



An
Bord
Pleanála

Inspector's Report ABP-317577-23.

Development	10 year permission for a 42.6 hectare solar farm.
Location	Mallow, County Cork.
Planning Authority	Cork County Council.
Planning Authority Reg. Ref.	225681.
Applicant(s)	Soliere Renewable SPV Ltd
Type of Application	Permission.
Planning Authority Decision	Grant with 54 no. conditions.
Type of Appeal	Third Party and 1 st party against conditions
Appellants	Jess & Maurice Foley
Observer(s)	None.
Date of Site Inspection	10 th July 2024
Inspector	Philip Davis.

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1.0 Introduction

This appeal is against the decision of the planning authority to grant permission for a solar farm extending over 42 hectares on farmland west of the N20 between Buttevant and Charleville in north County Cork. The appeal is by local residents for a number of reasons relating to visual and environmental effects and traffic impacts. The applicants have also appealed one condition – condition 44, which omits a portion of the scheme for reasons relating to ecology.

An NIS was submitted with the application.

2.0 Site Location and Description

2.1. Coolcaum townland and environs

The appeal site is in the townland of Coolcaum, located on relatively flat low-lying land drained by the Awebeg River, a tributary of the Blackwater. It is located around 2km west of the N20 Cork to Limerick Road, approximately between the small towns of Charleville and Buttevant, north of Midleton. The closest settlement is the village of Churchtown, around 3km to south-south-west. The area is generally quite flat, with a gentle rise to uplands to the north. The Ballyhoura Mountains rise to around 6km to the east, on the opposite side of the N20 and the Cork Dublin railway line. The Ballyhoura mountains are heavily wooded with conifer plantations and features leisure walks and the largest mountain bike network in the country. The overall area west of the N20 is served by a network of third class roads (notably the L5528; L5527; L5529 and L4430) connecting with the N20 along with some long private access tracks to individual farms and gravel workings. The Ballhoura Way long distance walk follows minor third class roads around 2km to the south of the townland and a number of long distance cycling routes (all on-road), utilise the minor road network.

The overall landscape is characterised by a mix of large open fields, usually dairy or beef grazing, with areas of conifer plantation on what appear to be reclaimed boglands. There is a windfarm to the north of Coolcaum.. Fields are usually bounded by ditches and hedges. There are a number of active and former gravel workings in the area, with one very large flooded gravel pit around 2-km east of the townland.

2.2. Appeal site

The appeal site is an irregularly shaped area of largely flat (within the 90 metre AOD contour) agricultural land on the east side of a third-class road (L5528) running from Ballynoran Crossroads to Churchtown village. It is stated to be just over 42 hectares in extent and is mostly in use for beef grazing. The landholding constitutes around 10 fields around a bungalow dwelling and a farm complex, although many of the field boundaries have been degraded and are now just low ditches, with occasional stretches of hedgerow and some treelines. The lands slope gently from west to east, with the eastern fields generally flat and intersected with drainage ditches. This area appears to have been former wetlands, drained prior to the earliest OS maps of the area.

There is a single bungalow on the lands, with a laneway connecting to the country road to the west – parallel to this laneway is another lane connecting to a small complex of agricultural buildings. An unpaved track runs south and east from the agricultural buildings providing access to most of the fields. The Struhaneballiv Stream, a tributary of the Awbeg, runs along much of the eastern boundary of the site (note that there appear to be several different names for this small network of streams). This stream is part of the River Blackwater SAC. The stream runs through what appears to be an engineered channel next to the site. To the east and south there are open fields beyond the site, with a small hill called Caherconnor prominent about 300 metres from the lands. To the west of the site there are a number of individual dwellings on the opposite side of the road.

To the east of the site, across the Struhaneballiv Stream, a 102 hectare solar farm was permitted by the planning authority (reg.ref.20/4041). This has not yet been constructed.

3.0 Proposed Development

The proposed development is described as follows:

A 10 year planning permission for the construction of, and a 40 year operation and subsequent decommissioning of, a development consisting of a 42.6 hectare solar farm. The proposed solar farm will consist of a series of ground mounted solar photovoltaic (PV) panels, mounted on steel support structures

and in some areas of potential archaeological remains on concrete blocks/shoes, together with 28 no. electrical transformation enclosures, a temporary construction compound, use of existing farm access tracks, existing site entrance, underground cabling, inverters, CCTV poles and cameras, deer type security/boundary fencing, landscaping and biodiversity measures and all associated ancillary development works, for the purpose of generating renewable energy electricity.

The application was submitted with the following documents:

- Plans and Specifications
- Planning Report
- EIA Screening Statement
- Statement of Community Consultation (SCC)
- Landscape and Visual Impact Assessment (LVIA)
- Flood Risk Assessment (FRA).
- Noise Assessment
- Glint & Glare Assessment.
- Construction and Environmental Management Plan
- Traffic Management Plan
- Geophysical Survey and Archaeological Impact Assessment.
- Ecological surveys (including a biodiversity habitat management plan, and additional reports on Aquatics and a Whooper Swan survey)

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission, subject to 54 no. conditions. Most conditions are standard, but one condition altered the design significantly, i.e. condition no. 44:

All development within the area identified in red in Figure 1 within the Ecology Office Further Information Report dated 16/06/23 shall be omitted from the

scheme. The development shall make provision for the retention of this area for the enhancement of site biodiversity.

Prior to the commencement of development, a revised site layout and landscape/biodiversity plan taking into account the above requirements shall be submitted to and agreed with the Planning Authority.

Reason: *To protect biodiversity.*

4.2. Planning Authority Reports

4.2.1. Planning Reports

There are two planning reports on file – the second was consequent to a request for further information. Key points of both reports are as follows:

- The reports provide an overview of national, regional and development plan policy relating to the lands (the site is unzoned – within a designation of ‘strong rural area’) and policy objectives applying to solar farms in general.
- Notes that one third party submission (objection) received – from the appellants to this appeal.
- Notes internal and external reports (summarised in section 4.2.2 and 4.3 below).
- Notes that the documentation states that there would be 50% site coverage with 5% soil coverage.
- States that the application is essentially an increase in the size of the permitted 102 hectare permitted solar farm to the east (not yet constructed) – Ref. reference 20/404. Cumulative impacts are therefore considered by the planning authority to be an important element of the assessment.
- Notes that road access is poor, and that Roads requested that access be via the approved link for solar farm permission **20/4041**.
- Notes that the archaeology assessment identified areas with anomalies and possible archaeological interest – the proposal is for concrete pad foundations in this area.

- Notes that the area is partially in a flood risk area – transformers, etc., should be constructed beyond the delineated extreme fluvial flood zone.
- The CEMP is considered satisfactory.
- Visual impact analysis is noted, no issues with the assessment. Cumulative impacts with other permitted developments noted but are considered to be minimal.
- Notes pre-validation application with the planning authority (**22/5933**) for two 33kV grid interconnectors, plus SID application.
- It is concluded that there are no fundamental objections to the proposal subject to the clarification of issues raised by Engineering, Ecological and Environment sections.
- Following the submission of further information, it is noted that the Ecology section is satisfied that impacts on the Whooper Swan (a qualifying interest for Kilcolman Bog SPA) can be screened out, but as a precaution recommends removing a significant area of solar panels on the potential floodplain area.

4.2.2. Other Technical Reports

Area Engineer: No objection in principle but noted lack of detail on site access – problems with proposed access and recommends access via permitted development to the east. Notes potential cumulative impacts with 20/4041 (102 hectare solar farm at Ballyhea). Following additional consultation the Area/Roads engineer stated that they are satisfied with the applicant's revised proposal for road access subject to conditions to address residual issues.

Environment Section: Notes the location within Blackwater floodplain which is an SAC. Water quality downstream is noted as of Moderate Status. Further information required on noise emissions.

Ecology: Notes proximity to water habitats and addresses NIS. Outlines issues for which further information is sought relating to the Whooper Swan (Kilcolman Bog SPA), and requests that solar panels be excluded from areas where extreme fluvial

flood depths are predicted at or in excess of 0.8 metres. On receipt of further information, it is recommended again that some solar panels be excluded, but they are of the opinion that the potential for significant effects on Whooper Swan, hence the Kilcolman Boy SPA can be excluded in the long term (the report outlines significant detail on proposed mitigation measures for the Whooper Swan). The response is considered satisfactory.

Archaeologist. No known archaeological sites, but notes anomalies identified by geophysical survey. Recommends standard mitigations.

4.3. **Prescribed Bodies**

Inland Fisheries Ireland: No objection subject to conditions relating to ensuring access to the watercourse and the maintenance of fish passage.

Irish Aviation Authority: No objection.

DoHLGH (DAU): Detailed report on foot of the further information report and pre-application consultations with the applicants stating that there is an ex-situ connectivity with Kilcolman Bog (feeding area) but notes absence of scientific data on the impacts of solar developments on the swan. Recommends a number of mitigation measures (set back areas and works timing).

4.4. **Third Party Observations**

One objection was submitted to the application – generally for the reasons outlined in the appeal. The contents of this submission have been read and noted.

