located upstream of and hydrologically connected to the this European site, this raises the potential for indirect effects on it and its qualifying interests during the construction and operation phase.

The potential impacts could arise from any deterioration in water quality as a result of the uncontrolled or unmitigated release of pollutants, including sediments, invasive species to the drains and streams that are hydrologically connect the site to the River. This in turn could have adverse impacts on qualifying interests. In particular there may be a potential for adverse impacts to FWPM, white-clawed crayfish, sea lamprey, brook lamprey, river lamprey, twaite shad, Atlantic salmon and otters.

The potential likely significant impacts that could arise during the construction and operational and decommissioning phases of the proposed development on the European site's qualifying interests habitats and species are:

- the release of pollutants, including siltation/sediments to surface water with resultant impacts to water quality.
- the loss of or damage to habitats, including breeding resting, foraging places, used by qualifying interest species (this also considers loss through noise, dust and light impacts)
- the dispersal of invasive species with resultant impacts on qualifying interest habitats and species in particular downstream bank destabilisation.

Several appellants attach a submission from Dr. Evelyn Moorkens who has extensive experience in the field of FWPM. In summary Dr Moorkens considers the NIS contains a number of defects including a lack of surveys or investigations for FWPM, historical mapping, and details for the management of FWPM during the operational phase. The submission also considered the proposed development will have a hydrological impact which will not result in the restoration of the population to a favourable condition.

This submission is noted and has been considered in the context of this Appropriate Assessment. Generally the potential for risk to arise from hydrological impact is accepted, however the likelihood and significance of that risk in terms of the potential for impacts on FWPM at a distance downstream differs and it is not considered that the proposed development in of itself would result in unfavourable conditions for a restored FWPM population. In particular, the assessment is satisfied in relation to the effectiveness of mitigation through the control of drainage by best-practice construction methods. The assessment has confidence that, properly implemented, the mitigation measures proposed are both effective and well-understood.

In deciding not to accept the opinion of Dr Moorkens, the assessment is satisfied that, following the implementation of the drainage design and mitigation measures, any residual impacts would be low in terms of both likelihood and significance, which would be acceptable. This view is based on the fact that there will be no instream works, no significant below-ground works and above-ground works like access tracks are not extensive in the context of the wider site to change its hydrological regime.

Taking a longer term view, it has to also be acknowledged that the displacement of intensive beef and dairy farming on these lands may have a positive impact on the water and hydrological regime of the site and improve the situation downstream. It is unclear whether Dr. Moorkens has given this consideration in her assessment.

This assessment is, therefore, satisfied that good principles of drainage design has been applied. The Board, however, should assure the high standard of design, implementation and monitoring that is required at this location, including detailed mitigation measures. by means of condition to protect water quality and aquatic ecology, including Freshwater Pearl Mussel.

Additionally - the appellants make a valid point that conditions of any permission cannot give rise to scientific doubt as to the effects of the works on European sites. In examining the conditions in this respect it is considered that there is no conditions set out below would give rise to doubt in the context of European sites. The conditions are effectively additional mitigation measures and will improve the existing environment at the site and minimise effects to hydrological connections and in turn European sites. The mitigation set out in the NIS are stand-alone measures and are

simply ensured by way condition – it also ensures compliance with same is enforceable by WCCC. Should the Board be minded to grant permission the condition set out below have been considered in this context and it is considered their implementation would not give rise to adverse effects on qualifying interest species and habitats respect to its attributes and targets in of themselves. They enhance the scientific certainty on impacts rather than create doubt in this instance.

8.3.2.2. *Potential In-Combination Effects*

In combination effects are examined within Section 8.5 of the NIS submitted. The proposed development was considered in combination with other developments collated in the WCCC planning portal. This assessment also considers the Board's planning portal and planning histories considered in Section 5.0 of this report. The Phase 1 Solar Farm and grid infrastructure is a key component of the in combination assessment also.

Based on scientific analyses of best available scientific information, no other European sites in the area are relevant to the screening assessment and NIS.

The conclusion that with the implementation of mitigation measures, the in-Combination effect of the proposed development will not be significant is considered reasonable. It can therefore be concluded that there would be no in-combination effects on the European sites or their qualifying interests.

