



An  
Bord  
Pleanála

## Inspector's Report ABP-317916-23

### Development

Permission to renew previously granted application 16/443 (PL02.248710) for a solar farm project including buildings and CCTV cameras. Provision of new access from the R194 and to increase in the operational lifespan of the project from 25 to 40 years.

### Location

Carrickabane, Finnea, Co. Cavan

### Planning Authority

Cavan County Council

### Planning Authority Reg. Ref.

22/460

### Applicant(s)

Elgin Energy Services Ltd

### Type of Application

Permission

### Planning Authority Decision

Grant Permission

### Type of Appeal

Third Party

### Appellant(s)

Declan and Linda Sheridan

### Observer(s)

None

### Date of Site Inspection

24<sup>th</sup> January 2024

### Inspector

David Ryan

## **1.0 Site Location and Description**

- 1.1. The appeal site with a stated area of 14.7 hectares is located at Carrickabane, Finnea in southeast County Cavan, to the east of the Cavan-Longford county bounds. The site is c. 4km southeast of Kilcogy village, County Cavan and the village of Finnea, Co. Westmeath is located c.2km to the south. The site is accessed off the R194 regional road which connects the towns of Granard and Ballyjamesduff.
- 1.2. The site entails a number of fields which are used as agricultural pasture lands. The site is relatively level with a rise in elevation at its northern and western areas. The majority of the site is bounded by trees and hedgerows. An existing dwelling and farmyard complex are located centrally within the site and outside of the site red line boundary and are stated to be in the ownership of the landowner. The dwelling to the south adjacent the site is also stated to be within the landowners ownership. A number of dwellings are located in the vicinity of the site, with the closest ranging in distances from between c.185m to 223m of the site.
- 1.3. The general area is characterised by agricultural lands and one off dwellings with Lough Sheelin located c.1.1km to the east of the site.

## **2.0 Proposed Development**

- 2.1. The proposed development is seeking permission to renew the planning approval granted previously under planning application 16/443 for a solar farm project (16/443 was granted permission in ABP Ref PL02.248710).
- 2.2. The proposed development will consist of a solar PV farm with an export capacity of approximately 4.2MW comprising photovoltaic panels on ground frames, an enclosed single storey building containing the ESB terminal station and switchgear apparatus, storage container, 4 no. single storey inverter stations, ducting and underground electrical cabling, perimeter fencing, 11 no. mounted CCTV cameras, provision of new access from R194 (and internal access tracks), and all associated site development and landscaping works.
- 2.3. The planning application also seeks minor amendments to the dimensions of the approved substation and increase in the operational lifespan of the project from 25 years to 40 years.

- 2.4. The proposed development site is located within the townland of Carrickabane, Finnea, Co. Cavan approximately 4km to the south of Kilcogy and approximately 1.1km from Lough Sheelin. Access to the site is proposed from the R194 which connects the towns of Granard and Ballyjamesduff. Significant further information and revised plans have been submitted. A revised drawing of ancillary infrastructure including a solar panel view and solar panel design was submitted to address inaccuracies in a drawing plan submitted in the application. The new revised drawing detailed the solar panels in portrait format, with sections detailing a solar panel module including a correct height of 2.2m to 2.8m.
- 2.5. The solar panel array will consist of rows of solar panels running from east to west and will be south facing. The panels will be mounted in frame tables at an incline of up to 25 degrees, supported on steel/aluminium posts/frames. Overall heights of the panels will not typically exceed 3.0m with the bottom edge of the panels being typically 0.8m above existing ground levels. In areas of archaeological potential frames can be mounted using a shallow concrete shoe which sits at a maximum of 400mm above ground level.
- 2.6. Inverter stations will be constructed on a concrete base and include a maximum height of 3 metres and dimensions of 7 metres x 2.5 metres. The stations convert the Direct Current electricity generated by the solar panels into Alternating Current (AC) electricity before feeding into the primary substation and onward to the local electricity grid network. Main cabling from panels to stations to the primary substation will be underground.
- 2.7. The primary 20kV substation has dimensions of 10.2m x 5.3m and a maximum height of 4.6m and will include an ESB switchroom, IPP switchroom and the IPP control room. The building will be a prefabricated structure located on a concrete foundation.
- 2.8. The site will be secured by 2.45m high post and wire deer fencing which will be raised by 150mm from ground levels to enable unrestricted mammal access across the site. Fencing will be located on the internal side of any existing or proposed hedgerows. 11 CCTV cameras pole mounted to heights of 3m will be erected onsite to monitor the site and detect any unauthorised access. No lighting of any kind is proposed as part of the development.