5.0 **Planning History**

There are no records of applications or appeals on the appeal site, but there are two permissions on file for the dwelling within the landholding in front of the existing farmyard – **4297/78** and **2432/82**.

There are a number of applications/appeals of relevance in the general area:

ABP-315652-23/217246	Permission sought for 6 no. wind turbines on lands north west of the current appeal site. This proposal was recently refused permission (27 th June 2024) for a single reason relating to impacts on the Kilcolman SPA. This was on the basis of potential disturbance/dispersal and collision/migration effects from the operating turbines.
20/4041	Permission granted for a 102 hectare solar farm in Ballyhea, east of the appeal site. This connects to the Charleville 110kV ESB substation. This proposed development has not yet been constructed.
ABP-306915-20 (17/05799)	Permission granted on appeal for a 67 hectare solar farm north-west of the appeal site. Related appeals to this development include ABP-306915-20; ABP-301028-18; ABP-317592-23 . This solar farm has not yet been constructed.
ABP-314431-22	Approval for a 110kV single bay tail fed substation with grid connection (SID). This development has not yet been constructed.
ABP-308846-20	Permission granted on appeal for the installation of 4,387 metres of underground electricity cable.
ABP-300890-18	Development contribution appeal for a sand and gravel quarry west of the site. This is part of the site used for roosting for the whooper swan.
21/5390	Dwelling granted permission east of the site.
08/4419	Dwelling west of the site granted permission.

6.0 Policy Context

6.1. Development Plan

The site is in open countryside with no specific zoning or other designations. The Cork County Development Plan 2022-2028 sets out detailed policies in the

Development Plan relating to solar energy, renewable energy and related issues, all within the overall EU, national, regional and local context.

EU and national policy on solar farms is set out in a number of policy documents, most notably:

EU renewable Energy Directive 2009/28/EC

Promotes and sets out legally binding targets for renewable energy.

European 2020 Strategy for Growth.

Sets out targets for renewables and greenhouse gas emissions.

2030 Climate and Energy Framework

A longer-term framework than the above for cuts in greenhouse emissions and renewable energy.

Energy Roadmap 2050

Sets out differing options for achieving above mentioned goals.

National Energy & Climate Plan 2021-2030

Sets out a detailed statutory set of targets for achieving a 51% reduction in CO₂ emissions with net zero at 2050.

Climate Action Plan (2024)

Sets targets for the proportion of renewable energy in the mix – up to 80% by 2030.

National Planning Framework.

Sets out a number of objectives for achieving reductions in CO₂ emissions, specifically NPO 47 and NPO 55 with regard to renewable energy.

Regional Spatial & Economic Strategy for the Southern Region (2020)

This framework document sets out a number of specific policies with regard to the national and EU policies above. Policy RPA 95 sets out an objective to support implementation of the National Renewable Energy Action Plan, and RPO 96 states that it is an objective to support the sustainable development, maintenance and upgrading of the electricity grid infrastructure in order to meet increased demand.

The Cork County Development Plan 2022-2028 sets out policy on land use and renewable energy and related infrastructure. Specific policies are set out in section 13.8, which sets out a range of issues that need to be addressed. Policy ET 13-14 sets out further details.

Policy **ET 13-14** on Solar farm development states:

Solar Farm Development

- a) In recognition of national targets and commitments to significantly increase renewable energy production, support will be given to solar farm projects at appropriate locations, where such development does not have a negative impact on the surrounding environment, landscape, historic buildings, or local amenities.*
- b) Promote the development of solar energy infrastructure in the county, in particular for on-site energy use, including solar PV, solar thermal and seasonal storage technologies. Such projects will be considered subject to environmental safeguards and the protection of natural or built heritage features, biodiversity views and prospects.*
- c) Require that new solar farm development proposals be assessed against the criteria listed in this Plan until such time as Section 28 Guidelines on Solar Farm Developments from the Department of Housing, Planning and Local Government are published to supersede same.*
- d) Encourage the use of passive solar design principles for residential building(s) in line with relevant design criteria.*
- e) Support and encourage the installation of solar collectors and panels for the production of heat or electricity in residential and commercial buildings, in line with relevant design criteria.*
- f) All proposed solar developments locating in close proximity to any roads and airport infrastructure will undergo a full glint and glare assessment.*
- g) Proposals for development of new solar developments and associated infrastructure including grid connections will be subject to ecological impact assessment and, where necessary Appropriate Assessment, with a view to ensuring the avoidance of negative impacts on designated sites, protected species and on-sites or locations of significant ecological value*

A number of other relevant policies identified by the planning authority are **ET 13-1** on energy, **ET 13-21** on the Electricity Network, and **ET 13-22** for the transmission Network.

A series of other policies as set out in the development plan area are also relevant, including Section 14.7 on landscape, GI 14-3: Green Infrastructure and Development, GI14-9 Landscape, GI 14-10 draft Landscape Strategy, BE 15-13 – Noise and light emissions, HE 16-9: Archaeology and infrastructure, BE 15-2: Protected sites, habitats and species, and BE 15-6: Biodiversity and New Development.

6.2. **Natural Heritage Designations**

The Shruhaneballiv Stream and Awbeg Rivers are designated as part of the **Blackwater River SAC**, site code 002170. The designated area includes the banks within the site area. The **Ballyhoura Mountains SAC**, site code 002036, is just over 5km to the east. **Kilcoleman Bog SPA**, site code 004075 is just under 10km to the south-east.

7.0 **The Appeal**

7.1. **Grounds of Appeal**

Third party – Jess and Maurice Foley of Ballynoran, Charleville

- It is argued that the application was not adequately subject to community consultation as required.
- It is submitted that the application constitutes a SID development and should have been made directly to ABP – argues that it is functionally linked to Ballyroe Solar Array (20/0441).
- It is claimed that a number of documents were not made available on the online portal within the statutory period.
- It is argued in some detail that an EIA is required due to cumulative impacts with adjoining permitted developments (i.e. project splitting). Notes legal precedent C-392/96. It is also claimed that it requires EIA in accordance with Article 120(1)(b)(iii) of the Regulations.
- It is argued that it would have an unacceptable impact on the local road network during construction – it is noted that there is no assessment of traffic

impacts, and it was not acknowledged that there are hazards on the L5528 due to its narrowness and high vegetation on each side. It is argued that the TM submitted did not include a Stage 2 Road Safety Audit.

- It is argued that there is insufficient information available from the planners report as to how it was concluded on the basis of bird surveys and the DAU submissions with regard to the Whooper swan population that there would be no impact on the conservation status of this species. It is submitted that sites involved for feeding and roosting by Whooper Swans are functionally linked to that SPA. Notes precedent in Board decision **ABP-302225-18** in a refusal for reason relating to impacts on birds outside the designated habitat area.
- It is argued that the planning authority did not take account of the required 'four distinct requirements' set out in *Connolly v ABP* when assessing an appropriate assessment.
- It is therefore submitted in conclusion that the planning authority did not adequately fulfil the requirements of the EIA or Habitats Directives with regard to fully assessing impacts on identified species.

First party

The applicant appealed condition no. 44, which states as follows:

All development within the area identified in red in Figure 1 within the Ecology Office Further Information Report dated 16/06/23 shall be omitted from the scheme. The development shall make provision for the retention of this area for the enhancement of site biodiversity.

Prior to the commencement of development, a revised site layout and landscape/biodiversity plan taking into account the above requirements shall be submitted to and agreed with the Planning Authority.

Reason: *To protect biodiversity.*

The key points of the appeal are as follows:

- Provides an outline of the proposed development – notes that areas identified at risk of extreme flooding in excess of 0.8 metres above the existing ground level are excluded from development and are managed in

accordance with a biodiversity management plan – it is proposed that this area is cut yearly with the cuttings removed to encourage semi-natural grassland.

- Outlines the applicant's other solar farms in the area, notably Fiddane Solar farm (67 hectare) granted on appeal by ABP (**ABP-308846-20**) and Ballyroe 102 hectare farm (refused 20/06/23), plus related infrastructure SID and planning permissions (some pending). A map (Figure 1) indicates the applicant's proposals in the area.

In respect of condition no.44, the applicant makes the following points:

- It is noted that the Ecological officer in his report, following an assessment of all impacts, in particular on the EU designated sites, states that he largely concurs with the conclusions of the NIS and ECIA. The Ecological Officers report is quoted in detail, outlining how he agrees largely with the assessment and conclusions of the documents submitted by the applicant.
- States that the applicant's advisors met with the Council and NPWS after the request for further information – states that notes from this meeting indicates that all residual issues with regard to the biodiversity plan, mitigation measures, and assessment of impacts on Whooper Swan, had been addressed satisfactorily.
- With specific regard to the Whooper Swan, it is noted (paragraph 2.14) that surveys did not identify any Whooper Swan roosting or grazing within the site.
- The applicant goes into significant detail about the survey and known behaviour of Whooper Swan, noting in particular that these birds do not tend to habitually use the same grazing sites. Appendix D of the NIS includes full details of the Whooper Swan survey.
- With specific regard to the proposal, it is stated that a Mitigation by Design approach was taken to the proposed layout, which includes such features as siting the construction compound within the existing hard standing farmyard, setting back the arrays from site boundaries, with maintenance and strengthening of hedgerows, no construction of new access tracks, with minimal coverage of soil. The solar panels will also have white borders to

make them clearly visible to wildlife. A 15 metres buffer zone will be maintained from the Rathnacally (Sruhaneballiv) Stream and Annagh South stream.