8.3.2.3. *Mitigation Measures*

Mitigation Measures identified in the NIS

The mitigation measures that are proposed in the NIS to address the potential adverse effects of the construction and operation are primarily for

- Supervision and Monitoring
 - Implementation of CEMP which will be reviewed by the NPWS & IFI
 - Appointment of an ECoW
- Management of Excavations
- Management of Silt
- Management of Other Potential Pollutants (i.e. chemicals, hydrocarbons)
- Monitoring of Water Quality in Receiving Watercourses
- Biosecurity (i.e. invasive species)

Subject to the implementation of the mitigation measures, there would be no resultant adverse effects on qualifying interest species and habitats respect to its attributes and targets.

Additional Mitigation Measures

It is noted that there are several mitigation measures proposed as part of the wider development in relation noise, dust and light pollution which, are not listed in Section 8.0 of the NIS, but shall be implement in full to further mitigate any potential impacts that may arise to relevant species that may use the site in particular otters.

The NIS has considered biosecurity extensively and while implied in Section 8.2.6, it is not explicitly stated that a pre-construction survey will occur for invasive species. It is recommended this mitigation measure is implemented and should be conditions to any grant of permission.

Given the concern about FWPM, the Board may seek to provide it additional protection. In this instance the applicant has committed to double silt traps at watercourses which is considered reasonable given the limited works occurring at such locations. However a triple silt trap at all watercourses may be appropriate through an abundance of caution. This has been recommended as a condition below should the Board be minded to grant planning permission.

8.3.2.4. Residual Effects

None anticipated post mitigation.

8.3.2.5. Conclusion

Having regard to the foregoing and taking account of the scale and nature of the proposed development and on the basis of the information on the file, it can be reasonably concluded on the basis of best scientific knowledge, therefore, that the proposed development, individually or in combination with other plans and projects, will not adversely affect the integrity of the Lower River Suir SAC (002137) and River Barrow and River Nore SAC (002162) in view of the sites' Conservation Objectives, subject to the implementation of the mitigation measures and any recommended conditions.

9.0 Recommendation

It is recommended that the Board grant planning permission for the proposed development subject to the reasons and considerations below and subject to the conditions set out.

10.0 Reasons and Considerations

Having regard to the following:

- the nature and scale of the proposed development,
- the consideration of main grounds of appeal and observations in relation to the proposed development set out in Section 8.1 of this report,
- the likely significant effects on the environment arising from the proposed development set out in Section 8.2 of this report,
- the likely significant effects on European sites arising from the proposed development set out in Section 8.3 of this report, including
 - the location of the proposed development and the separation distance from the Natura 2000 sites,
 - the hydrological connection between the site and the European site via an adjacent watercourse,
- the likely consequences for the proper planning and sustainable development in the area arising from the proposed development and the location of the site on lands zoned residential in the Waterford County Development Plan 2022-2028, other related policies and objectives and the results of the Strategic Environmental Assessment and Appropriate Assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC),
- the planning application particulars submitted by the applicant including the response to submissions on the appeal,
- the submissions made by prescribed bodies and reports of the local authority in respect of the proposed development,
- the report and recommendation of the Inspector.

It is considered that:

- the proposed development would not be likely to have significant effects on the environment

- the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site, in view of the site's conservation objectives
- the proposed development would be in accordance with the proper planning and sustainable development of the area

It is considered reasonable to conclude that on the basis of the information available, which is considered adequate to issue a screening determination, that the proposed development, either individually and in-combination with other plans or projects, would not be likely to have a significant effect on the identified Natura 2000 sites, in view of the conservation objectives of these sites.

Appropriate Assessment

The Board agreed with the screening assessment, Appropriate Assessment and conclusions contained in the Inspector's report that the Lower River Suir SAC (002137) and River Barrow and River Nore SAC (002162) are European sites for which there is a likelihood of significant effects.

The Board considered the submitted Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment in relation to the potential effects of the proposed development on the above referenced European site in the vicinity of the application site. The Board noted that the proposed development is not directly connected with or necessary for the management of a European site and considered the nature, scale and location of the proposed development, as well as the report of the inspector. In completing the Appropriate Assessment, the Board adopted the report of the inspector and concluded that the proposed development, by itself, or in combination with other plans or projects in the vicinity, would not be likely to have a significant effect on any European site in view of the site's conservation objectives.

Conditions

Plans and Particulars

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by particulars received by An Bord Pleanála on the 5th day of July 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

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

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

3.
 - a) The permission shall be for a period of 25 years from the date of the commissioning of the solar array. The solar array and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.
 - b) Prior to commencement of development, a detailed restoration plan, including a timescale for its implementation, providing for the removal of the solar arrays, including all foundations, anchors, CCTV cameras, fencing and site access to a specific timescale, shall be submitted to, and agreed in writing with, the planning authority.
 - c) On full or partial decommissioning of the solar farm, or if the solar farm ceases operation for a period of more than one year, the solar arrays, including foundations/anchors, and all associated equipment, shall be

dismantled and removed permanently from the site. The site shall be restored in accordance with this plan and all decommissioned structures shall be removed within three months of decommissioning.