- 2.9. Internal access tracks will consist of existing tracks and the construction of 2 no. 3.5m wide permeable stone access tracks to provide access to inverter stations during maintenance. A new access point is proposed to be formed off the R194, c.180m northeast of the current access to provide access at the southeastern end of the site. It is proposed to provide a temporary construction compound close to the entrance of the site.
- 2.10. There will be no cut and fill to facilitate the development. To accommodate ancillary infrastructure, excavation occurring will be less than 5% of the total site area. It is envisaged the construction phase will total 16 weeks.
- 2.11. It is proposed that the land will continue to be used for agricultural purposes, with details submitted citing it is commonly proposed in applications for solar farms lands should be available for grazing of small livestock/sheep which have been successfully employed to manage grassland. Lands will be reinstated to agricultural use at the end of the project lifetime.
- 2.12. The planning application was accompanied by a Planning and Environmental Report, a Landscape and Visual Impact Assessment, Ecology Report, Solar Photovoltaic Glint and Glare Study, Cultural Heritage Assessment, a Landscape Management plan, Appropriate Assessment Screening Report and traffic projections.
- 2.13. Significant further information was received by the Planning Authority during consideration of the application, which included for an Ecological Impact Assessment including a Natura Impact Statement (NIS) Report, and baseline photography images. The information submitted also included revised solar panel plans.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority issued a decision to grant permission subject to 19 conditions, including the following:

Condition 2. Development Contribution

Condition 3. Permission shall not be construed as any form of consent/agreement to a connection to the national grid or to the routing or nature of any such connection

Condition 4. Period during which the development permitted may be carried out shall be 10 years from date of order

Condition 5. Environmental, construction and ecological mitigation measures in Planning and Environmental Report and other particulars shall be implemented

Condition 6. Mitigation measures in NIS shall be implemented

Condition 7. Archaeological monitoring of site investigations and excavation works

Condition 8. Landscaping scheme

Condition 9. Permits a project life of 40 years from date of commissioning after which time structures are removed, unless prior to end of period, planning permission granted for their retention. Restoration plan submitted to Planning Authority for written approval prior to commencement of development. On decommissioning/if ceases operation for period of more than one year, structures removed. Site shall be restored in accordance with plan and all decommissioned structures shall be removed within three months of decommissioning.

Condition 10. Prior to commencement of development, full details of final layout and design of project, including specifications of infrastructure to be installed shall be agreed in writing with Planning Authority

Condition 11. No lighting installed/operated unless authorised by grant of permission. CCTV cameras shall be fixed and angled to face into site and not directed towards adjoining property/road. Cables shall be located underground. Inverter stations shall be dark green in colour. External walls of substation shall be finished in a neutral colour such as light grey or off-white and the roof shall be of black tile/slates, unless otherwise agreed.

Condition 12. CMP

Condition 13. Submission of site specific and technology specific fire risk assessment prior to commencement of operation phase

Condition 14. Excess soil and stone resulting from development and not reused onsite shall be removed off site by permitted waste collection contractors only

Condition 15. Waste management

Condition 16. Waste disposal receipts shall be obtained and retained for 5 years post completion of development

Condition 17. Prior to commencement of development a stage ½ Road Safety Audit and a Stage 3 Road safety Audit shall be carried out by a Transport Infrastructure Ireland approved team on completion of development and agreed with Planning Authority

Condition 18. Bond to secure satisfactory reinstatement of site

Condition 19. Bond to secure satisfactory reinstatement of public roads

I consider the conditions of the Planning Authority are generally appropriate.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