- Details are outlined for all other environmental and habitat control/enhancement measures. These include carrying out works only in April to September (Whooper Swans are winter visitors).
- It is noted that the Ecologists recommendation was stated to be based on a precautionary approach. It is argued that on the basis of all published information and scientific knowledge, it has been demonstrated that the proposed development would not impact on Whooper Swans, and as such there is no justification for condition no.44. It is restated that the condition is based on a contention of 'uncertainty and lack of evidence', which is argued to be inappropriate as there is no scientific evidence of possible harm to the whooper swan. It is stated that if it is considered that the CCTV poles or boundary fencing constitutes a collision hazard, a condition on this would be accepted. It is argued that omitting one third of the proposed solar farm is disproportionate to the issues. It is noted (Appendix 4) that a construction/artificial light/ noise free zone was agreed at the site meeting between the appellant and NPWS.
- The applicant states that they would accept a number of conditions restating restrictions on construction timing and methods (section 3.23 of the response).
- It is further noted (links attached) that there is little evidence to support the theory that birds would mistake solar installations for waterbodies.

7.2. Applicant Response to the grounds of the 3rd party appeal

Applicant's response to third party appeal:

- The process of community consultation pre-application is summarised – it is argued that these were fully in accordance with statutory requirements.
- With specific regard to the points raised by the appellant:

Project splitting:

- It is noted that on two occasions the High Court has held that planning applications for solar farms do not constitute a class of development for which EIA is required ([2020] IEHC39 and [2020] IEHC 259).
- It is noted that as the application does not fall under Annex I or II of the Directive, the concept of project splitting has no relevance.
- The history of applications in the area is outlined in support of an argument that the various proposals and permitted developments (plan attached – Figure 1, indicating all proposals in the area), were separate applications which were never planned as a linked project.

EIA

- It is stated that Article 120(1)(b)(iii) only relates to local authority works, so is not relevant in assessing the solar farm.
- References is made to High Court decision in Kavanagh ABP [2020] IEHC 259 that if a development does not fall within the classes listed in the Annexes, then an EIA is not required. It is restated that solar farms do not fall within these Annexes.

SID

- It is argued that there is no basis for the application to have been made directly to the Board as it does not come within the definition of electricity transmission as defined under Section 182A. It is noted that the proposed development is to connect to the Ballyroe 110kV substation which with the Board (ABP-314431-22). (Note: This has now been granted approval by the board).

Transport

- It is noted that a Transport Management Plan was submitted with the application which was updated following an FI request. Section 3 of this report outlines the traffic routing proposed – i.e. via N20-L5530 – L5529 – L5527 - L5528. It is argued that these roads are appropriate and safe for the

level of traffic proposed. Section 7 of the TMP is referred to with regard to the access design (sweep pass analysis).

- It is acknowledged that sections are not wide enough to facilitate the passing of two vehicles, but it is stated that traffic is light and there are sufficient informal passing locations to allow safe passage.
- It is acknowledged that some alterations will be required to achieve visibility splays at the proposed access road /L5528 junction. It is stated that a banksman will be in place to ensure safe access/egress.
- It is acknowledged that one residential dwelling on the road frequently requires emergency access. Measures will be put in place to ensure this is not interfered with (paragraph 2.44 of the submission).
- Further measures are set out with regard to ensuring that traffic impacts are minimised.
- It is noted that the Roads Department requested that access be gained via the adjoining permitted solar farm, but it is stated that this is not possible because it would require crossing one of the streams. It is stated that an updated TMP (attached in Appendix 3 of the of the response to the 3rd party appeal) was submitted and agreed by the Council with regard to resolving the issues raised in the initial application.

Environmental/NIS issues

- The applicant refers to the arguments submitted in their appeal to Condition no.44 with regard to issues relating to the Whooper Swan.
- It is restated that the NIS has concluded that the proposed solar farm will not adversely affect the integrity of a European site – the reports of the DAU/NPWS and Ecological Officer are attached and quoted in this regard.

7.3. Planning Authority Response

None on file.

7.4. Further Responses

The 3rd party appellant responded to the applicants response as follows:

It is restated that the applicants consider that the overall community consultation was inadequate and only engaged with specific councillors and locals. It is also indicated that the description of the development may have misled resident about the nature and location of the solar farm. It is argued that this was inadequate in the light of Irelands obligations under the Aarhus convention.

It is stated that the applicants are incorrect in stating that the proposed development does not come under Annex II of the EIA directive. High Court Case [2022] IEHC 700 is quoted with regard to the restructuring of rural landholdings. It is also stated with regard to information within the submission that there would be significant sources of pollution and environmental impacts. It is further denied that the applicants' arguments that individual elements of the applicants different application in the area were developed incrementally is relevant in determining if it represents project splitting. It is emphasized that the key issue in this appeal is the potential cumulative impact of the proposed solar farm with others in the area.

With regard to traffic impacts it is stated that the applicants own submission acknowledges uncertainties about the number and size of vehicles expected – the original concerns stated by the Area Engineer are noted and it is argued that these were not fully addressed.

It is argued that the applicant has not addressed the DAU /NPWS concerns on the deficiency in the minimum requirements for Whooper surveys. It is argued that ABP should have regard to the expertise of the DAU/NPWS in this regard and accept their recommendations. It is suggested that as Kilcoman Bog SPA has no official conservation management plan indicates that not all threats to the designated sites have been identified, and this deficiency may preclude the Board from concluding that there will be no impact on the SPA.

8.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Overview
- Legal issues
- EIAR
- Principle of Development
- Landscape and Visual amenity
- Noise
- Glint and Glare
- Traffic and infrastructure
- Cultural heritage
- Water and drainage
- Ecology
- Appropriate Assessment
- Other issues

8.1. Overview

This appeal is for a solar farm on farmland in north Cork. I will address the specifics of the appellants arguments with regard to EIA below, but to clarify the nature of the proposal as submitted, it is proposed by an operator that has several energy related developments in the area (indicated in Figure 1 of the first party appeal), and these have been subject to separate planning applications and, in the case of electricity apparatus required to facilitate the developments, SID applications directly to ABP.

The proposed solar farm is on a single landholding and was submitted with the permission of the landowner – it is not proposed to alter the layout of the existing farmholding on the site and it is not proposed to change the use of the land from

agriculture, although clearly it would be an active farm at a far lower intensity than at present. The land now is generally pasture on quite wet grasslands, with some potential flooding – the land is low-lying, with a number of streams running through the area somewhat haphazardly before joining the main Blackwater channel to the south via the Awbeg River.

The proposal does not include any internal roads apart from temporary tracks required for construction purposes and the upgrading of existing internal farm tracks. The Planning Authority initially sought for the applicant to connect the site to the permitted (but not yet constructed) solar farm to the east in order to use the permitted access for that development, but it was agreed at Further Information stage that this was impracticable as it would require a river crossing over the designated SAC. A new access will instead be constructed to the north of the site (north of the existing farm/dwelling access).

The proposal does not involve any substantial re-ordering of the farm holding (i.e rural restructuring) – there is no alteration to existing boundaries proposed (apart from strengthening for landscaping purposes), with the only substantive change being the creation of a separation area between the stream at the boundary and the works in order to protect the watercourse.

While the proposed development is to some degree functionally connected with other power generation proposals in the area, and as such cumulative impacts should be addressed, I do not consider that it represents project splitting – I consider this to be a separate and discrete planning application.

The applicant has appealed one condition – this removed a significant portion of the proposed solar panels from the south-east portion of the landholding. As I will assess this application *de novo* I will address this issue in the ecology/AA sections below as the reasons given for condition no.44 relate to ecology, specifically possible foraging areas for a species identified in the conservation objectives of an SPA – the Whooper Swan.

8.2. Legal issues

The third-party appellant has argued that the applicants failed to adequately consult the local community in line with development plan guidelines and the Aarhus

Convention. Both appellants and applicants provided very different overviews on the pre-application consultation process with the public. It is also suggested by the applicant that the development description does not adequately address its linkages with other permitted and proposed developments in the area.

With regard to the requirements for notifications to the public under the Planning and Development Regulations 2001 as amended, the planning authority was satisfied that all notices were in order and a number of consultative meetings were held, and all statutory consultees were notified. On this basis, I am satisfied that all statutory consultation requirements have been satisfied and there is no evidence that any local interests were unaware of the extent and nature of the proposed development.

The 3rd party appellant has argued that the proposed development, as energy infrastructure, should have been submitted directly to ABP as energy infrastructure under Section 182A of the Planning and Development Act as amended. I note that it is understood that solar farms do not come under S.182A, but associated transmission/substation infrastructure does require a determination by the Board when it falls within the definition in S.182A(9) of the Act as amended. I am satisfied that it was appropriate that this application was submitted to Cork County Council in the first instance.