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

Grid Connection

4. This permission shall not be construed as any form of consent or agreement to a connection to the national grid or to the routing or nature of any such connection.

Reason: In the interest of clarity.

Environmental

5. All of the environmental, construction, operation and decommissioning phase mitigation measures set out in the Planning and Environmental Considerations Report and other particulars submitted with the application shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order. Where such measures 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.

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

6. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. The developer shall agree such details in writing with the planning authority prior to commencement of development.

Reason: In the interest of environmental protection.

Ecological

7. The mitigation measures contained in the Natura Impact Statement which was submitted with the application shall be implemented in full.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European sites.

8. Triple silt traps shall be provided at all watercourses. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To prevent water pollution.

9. Prior to the commencement of development pre-commencement surveys for protected plant, animal species and invasive species shall be undertaken at the site and where required the appropriate licence to disturb or interfere with same shall be obtained from the National Parks and Wildlife Service.

Reason: In the interest of wildlife protection.

10. During the construction phase, the developer shall adhere to the 'Guidelines for the Treatment of Badgers prior to the Construction of National Road Schemes', published by the National Roads Authority in 2006. In particular, there shall be no blasting or pile driving within 150 metres of an active badger sett during the breeding season (December to June) or construction works within 50 metres of such an active sett during the breeding season.

Reason: In the interest of wildlife protection.

11. Before construction commences on site, details of the structures of the security fence showing provision for the movement of mammals at regular intervals along the perimeter of the site shall be submitted for prior approval to the Planning Authority. This shall be facilitated through the provision of mammal access gates

designed generally in accordance with standard guidelines for provision of mammal access (NRA 2008).

Reason: To allow wildlife to continue to have access across the site, in the interest of biodiversity protection.

12. The Landscape Mitigation Plan and Biodiversity Management Plan for the proposed development, in accordance with that submitted, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The site shall be managed in accordance with the agreed plans. This plans shall cover a period of at least five years and shall include details of the arrangements for its implementation.

Reason: To ensure the preservation and protection of flora and fauna within the site. and provide for the satisfactory future maintenance of this development in the interest of visual amenity.

13. The applicant shall appoint a suitably qualified ecologist to monitor and ensure that all avoidance/mitigation measures relating to the protection of flora and fauna are carried out in accordance with best ecological practice and to liaise with consultants, the site contractor, the NPWS and Inland Fisheries Ireland. A report on the implementation of these measures shall be submitted to the planning authority and retained on file as a matter of public record.

Reason: To protect the environmental and natural heritage of the area.

Residential Amenity, Public Health & Safety

14. a) No additional artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.
- b) 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 stations shall be dark green in colour. The external walls of the storage containers shall be finished in a neutral colour such as light grey or off-white and the roof shall be of black slate or tiles.

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

15. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

16. The construction of the development shall be managed in accordance with a Construction Management Plan, to include a Construction Traffic Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- a) Details of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Details of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

- i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and
- k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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

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

17. No construction phase traffic shall be permitted to use the L7064 save for the purposes of crossing it perpendicular at the identified crossing point.

Reason: In the interest of public safety and traffic hazard.

18. The final details of the operational access arrangements shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. Any gates shall open inwards only.

Reason: In the interests of traffic safety.

19. All road surfaces, culverts, watercourses, verges and public lands shall be protected during construction and, in the case of any damage occurring, shall be reinstated to the satisfaction of the planning authority. Prior to commencement of development, a road condition survey shall be taken to provide a basis for reinstatement works. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

20. a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:

(i) An LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. [The T value shall be one hour.]

(ii) An LAeqT value of 45 dB(A) at any other time. [The T value shall be 15 minutes]. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

b) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 “Assessment of Noise with respect of Community Response” as amended by ISO Recommendations R 1996 1, 2 or 3 “Description and Measurement of Environmental Noise” as applicable.

Reason: To protect the amenities of property in the vicinity of the site.

Archaeology

21. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

Financial

22. Prior to commencement of development, the developer shall lodge with the Waterford City and County Council 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

23. 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.

Professional Declaration

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Tomás Bradley,
Senior Planning Inspector
15th November 2023