3.2.2. The Planning Officers initial report is summarised as follows:

- Principle of development is acceptable and supported by local and national policy, subject to considerations
- Landscape and Visual Impact Assessment is outdated and requests revised assessment taking into account provisions of Cavan County Development Plan 2022-2028
- Glint and Glare Assessment noted that glare was only deemed possible from one dwelling, a property in ownership of landowner. Notes assessment concluded that while solar reflections could be visible from vehicles on up to 350m of the road, this would occur for a maximum of 15 minutes per day and only when a solar reflection is geometrically possible and only when the sun is out. No concerns are raised in relation to road or dwelling receptors.
- No recorded archaeological/heritage resources within red line, recommends if approved conditions be imposed to adhere to mitigation measures in Cultural Heritage Assessment, pre development archaeological testing and monitoring
- Having regard to report of Municipal District Engineer considers proposed development would be acceptable in terms of traffic safety, subject to same conditions as applied in Reg. Reg. 16/443. Recommends CTMP be submitted for approval prior to commencement of development.
- Construction phase of 16 weeks will be short term

- Operational phase of 40 years. No concerns raised in relation to noise. No concerns raised in relation to fire issues and recommends conditions in relation to fire risk assessment and CMP.
- No concerns raised in relation to drainage or flood risk.
- Outlines a mandatory EIA and the submission of an EIAR is not required
- Considers Ecology Report and Screening for AA be updated from versions submitted in 2016 to take into account CDP and passage of time

3.2.3. Planning Officer recommends further information is required to assess the proposal to include:

- Updated versions of the following documents taking into account updated policy documents adopted since the original permission was granted:
- Landscape and Visual Impact Assessment,
- Ecological Impact Assessment and Screening for Appropriate Assessment

3.2.4. Further information was received by the Planning Authority and included for the following documentation:

- Ecological Impact Assessment including a Natura Impact Statement (NIS) Report
- Landscape and Visual Impact Assessment including Baseline Photography Comparison Images
- A revised drawing of ancillary infrastructure including a solar panel view and solar panel design, submitted to address inaccuracies in a drawing plan submitted in the application. The new revised drawing detailed the solar panels in portrait format, with sections detailing a solar panel module including a correct height of 2.2m to 2.8m.

3.2.5. The additional assessment in the Planning Officer's second report following receipt of further information is summarised as follows:

- The report notes the drawings submitted related to ancillary infrastructure, which were submitted to address inaccuracies outlined in initial plans submitted.
- Is satisfied from findings in Ecological Impact Assessment and NIS that proposed development would not have any significant residual effects on any ecological receptors provided that proposed mitigation measures are implemented
- Is satisfied from findings in NIS and Ecological Impact Assessment that proposed development will not adversely affect the integrity of any European Site, either alone or in-combination with other plans or projects, once mitigation measures in the NIS are implemented
- Is satisfied that no significant visual effects will arise as a result of the proposed scheme

The Final Planner report concludes the development would be acceptable and recommends permission subject to conditions.

### **3.3. Other Technical Reports**

- 3.3.1. Municipal District Area Engineer has no objection subject to conditions as per Reg. Ref. 16/443. Condition 6 of 16/443 provided prior to commencement of the development Stage 1/2 Road Safety Audit shall be carried out by a TII approved team and a Stage 3 Road Safety Audit to be carried out by a TII approved team on completion of the development and submitted to the Planning Authority for approval.
- 3.3.2. Environment Section. No objection and subject to measures specified in application documents being included as standard conditions. A Construction Management Plan and Decommission Restoration Management Plan should be included in condition.
- 3.3.3. Waste Enforcement Officer. Recommends condition that excess soil and stone resulting from development works and not reused onsite shall be removed off-site by permitted waste collector contractors only. All soil arising from construction works



shall be managed onsite so as to avoid environmental pollution and/or creation of nuisance pending removal off site by permitted waste collection contractors only. Waste disposal receipts shall be obtained by landowner/developer and retained for at least 5 years post completion of development.