8.3. EIAR

The third party appellant has argued that the proposed development requires EIA by way of it representing project splitting (it being argued that the permitted developments by the same developer in the area are functionally the same), also that as it falls within the requirements for mandatory EIA by way of its nature, including the provision of internal roads and a restructuring of the landholding.

The requirements for Environmental Impact Assessment (EIA) are outlined in Part X of the Act and Part 10 of the Planning and Development Regulations 2001, as amended ("the Regulations"). Schedule 5 of the Regulations sets out the various classes and thresholds of development which require mandatory EIA. Part 1 of Schedule 5 lists projects for which mandatory EIA is required on the basis of their type while Part 2 of the same Schedule lists projects which require EIA on the basis of their relevant scale/size threshold.

The proposed development which constitutes the provision of a Solar Farm does not fall into a class of development contained in Schedule 5, Parts 1 or 2. Class 15 of the Schedule 5 states that EIA can be required in the case of a development listed in Part 2 that does not exceed a limit specified if it is considered that it that would be likely to have significant effects on the environment having regard to the criteria set out in Schedule 7 of the Regulations (Sub-threshold EIA). As I have outlined in section 8.1 above, I consider this application to be a discrete and separate application, even though to some extent it is functionally connected with proposals to build other solar and wind farms in the area, with associated infrastructure. Even if taken cumulatively, the overall development does not, due to its nature and scale, fall within any Schedule 5 classes.

Furthermore, it is not proposed to construct new roads within the proposed development and the internal track arrangements match existing farm access arrangements and therefore do not constitute a 'private road' under Class 10 of Part 2 of the Fifth Schedule (Part10(dd)). These are solely tracks for works and maintenance access and do not fall under the definition of a road under the Roads Act, 1993 (as amended).

I also note that there are no proposals to significantly alter the structure of the land holding or involve any significant removal of field boundaries or hedgerows or the recontouring of the soil as set out under 'Agriculture, Silviculture and Aquaculture', Class 1 of Part 2 of the Fifth Schedule. The proposal does not alter any major field boundary or change the overall size or scale of the landholding.

There is a solar farm with permission (not yet constructed) east of the appeal site – this connects to the Charleville 110kV ESB station (**20/4041**). Permission was also granted on appeal by the Board (**ABP-306915-20**) for a solar farm to the north-west (also not yet constructed). ABP also granted permission for a 110kV single bay tail fed substation in the area, to facilitate the above developments (**ABP-3144431-22**). All the above developments have not been constructed as of this date. There is a functional connection between these proposals, but they do not have specific impacts that could have a cumulative impact above and beyond normal for developments of this scale and nature and do not cumulatively fall within any additional Schedule 5 classes.

As the proposed development is not of a class listed there is no threshold for EIA and accordingly a subthreshold EIA is not applicable.

Furthermore, having regard to the nature and scale of the proposed development it is considered that any issues arising from the proximity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment).

8.4. Principle of Development

The appeal site is in unzoned lands – there are no specific designations, although in Settlement policy it is considered a ‘strong’ rural area. There are no landscape or other designations and there are no scenic routes in the immediate vicinity, although there is a long distance walk on minor roads to the south in addition to a number of signposted leisure cycling routes.

The overall thrust of EU, national and regional policy (summarised in Section 6.1 above) is to look favourably upon renewable energy proposals subject to local policy restrictions and overall planning, amenity and environmental considerations.

Objective 55 of the National Planning Framework seeks to promote renewable energy and generation at appropriate locations within the built and natural environment, whilst paragraph 130 of ‘*Transition to a Low Carbon Energy Future 2015-2030 - White Paper on Energy Policy*’ recognises that solar energy will become more cost effective as technology matures and that it will be an integral part of the mix of renewables going forward.

At a regional level it is an objective of the South West Regional Planning Guidelines to facilitate the sustainable development of additional electricity generation capacity throughout the region and to support the sustainable expansion of the network. At a local level, whilst there is support for solar energy production as a renewable resource, due to the emerging nature of the technology at the time of the plan preparation specific objectives with respect to same or identification of areas considered suitable/unsuitable for solar farms were not included. Therefore, in the absence of a ‘plan-led’ approach, applications are to be considered on their individual merits and subject to normal planning considerations.

In this respect, I conclude that the proposed development should be considered favourably in principle, subject to the policy guidance in national, regional and local policy, and in particular statutory objectives relating to EU designated habitats. In this regard, I would specifically note the following development plan policies:

Policy **ET 13-14** on Solar farm development:

Solar Farm Development

- a) In recognition of national targets and commitments to significantly increase renewable energy production, support will be given to solar farm projects at appropriate locations, where such development does not have a negative impact on the surrounding environment, landscape, historic buildings, or local amenities.*
- b) Promote the development of solar energy infrastructure in the county, in particular for on-site energy use, including solar PV, solar thermal and seasonal storage technologies. Such projects will be considered subject to environmental safeguards and the protection of natural or built heritage features, biodiversity views and prospects.*
- c) Require that new solar farm development proposals be assessed against the criteria listed in this Plan until such time as Section 28 Guidelines on Solar Farm Developments from the Department of Housing, Planning and Local Government are published to supersede same.*
- d) Encourage the use of passive solar design principles for residential building(s) in line with relevant design criteria.*
- e) Support and encourage the installation of solar collectors and panels for the production of heat or electricity in residential and commercial buildings, in line with relevant design criteria.*
- f) All proposed solar developments locating in close proximity to any roads and airport infrastructure will undergo a full glint and glare assessment.*
- g) Proposals for development of new solar developments and associated infrastructure including grid connections will be subject to ecological impact assessment and, where necessary Appropriate Assessment, with a view to ensuring the avoidance of negative impacts on designated sites, protected species and on-sites or locations of significant ecological value*

Additionally, **ET 13-1** on energy, **ET 13-21** on the Electricity Network, and **ET 13-22** for the transmission Network. A series of other policies as set out in the development plan area are also relevant, including **Section 14.7** on landscape, **GI 14-3: Green Infrastructure and Development**, **GI14-9 Landscape**, **GI 14-10** draft Landscape Strategy, **BE 15-13** – Noise and light emissions, **HE 16-9: Archaeology and infrastructure**, **BE 15-2: Protected sites, habitats and species**, and **BE 15-6: Biodiversity and New Development**. I will address these in the relevant sections below.

8.5. **Landscape and visual amenity.**

The applicant submitted a **Landscape and Visual Impact Appraisal** (LVIA) with the original application. This included a **Photomontage Report** which includes visualisations from 14 no. viewpoints. A **Landscape Management Plan** produced by Cathal O'Meara Landscape Architects was also submitted, along with plans and particulars. These overlap with additional reports relating to biodiversity and ecology discussed further below. The uplands to the east (the boundary is the N20) is designated as a 'high value landscape'. The area is characterised within the development plan as 'Fertile Plain with Moorland Ridge' character type.

The overall landscape is generally quite flat, with extensive hedgerows and occasional conifer plantations ensuring there are relatively few clear views in the area over the wider landscape. There is a small rise to the west of the site (visualisation VP 14 in the Photomontage Report), with the nearest higher elevations to the north and in particular to the east, at the Ballyhoura Mountains some 5km away. The latter mountains are a popular leisure area, although the main focus is on the carpark associated with the mountain bike trail system, which is on the north side of these uplands and not within the visual envelope. The higher areas of the uplands are largely conifer plantation, so there are few views across to the west from the walks or trails. Visualisation VP 10 takes a viewpoint from a public road on the edge of the mountains, from around the 250 metre AOD contour.

The nearest village, Churchtown, is on somewhat elevated lands, but due to the general topography and vegetation, the site is not visible from any point within or around the village (VP 13). There are also not clear identifiable views from the N20

or the Dublin Cork railroad, which more or less follows that alignment. The lands are not visible from Charleville or Buttevant.

There are a number of designated tourist routes, in the area, including the Ballyhoura Way (VP4) and the Kilmallock Cycle Hub (VP9). These are an important element in the local leisure system, but the area is not a major tourism hub – the very popular mountain bike trail is probably the most significant local attraction, with Churchtown signposted off the N20 as a tourist destination.

The LVIA concludes that the receiving landscape is of moderate sensitivity and has the capacity to accommodate the proposed development. The localised impacts are long term but reversible and not significant with appropriate mitigation. The application includes proposals for protecting and strengthening hedgerows.

Having surveyed the site and general area, I conclude that the chosen viewpoints in the Photomontage Report along with the LVIA provide an accurate indication of visual impacts, both of the project by itself and potential cumulative impacts with other permitted developments in the area, in particular the large solar farm to the east of the site and the existing windfarm to the north. I concur with the conclusions that the overall landscape impact is generally low as it will only be visible from public areas nearby – specifically the minor country road forming the western boundary of the site. When the proposed landscaping/hedgerow strengthening matures, there will be only intermittent views of the site from public roads or walks. The lands are visible from dwellings across the road (west) of the site, but hedgerows will largely shield this. There would be clear views from two hills immediately east of the site (Caherconnor and Ballyroe), but these are all private farmland and/or quarry lands and not accessible to the public.

I am satisfied that long distance views from public amenities, such as the trails on high ground in Ballyhoura to the west, or the Ballyhoura Way to the south, will be very minor and intermittent, mostly due to the topography and vegetation and the separation distance. It will be visible from some points on high ground around 4-5 km away but will generally not be particularly intrusive in what is a working agricultural landscape.

There is one windfarm within the visual envelope of the site and permitted solar farms in addition to other significant intrusions into the agricultural landscape, including a substantial gravel pit. The cumulative impacts of such developments are

likely to be significant, but having regard to the relative robustness of the landscape, its overall nature, and the mitigation measures set out in the submitted documentation, along with the mitigation set out in the other permitted developments in the vicinity, I do not consider that these would have an unacceptable cumulative impact.

I will address the specific issue of glint and glare, an element of potential visual interference, in the relevant section below.

8.6. Noise

The applicant submitted an **Environmental Noise Assessment** (ENA) for the proposed solar farm. This identifies the major source of construction and operational noise and includes a cumulative noise assessment. The report notes that there is some ambiguity on tonal noise levels as the transformer equipment (the likely major source of noise) has not yet been chosen. It is stated that the overall assessment is based on a worst-case scenario for noise emissions.

The main receptors for noise are identified as the dwelling within the landholding and the dwellings to the west on the opposite side of the road – they are identified in Figures 2 and 3 of the ENA. These are located around the site – none are on the boundary closest to the dwellings. Additionally, the ENA addresses cumulative noise impacts from the proposed Ballyroe substation and other apparatus in the area including the installed Rathnacaly wind turbines in relation to the identified receivers (i.e. dwellings along the road opposite the site).

The ENA concludes that the cumulative noise level contributions increases noise levels at the identified receptors by circa 1dB, which would be considered minimal and imperceptible. Direct impacts on local residents from the proposed development are also considered minimal and can be mitigated through sound barriers.

The ENA also addresses construction noise – it states that calculated noise impacts on receptors (Tables 5 and 6) are worst case scenarios. It is anticipated that mitigation measures, most notably the use of temporary hoardings along the northern end of the site (these are anticipated to decrease noise impacts by 10dB according to BS5228-1 criteria) would ensure that any impacts are localised and

minor. A further mitigation measure set out is that works would only take place in daytime in accordance with the CEMP.

I am satisfied from the information provided that any noise – operational or construction – are within the bounds of acceptability for this location, a working agricultural landscape. There are some uncertainties regarding the choice of equipment, so I would recommend a monitoring condition such that individual transformers or other plant can be screened or moved if a specific noise issue is identified. Construction noise issues can best be addressed satisfactorily by way of the **Construction and Environmental Management Plan**.

8.7. **Glint and Glare**

The applicants submitted a **Glint and Glare Assessment** report (GGA), along with an addendum report on foot of a request by the planning authority regarding potential impacts on Whooper swans.

I note that the Irish Aviation Authority did not object or submit any detailed comments as there is no licensed aerodrome within the vicinity with the potential for safety impacts.

It is noted in the GGA that there is no formal guidance in Ireland for carrying out these assessments – the methodology chosen is set out in Section 3.3.

A total of 17 dwellings were identified as potential receptors and assessed (Figure 4 of the report). Some solar reflection at some stage for all but one was anticipated, but due to screening and topography, it is concluded that, including cumulative impacts with other permitted solar farms, no impacts were predicted for all but four of the dwellings (identified as dwellings no. 11, 13, 14 and 15 in Section 9). A moderate impact is predicted for these four, and mitigation is proposed – this mitigation involves 3 metres hedging reinforcement along the L5528. On this basis, no direct impacts and no cumulative impacts are predicted.

Additionally, due to vegetation, topography, and distance, it is not anticipated that there would be any impacts on traffic on the N20.

The submitted addendum report assessed possible reflections onto fields with possible association with whooper swan foraging. It is stated that there would be

possible reflections in baseline conditions, but with mitigation (additional hedgerow strengthening), no impact is predicted.

I consider that the glint and glare assessment is in line with best practice, and its conclusions are reasonable and accurate. I note with respect to the NIS and ecology some alterations are proposed to the angles of the panels and placing visible markers around the edges to ensure the panels do not represent a hazard to birds, I do not consider that these alter the overall conclusions with regard to glint and glare impacts on local residents. I further note that the Irish Aviation Authority had no objection and did not request any conditions.

8.8. Traffic and infrastructure

The applicants submitted a **Transport Management Plan** (which covers construction, operation, and decommissioning) and a **Construction and Environmental Management Plan**. I note that there was some concern at the planning stage about the construction access but following correspondence and meetings with the area engineer, it was agreed that it was not practicable to create a construction access via the permitted solar farm site to the east as it would require a river crossing over the SAC – instead the proposed access was moved to the northern end of the site.

It is proposed to direct all traffic to the site via the third class road network between and north of the site and the junction of the L5530 and the N20 Limerick to Cork main road. The appellant has argued that these roads are inadequate by way of layout and width for HGV traffic and the proposed development, in itself and cumulatively with other such developments in the area, will result in congestion and road damage and resulting access/amenity impacts. It is also noted and acknowledged by the applicant that one resident near the site has a medical requirement for possible urgent access to the N20.

The third class road network in the area is typical of such roads, relatively narrow with a number of junctions with poor visibility (notably at Ballynoran and Gallynadrideen crossroads). Sections of the road are part of a designated long distance cycling route. Roads are generally straight with the exception of a stretch of around 500 metres immediately north of the existing entry to the site, where there

are a series of twists and turns to the road, with low visibility due to high hedges on either side of the road.

As noted above, the planning authority expressed some reservations about the use of these roads for construction, but following discussions with the applicant is now satisfied that access to the site can be facilitated. Swept path and visibility splays at the proposed main site entrance north of the existing entrance are considered acceptable.

It is anticipated on the basis of similar developments that over a 12 week construction period there would be approximately 908 two-way vehicle trips. This would equate to an average of 82 two-way movements per week (164 movements in total). In addition, there would be additional trips for staff arriving by car or other vehicles. There are no proposals to include oversized loads.

As there are no permanent staff on site during the operational period, it is anticipated that the number of vehicular trips would be negligible. The decommissioning period is anticipated to be similar in intensity of movement to the construction phase.

Section 5 of the traffic management plan sets out measures to address access issues, and additional information on file in the CEMP and in the further information submission clarifies control measures for traffic, specifically at the proposed site entrance.

The appellants have noted that the access roads are very narrow at some points and as such there will be difficulties for traffic to pass at certain times. It is undoubtedly true that some occasional issues will arise but given the agricultural nature of the area and the relatively short period for which construction will cause an issue, I do not consider that this would create either congestion or a hazard beyond the norm for a road network of this nature, and potential safety issues can be addressed by way of standard management controls typical for construction operations at this scale – these are set out in detail in the TMP/CEMP and additional correspondence on file and include manual signalling and control at key junctions. I am satisfied that the control measures set out in the submitted TMP and the CEMP adequately address both safety and traffic flow issues, subject to the detailed measures being agreed with the roads authority.

I would conclude that any residual issues around traffic can be addressed by way of condition, specifically that the details set out in the submission be confirmed in an

approved Construction and Environmental Management Plan to be subject to final agreement with the planning authority prior to commencement of development.

8.9. Cultural heritage

The applicants submitted an **Archaeological, Architecture and Cultural Heritage Report** (AACH) along with a **Geophysical Survey Report** with the application.

There are no recorded ancient monuments on the site, and no structures on the NIAH in the immediate vicinity of the lands. There are six NIAH site and one protected structure within 2-km of the lands, none within the visual envelope – these include bridges and churches, with one a thatched cottage in addition to an 18th century country house. The closest recorded monument is an enclosure site in a field 80 metres east of the site. There are a number of clusters of sites in the vicinity (see Figure 7 in the AACGH) including a former castle site and *fulacta fia*, which indicate that there may be a long history of activity in the general area, unsurprisingly given its flat nature and the network of watercourses.

The geophysical survey identified a number of positive linear anomalies in the southern side of the site. These are unidentified and don't have any clear shape or features. A number of other features were identified which match up with features known from more recent mapping.

The applicant has proposed that concrete footing is used for the panels in the vicinity of the identified geophysical anomalies. None of the identified sites are considered to be of sufficient importance for further investigation. The proposed works do not require significant amounts of ground disturbance so would not likely impact on otherwise unknown remains.

I am satisfied from the information on file that there are no features of major archaeological significance on the site that are likely to suffer damage from the works. I consider the proposal to use concrete footings in the area around the identified anomalies to be reasonable. I am also satisfied that the proposed works, in themselves or cumulatively with other developments in the area, do not interfere with the settings of any of the buildings identified in the NIAH as the topography and vegetation ensures there is no visual impact. I do not consider that any additional

conditions are necessary to ensure protection of the cultural heritage of the area and additional archaeological surveys are not necessary.

8.10. **Water and drainage**

The application included a **Site Specific Flood Risk Assessment**. It notes that the site is low lying and is potentially subject to fluvial flooding from the Rathnacally (Sruhaneballiv)/Dromin Streams and Awbeg River. The lands are not within an indicative pluvial or groundwater flood zone.

There are no records of flooding on the lands subject to this application, but the south-eastern portion is within an OPW designated 'Drainage District'. Historic 25 inch mapping indicates that part of the south-east corner is 'liable to flooding'. The lands are underlain by sandstone sand shales with some alluvium deposits around the streams.

OPW Flood Hazards Indicative fluvial flooding mapping indicates that part of the lands is within a 1 in 1000 year+ climate change fluvial extent flood area.

It is noted that in order to minimise glint and glare, it is recommended that the maximum height of the leading edge of solar panels are 0.8 metres above ground levels. For this reason, it was recommended that areas potentially subject to 0.8 metres flooding in the 1000+climate change risk area be excluded and this was incorporated into the design as submitted. These areas are to be maintained as grassland as part of biodiversity enhancements with an annual cut to prevent it becoming scrub.

With regard to the hydrological impacts of the solar panels, it is noted that the existing ground level between the arrays remains permeable and there is no net increase in discharge rate or runoff volume from the site anticipated (surface water from transformer structures are discharged directly to soakaways). For this reason, no increase in downstream flood risk is anticipated.

I am satisfied from the information submitted that the proposed development would not significantly alter the hydrological status of the lands or exacerbate any downstream flood risk impacts, and that the proposed panel/transformer design adequately addresses potential flood impacts on the site. I do not therefore

recommend any specific conditions relating to water, drainage or flooding above standard best practice requirements.

8.11. Ecology

In addition to an AA screening and NIS, the applicants submitted an **Ecological Impact Assessment (EIA)**, an **Aquatic Report (AR)** and **Terrestrial Mammal Survey (TMS)**, a **Whooper Swan Survey and Map (WSSM)**, a **Biodiversity Habitat Management Plan (BHMP)**, and other ecological information in its submissions. The key element in assessing impacts is the watercourse forming the eastern boundary of the site, which is part of an SAC, and areas to the south-east of the site which are prone to flooding and is potential grazing for Whooper Swans, the protection of which is a conservation objective of an SPA some distance to the south. The applicants propose to leave areas within the 0.8 metres flooding (worst case scenario) as open grassland – the planning authority omitted a significant area of solar farming for reasons relating to ecology and the conservation objectives of an SPA (the latter issue I will address in more detail in the AA section below).

A Phase 1 habitat survey identified the site as being primarily composed of improved agricultural grassland/west grassland, hedgerow, treeline and drainage ditches, with depositing lowland river (FW1 and FW2) along the stream boundary. All are considered of local importance, with the exception of the riverbank which is of considered of high value as it is part of an SAC. A survey of bats found limited bat roost potential, although the linear woodland habitats and streams next to the lands are considered potential foraging areas. The aquatic survey indicated that there is substantial nutrient enrichment of the watercourse network east and south of the site, leading to a degradation of this habitat. A survey of mammal species indicated that apart from foxes and other common species, there was no evidence of rare mammals, although the treelines have potential for red squirrel and pine marten. A significant number of common bird species are recorded on the lands. The BHMP outlines a series of biodiversity enhancement measures, including strengthening of hedgerows and treelines, maintaining the riparian strip and flooded areas as grassland (one cut a year) and installing bat and bird boxes would create a net benefit over the current use for dairy and beef farming, in particular by reducing nutrient inputs.

At the time of my site visit, the site is in beef grazing use, with the lands heavily grazed with no visible meadow. The hedgerows are somewhat degraded. The drains were mostly dry, with the tributaries to the Awbeg River in visibly poor condition – the Aquatic Report noted signs of excessive nutrification, almost certainly due to intensive animal rearing along its route. The stream is very slow flowing and does not appear to have particularly high ecological value, except insofar as it drains into the important habitats for Freshwater Pearl, Lamprey and Salmon further downstream to the main Blackwater channel. The streams run through small culverts over farm tracks, but there are no obvious physical barriers such as weirs or dams.

Notwithstanding the Appropriate Assessment issues to be addressed below, I am satisfied that in general terms the overall impact of the proposed development on the local ecology, taking the baseline situation of the lands remaining in use for dairy and beef use, to be minimal. The submitted biodiversity action plan is likely to result in significant improvements over the existing baseline in terms of augmenting wildlife corridors along the watercourses and strengthening hedgerows.

Condition 44

With regards to **condition no.44** set by the planning authority, which seeks to expand the residual area of grassland (assuming it is not brought into intensive agricultural use if undeveloped), - this would improve the overall ecology of the area, but I do not consider that this would be justified in terms of the overall positive environmental benefits of the proposed solar farm.

The planning authority did not provide specific reasons for the condition – it is implied to be connected to potential grazing areas for the Whooper Swan, but it was not considered that there was sufficient evidence to determine that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites no's 002170 or 004095, or any other European site, in view of those sites Conservation Objectives. The condition appears to have been set in order to generally improve ecological potential of the site by providing for more unmanaged grassland as overall mitigation and enhancement. No justification was provided by the planning authority for the overall extent or choice of area for excluding this area of land from solar panels. The

applicant has stated that this amounts to close to a third of the overall proposed solar farm. The key arguments made the applicant in this regard are as follows:

- The Ecological officer in his report, following an assessment of all impacts, in particular on the EU designated sites, states that he largely concurs with the conclusions of the NIS and ECIA. The Ecological Officers report is quoted in detail, outlining how he agrees largely with the assessment and conclusions of the documents submitted by the applicant.
- It is argued that the applicant's advisors met with the Council and NPWS after the request for further information – states that notes from this meeting indicates that all residual issues with regard to the biodiversity plan, mitigation measures, and assessment of impacts on Whooper Swan, had been addressed satisfactorily.
- With specific regard to the Whooper Swan, it is noted (paragraph 2.14) that surveys did not identify any Whooper Swan roosting or grazing within the site.
- With specific regard to the design proposal, it is stated that a Mitigation by Design approach was taken which includes such features as siting the construction compound within the existing hard standing farmyard, setting back the arrays from site boundaries, with maintenance and strengthening of hedgerows, no construction of new access tracks, with minimal coverage of soil. A 15 metres buffer zone will be maintained from the Rathnacally (Sruhaneballiv) Stream and Annagh South stream.
- It is noted that the Ecologists recommendation was stated to be based on a precautionary approach. It is argued that on the basis of all published information and scientific knowledge, it has been demonstrated that the proposed development would not impact on Whooper Swans, and as such there is no justification for condition no.44

I am satisfied from the submitted information that condition 44 cannot be justified in terms of the known information of whooper swan behaviour in the vicinity of the site. If it was considered that the proposed development as submitted would have a significant adverse effect on the conservation objectives of the SPA (which is to protect the status of the Whooper Swan), then the proposed development should be refused for this reason. I am satisfied from the evidence that the NPWS and the

ecology officer accepted that there would be no adverse effects and as such omitting such a large area of solar panels would not be justified. There is no evidence of other ecological impacts that would justify this, except insofar as maintaining any extra area of managed grassland would improve the local ecology. But the extent set out in condition no.44 represents a very significant reduction in potential power output from the solar farm and so is not in my opinion justified. For this reason, I do not recommend that the Board repeats this condition or otherwise alters the extent of solar panels proposed.

8.12. Appropriate Assessment

The applicant carried out an Appropriate Assessment Screening and a subsequent NIS covering the substation lands and the proposed solar farm. This was attached as part of the submission. 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 Screening identified three European sites within 15km of the site 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 sensitivity of the ecological receptors:

It is considered that the following are relevant to include for the purposes of initial screening for the requirement for stage 2 AA on the basis of likely significant effects.

Blackwater River (Cork/Waterford) SAC 003170;

Ballyhoura Mountains SAC 002036; and

Kilcolman Bog SPA 004095.

Having regards to the nature of the proposed development, the nature of the receiving environment and the source-pathway-receptor model, I consider this to be a reasonable Zone of Influence and I concur with the conclusion of the Screening that no other designated sites require screening.

Sites unlikely to be significantly affected

The **Ballyhoura Mountains SAC**, around 5km east of the site, is an upland area designated for its North Atlantic wet heaths, European dry heaths and Blanket bogs. Due to:

- the nature of the proposed development,
- the separation distance between the appeal site lands and the designated habitats, and in particular
- the absence of any pathways for pollution or other possible indirect impacts

I concur with the conclusion of the submitted Screening that the Ballyhoura SAC site code 002036 can be screened out.

Sites likely to be significantly affected

The closest Natura 2000 site is the **Blackwater River (Cork/Waterford) SAC** – this SAC is designated for a range of qualifying interest relating to freshwater and saline species, including the Freshwater pearl Mussel, white clawed crayfish, Lamprey and Salmon. The stream forming the eastern boundary is part of this extensive SAC, which includes the banks. The applicants submitted an aquatic survey of the stream, indicating that the water quality is poor due to excess nutrients, most probably arising from agricultural uses. The proposed development does not propose any physical alteration of the designated area on each side of the watercourse.

Kilcolman Bog SPA is approximately 6 km to the south-east – a small area of fen, designated for its importance for whooper swan, Teal and Shoveler, all three of which are wintering waterfowl (the latter occasionally breeds on and around the fen).

The Screening Assessment carried out by the applicant identified connectivity with the following Qualifying Habitats and Species identified with the Blackwater SAC and the Kilcolman SPA. These are the freshwater pear mussel, the white clawed crayfish, three species of lamprey, the Atlantic salmon, Otter, watercourses of

montane levels, Alluvial forests, and the Whooper Swan. No connectivity was identified with the upland heaths and blanket bogs of the Ballyhoura SAC.

The Screening concludes that there is potential for the construction phases of the project, in particular the potential for silt/pollutants entering watercourses, impacting the lower River Blackwater and indirect effects (through water quality and barrier impacts) impacting on vertebrate and invertebrates downstream in the Blackwater SAC. Siltation is identified as a potential impact on vegetation. Indirect effects through possible pollution is seen as having the a potential impact on the otter population of the river downstream (the immediate area of the site is not considered suitable otter habitat).

With regard to Kilcoman Bog SPA, the focus is on the Whooper swan, which forages over a significant area away from the fen. It is noted that while there is no evidence of the Whooper swan using the lands, there is suitable habitat (improved grazing fields), and there is some evidence for the species feeding in the floodplain areas of the Awbeg downriver. The Kilcolman Bog is 6km distance and not in direct hydraulic continuity with the site, so direct impacts on this fen can be ruled out.

Some effects cannot, therefore, be ruled out due to the potential for adverse effects on the Whooper Swan, a qualifying interest. The information submitted by the applicant, which was accepted by the NPWS and the ecology officer for the Council, is that there is no roosting or feeding or other activity by the Teal or Shoveler in the area and the site is not suitable habitat, so any adverse impact can be ruled out.

It is therefore concluded on the basis of potential indirect water pollution impacts that the proposed development, either individually, or in combination with other lands or projects, could have a significant effect on the **Blackwater and Kilcoman Bog** Natura 2000 sites. Therefore, a stage II NIS was considered necessary.

I concur with this conclusion as the proximity of the site to the freshwater SAC and the possibility of Whooper Swans foraging on the lands ensures that some impacts cannot be ruled out. I concur with the Screening that all other potential effects can be ruled out.

Natura Impact Assessment

Potential Adverse Effects

The applicants submitted a full NIS based on the above screening. Table 6-1 set out identified impact sources and pathways for influence. These include the construction activities and the operational phase, including cumulative and in-combination effects. Table 6-2 identifies those issues requiring further consideration – these include potential impacts on the Freshwater Pearl Mussel, White clawed crayfish, Sea, Brook and River Lampreys, Atlantic Salmon, otter, alluvial forests, and with respect of the SPA, the Whooper Swan.

Blackwater River (Cork/Waterford) SAC 002170.

This extensive riverine and estuarine SAC covers a large area of counties Cork and Waterford. The appeal site is within the upper river catchment, and the adjoining streams are part of the upper reaches of the SAC. The Qualifying Interests are as follows:

Estuaries [1130]

Mudflats and sandflats not covered by seawater at low tide [1140]

Perennial vegetation of stony banks [1220]

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 *Callitricho-Batrachion* vegetation [3260]

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]

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 (Twaite Shad) [1103]
Salmo salar (Salmon) [1106]
Lutra lutra (Otter) [1355]
Trichomanes speciosum (Killarney Fern) [1421]

Of these, the estuarine habitats were excluded due to the distance from the site and attenuation – the sensitive species are the riverine vertebrates, otter and potential forests. This conclusion is in line with all available evidence and the NPWS and County Ecologist did not disagree. I note that the adjoining watercourse in itself does not appear to have any direct value to the above identified species – possible effects are via downstream impacts due to siltation, pollution etc.

Parts of the boundary of the site are within the designated area – it is proposed to exclude these from the overall solar farm as a 15metre wide buffer during both construction and in terms of excluding this area from use for panels or associated infrastructure – these areas are to be maintained as unimproved grassland or left to naturally regenerate. The stream along this section was surveyed as part of the application. None of the species or habitats listed in the qualifying interests were identified in the stream and it is not considered good habitat, but the streams feed into the main channels of the river downstream where nationally important populations are found.

Tables 6-3 to 6-10 of the NIS identifies the seven species/habitats for which there is a potential impact – Freshwater Pearl Mussel, White Clawed crayfish, Sea Lamprey Brook Lamprey, River Lamprey, Atlantic Salmon, watercourses with *Ranunculus fluitantis* and *Callitriche-Batrachion* vegetation and otter. It is noted that there are no potential barrier effects as no interference with the watercourse is proposed. For all the above species and habitats, the effects identified are for indirect secondary effects as a result of water quality impacts and/or deterioration in spawning habitat. With regard to alluvial forests (Table 6-11), this habitat is not present on the site and so no direct or indirect effects were identified. The stream is not considered to be optimal habitat for otters.

Potential in-combination effects

Potential cumulative and in-combination effects are set out in Table 5.2 of the NIS. These include ongoing works in the area and permitted/proposed solar farms and the possible M/N20 Cork to Limerick Road Improvement Project. It is noted that the permitted developments were subject to AA and in some cases, EIA. Possible effects identified include construction related surface water run-off and ongoing displacement of bird species in the area due to the barrier effect. It is concluded that on the basis of these permitted works adhering to best practice guidelines on construction and water protection, it is not anticipated that there would be in-combination or cumulative effects.

I conclude on the basis of information on file and publicly available, and on the basis of my site visit, that this overall conclusion is reasonable and accurate. The streams are visibly of low quality, most likely from nutrient run-off from farms upstream. The appeal site lands at present are improved grasslands – at the time of my site visit seemingly for beef raising, although in the past it was apparently a dairy operation. Lands on the opposite site are also in grazing use, although they are permitted for a solar farm, with a similar protective area proposed around the watercourses.

Mitigation measures

Section 6.4 of the NIS outlines the control works proposed to minimise run-off or other impacts to the watercourses. These are all standard construction (including decommissioning) and operational measures, with a particular emphasis on maintaining buffer zones around ditches and watercourses to prevent any spillage or run-off. A silt control system is proposed for all ditches draining into the watercourses. The proposed development also includes a long-term habitat management scheme which includes maintaining grasslands (one cut per annum), enhancements of hedgerows and linear treeline habitats, enhancing nesting potential for birds, maintenance of the riparian strip, and providing bat roost sites.

Conclusion

From the evidence of my site visit, all file information, and the submissions by the Council and NPWS in the original planning application, I am satisfied that with the standard mitigation measures set out, the watercourses, and all related species/habitats identified in the conservation objectives will not be negatively effected by the construction, decommissioning and operational aspects of the works.

The proposed biodiversity management works, in particular the maintenance of a riparian zone and the protection measures for ditches have the potential to improve the quality of the watercourse, reducing nutrient run-off and pollution.

Kilcolman Bog SPA site code 004095.

Potential adverse effects

The **Kilcoman Bog SPA** is a fen (a fen is wetland fed by a steady source of groundwater, in contrast to bogs which are usually fed pluvially), designated for its importance for overwintering birds, most notably the Whooper Swan. It is just over 6km south-east of the appeal site and is not within the same water catchment, so there are no direct pathways for pollution. Of the three bird species listed in the Qualifying Interests – Whooper Swan, Teal, and Shoveler, just one has a consistent roosting/foraging range that could result in impacts – the Whooper Swan. It is a conservation objective of the SPA to maintain or restore the favourable conservation condition of the wetland habitat at Kilcolman Bog as a resource for the regularly occurring migratory waterbirds that utilise it.

The Whooper Swan is a winter visitor to Ireland and is known to forage and roost in the Churchtown and River Awbeg areas, south of Coolcaum in addition to the extensive former quarry lands to the east. The applicants submitted a **Whooper Swan Survey** (WSS) as part of the overall NIS and ecology study. This was carried out by a local ornithologist, Barry O'Mahony on behalf of Delichon Ecology.

Section 3 of the WSS lists out the eight known areas where the swans roost in the area including the designated fen. The survey concludes that there are regular occurrences of Whooper Swans grazing, foraging and roosting along the Awbeg River floodplain and the wider Churchtown hinterland. No surveys, either the one completed for the application, nor other known desk top surveys have identified Whooper Swans roosting or grazing within the appeal site. One swan was observed overflying the lands during the survey. As my site visit was during the summer, it was not possible to confirm these observations, as the swan is a winter visitor only. It is noted that Whooper Swans tend to stay at a grazing site for the entire day, and roost overnight. They do not always habitually stay on the same lands, but their choice of foraging/roosting sites depends on specific factors – including the extent of flooding (they prefer flooded or recently flooded lands), the amount of previous

grazing, and disturbance/agricultural activities. Three areas in the vicinity – Caherconnor, Blackwater Flats, and Ballyroe Quarry pond are identified as sites that support regular Whooper Swan activity. The survey indicates that approximately 120-140 birds stay within the core overwintering season around the fen. It appears that the quarry pond is a very important location for birds in the area, as occasionally large numbers appear to congregate prior to migration.

The WSS and associated documents conclude that the absence of evidence of grazing indicates that the appeal site is not suitable for foraging/roosting birds, although there are certainly many birds in the vicinity, but the quarry pond is the main attraction apart from the designated fen.

The Council ecology officer and NPWS did not dispute the findings or conclusions of the applicants technical submissions but did request that a substantial area of the south-eastern part of the site be excluded from the solar farm as a precautionary basis (i.e. condition no.44). There does not appear, from the information available on file, to be a firm scientific basis for this conclusion, apart from a general belief that open wet farmland in the area is suitable for grazing/roosting of these birds. The conclusion of the NIS that there is no reasonable scientific doubt that the proposed development would not have a significant effect on the conservation status of the Whooper Swan (or other birds identified within the conservation objectives) is established on a firm basis. While it cannot be ruled out that at some time whooper swans may graze on the lands, there is no evidence that this grassland is of particular value for the species (they prefer flooded lands) or that the development would in any significant way reduce the food sources available to the birds. I further note that the applicants agreed a number of measures, including the use of high visibility tape along the edges of the proposed panels, to remove any theoretical possibility of the panels becoming a hazard to the birds if they confuse them for open water. I am therefore satisfied that the proposed development as submitted would not in itself adversely affect Whooper Swan populations.

Potential in-combination effects

I also note the permitted developments in the area – most particularly the permitted solar farm to the east, which is closer to the former quarry which the Whooper Swans favour for roosting – was subject to full appropriate assessment. The NIS notes potential barrier effects from developments on the behaviour of birds. There

is no evidence available of roosting/foraging on these grasslands, so I would conclude that there are no indirect or cumulative impacts on the Whooper Swan.

Mitigation measures

In addition to the mitigation measures set out to protect the Blackwater SAC (provisions to prevent run-off and to protect the course of the stream), the applicants incorporated a number of mitigation measures specifically for whooper Swan. Most notably these include:

- Restricting works outside of the wintering period for waterfowl.
- Placing visibility tape at the edges of panels to improve visibility in areas that whooper swans could potentially forage.
- Maintaining grassland in the riverside strips.
- Overall habitat enhancements

These mitigation measures were discussed and agreed with the NPWS and the Council during the design and application process and I am satisfied that they are appropriate and reasonable.

Conclusions

I am satisfied therefore that there would be no adverse effects on the conservation interests of the designated SPA, either during construction, operation or decommissioning and there is no reasonable scientific doubt about this conclusion. The requirement by the planning authority to delete a significant area of the proposed panels appears to have been taken on a precautionary basis, but I am satisfied that while this could be justified for other reasons, it does not alter the conclusions that there are no potential significant adverse effects from the design as submitted. I do not consider that there are any other known developments in the area which would directly, indirectly, or cumulatively, impact on this conclusion.

I am satisfied that there is no reasonable scientific doubt regarding this conclusion.

I have considered the proposed development in light with the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

Having carried out screening for Appropriate Assessment of the proposed development, it was concluded that it would be likely to have a significant effect on Blackwater River (Cork/Waterford) SAC 002170 and the *Kilcolman Bog SPA site*

code 004095. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.

Following an Appropriate Assessment, it has been determined that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites no's 002170 or 004095, or any other European site, in view of those sites Conservation Objectives.

This conclusion is based on a complete assessment of all aspects of the proposed development and there is no reasonable doubt as to the absence of adverse effects.

In coming to this conclusion, I have had regard to:

- The nature of the proposed development and the details set out in the application documents for the control of pollution during construction and decommissioning and in minimising any disturbance of habitat.
- The overall design and layout of the solar farm, with particular regard to the protected areas for ecological enhancement
- The existing agricultural (grazing) use of the lands.
- The overall nature and drainage characteristics of the land.
- The distance between the lands, areas for construction, and the designated habitats, plus other lands associated with foraging/roosting behaviour by Whooper Swans; and
- The identified foraging and roosting behaviour of the identified bird species within the SPA.

8.13. Other issues

I do not consider that there are other substantive issues in this appeal. I am satisfied that it would not result in a significant impact on local amenities and would not constitute a traffic hazard in itself or in combination with other permitted developments in the area. I do not recommend any significant alteration of the design, extent, or layout of the proposed development by condition.

I note that the planning authority consider that a bond requirement is necessary to ensure adequate decommissioning and that the proposed development is subject to a development contribution under the adopted S.48 Development Contribution Scheme.

9.0 Recommendation

I recommend that subject to the conditions set out below, the Board grant permission for the proposed solar farm for the following reasons and considerations.

I recommend that the Board does not repeat condition no.44 of the planning authority's decision as I do not consider that any ecological benefits are justified by the significant reduction in potential output from the solar farm.

10.0 Reasons and Considerations

Having regard to the European, national, regional, and county level support for renewable energy development as follows:

- (i) The provisions of the Cork County Development Plan 2022-28
- (ii) The governments Climate Action Plan 2023,
- (iii) The governments Project Ireland 2040 National Planning Framework,
- (iv) The Regional Spatial and Economic Strategy for the Southern Region

In addition to the nature, scale, and extent of the proposed development, along with:

- (v) The documentation submitted with the planning application, including the Natura Impact Statement, Ecological Impact Assessment; Biodiversity Habitats Management Plan; Landscape Management Plan, Landscaping Layout Plan; Transport Management Plan, Environmental Noise Assessment; Landscape and Visual Impact Assessment; Geophysical Survey and Archaeological, Architecture and Cultural Heritage Report, Glint and Glare Report; Aquatic Report and Mammal Survey; and Whooper Swan Survey Report.

- (vi) the nature of the landscape and its capacity to visually accommodate the proposed development without significant adverse effects,
- (vii) mitigation measures proposed for the construction, operation, and decommissioning of the proposed works and in particular the suitability of the road network for construction access,
- (viii) The submissions and observations on file including those from prescribed bodies, the planning authority and other third parties.
- (ix) the location of the proposed development within a generally ecologically and visually robust landscape,
- (x) the separation distances between the proposed development and dwellings or other sensitive receptors,
- (xi) the planned connection of the proposed development to the national electricity grid,
- (xii) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the absence of likely significant effects of the proposed development on European Sites.

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with European, national, and regional renewable energy policies and with the provisions of the Cork County Development Plan 2022-2028, would not seriously injure the visual or residential immunities of the area or otherwise of property in the vicinity or have an of unacceptable impact on the character of the landscape or on cultural or archaeological heritage, would not have a significant adverse impact on ecology, would be acceptable in terms of traffic congestion and safety and would make a positive contribution to Ireland's renewable energy and security of energy supply requirements.

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

Appropriate Assessment Stage 1

The Board considered the Appropriate Assessment Screening Report and relevant submissions and concluded that the Blackwater River (Cork/Waterford) SAC 003170 and the Kilcolman Bog SPA 004095 are the only European Sites in respect of which the proposed development has the potential to have a significant effect and must, therefore, be subject to Appropriate Assessment.

Appropriate Assessment Stage 2.

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 Blackwater River (Cork/Waterford) SAC 002170 and the Kilcolman Bog SPA site code 004095, in view of these sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In carrying out the Appropriate Assessment, the Board considered, in particular, the following:

- The likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects,
- The mitigation measures which are included as part of the current proposal, and
- The conservation objectives of the European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in 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 adversely affect the integrity of the European Sites, in view of the site's conservation objectives.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 the 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 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. The permission shall be for a period of 40 years from the date of the commissioning of decommissioning of the solar array. The solar array and related ancillary structures shall be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

On full or partial decommissioning of the solar farm, or if the solar farm ceases operation for a period of more than one year, the solar arrays, including foundations/anchors, and all associated equipment, shall be dismantled and removed permanently from the site. The site shall be restored in accordance with this plan and all decommissioned structures shall be removed within three months of decommissioning.

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

4. 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.

5. The mitigation measures identified in the Natura Impact Statement, which was submitted with the application, shall be implemented in full. The Planning and Environmental Statement, the Construction and Environmental Management Plan and landscaping plans shall fully incorporate the mitigation measures contained in the Natural Impact Statement and in subsequent correspondence with An Bord Pleanála. The Planning and Environmental Statement, the CEMP and related plans shall then be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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.

6. 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, and the planning authority. 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.

7. 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.

8. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, to include a Construction Traffic Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including:
 - (i) Details of the site access and all arrangements for safe delivery of materials.
 - (ii) Details of the site and material compounds, including areas identified for the storage of construction refuse.
 - (iii) Details of areas for construction site offices and staff facilities.
 - (iv) Details of site security fencing and hoardings;
 - (v) Details of on-site car parking facilities for site workers during the course of construction.
 - (vi) 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 if necessary.
 - (vii) Measures to obviate queuing of construction traffic on the adjoining road network:

- (viii) Measure to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (ix) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels'
- (x) The 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;
- (xi) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (xii) 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 CEMP shall be kept for inspection by the planning authority.

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

9. All road surfaces, culverts, watercourses, verges, underground services 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.

10. 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 of 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.

All sound measurements shall be carried out in accordance with ISO Recommendation 1996-2007: Acoustics – Description and Measure of Environmental Noise.

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

11. Prior to the commencement of development, the developer shall lodge with Cork 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.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities facilitating development in the area of the planning authority that is provided or intended to be provided by or on behalf of an 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.

Philip Davis

Planning Inspector

9th August 2024