### **3.4. Prescribed Bodies**

3.4.1. No observations received.

### **3.5. Third Party Observations**

3.5.1. Submission by Declan and Linda Sheridan objects to the development on a number of grounds including the following:

#### Visual Pollution/Visual Impact

- Visual impact on residential property
- Duration of development
- Hedgerow removal/reduced
- Adverse impact on visual amenity and seek to preserve and protect surrounding area

#### Health and Safety

- Noise generation at construction and operational phases
- Question on a traffic management plan being in place for construction traffic
- Categorisation of lands
- Potential to cause damage to public health and environment and information sought on procedures for solar panel breaks/leak
- Procedures in relation to fire breakout
- Question of responsibility for accident clean up, and if accident and emergency plan in place
- Responsibility of management of site and will Cavan County Council oversee Decommissioning

#### Environmental Effects; Flora and Fauna

- Impact on flora and fauna and Carrick Bog
- Question whether pesticides/insecticides will be used in maintained/upkeep and if will be contained or contaminate waters

#### Protected Archaeological Sites

- Impacts on protected fort in close proximity to site which is visited by tourists, environmentalists, public
- Site contains remains of ancient roadway which connected Granard and Ballyjamesduff

#### Negative towards local tourism

- Outlines proximity to Lough Sheelin, River Inny and Lough Kinale and attractions for tourists visiting area and negative impact scheme would have on tourism in area
- Outlines landowner has in recent past been subject to conviction in courts in respect of pollution breaches

#### Devaluation of property

- Concerns raised on visual impact report which outlined they would experience minor effects as a result of scheme. Outline there will be negative effect and seek to retain existing view

Further details are outlined in the submission in relation to solar farm fires.

## **4.0 Planning History**

PA Reg. Ref. 16/443 & ABP PL02.248710. ABP granted permission on 22/3/18 for a Solar Farm with an export capacity of approximately 4.2 MVA comprising photovoltaic panels on ground mounted frames, an enclosed single storey ESB terminal station, a single storey switchgear enclosure and storage container, four number single storey inverter stations, ducting and underground electrical cabling, perimeter fencing, 11 number mounted CCTV cameras, provision of new access

from R194 (and internal access tracks) and all associated site development and landscaping works within the townland of Carrickabane, Finea, County Cavan.

Condition 2 outlined the period during which the development permitted may be carried out shall be 5 years from the date of the Order.

Condition 3 outlined the permission shall be for a period of 25 years from the date of the commissioning of the solar array.

## **5.0 Policy Context**

### **5.1. The Climate Action and Low Carbon Development (Amendment) Act 2021**

The Climate Action and Low Carbon Development (Amendment) Act 2021 (Climate Act, 2021), commits Ireland to a legally binding 51% reduction in overall greenhouse gas emissions by 2030 and to achieving net zero emissions by 2050. As part of its functions the Board must, in so far as practicable, perform its functions in a manner that is consistent with the most recent approved climate action plan, most recent approved national long term climate action strategy, national adaptation framework, sectoral plans, furtherance of the national climate objective and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State.

### **5.2. Climate Action Plan 2023 (CAP23)**

The Climate Action Plan 2023 (CAP 23) follows the commitment in the Climate Act, 2021 and sets out the range of emissions reductions required for each sector to achieve the committed to targets. CAP 23 supports the acceleration of the delivery of renewable energy onto the national grid with a target of achieving 80% of electricity demand being met from renewable energy by 2030. To this end CAP 23 sets a target of providing 5GW of solar energy by 2025, and a longer-term target of 8GW by 2030.

### **5.3. Project Ireland 2040. National Planning Framework (NPF)**

The NPF is a high-level strategic plan to shape the future growth and development of the country to 2040. It is focused on delivering 10 National Strategic Outcomes (NSOs). NSO 8 focuses on the 'Transition to a Low Carbon and Climate Resilient

Society’ and recognises the need to harness both on-shore and off-shore potential from energy sources including solar and deliver 40% of our electricity needs from renewable sources.

Section 5.4, ‘Planning and Investment to Support Rural Job Creation’, notes that in meeting the challenge of transitioning to a low-carbon economy, the location of future national renewable energy generation will, for the most part, need to be accommodated on large tracts of land that are located in a rural setting, while also continuing to protect the integrity of the environment and respecting the needs of people who live in rural areas.

It is a National Policy Objective (NPO 55) to ‘promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050’.

#### **5.4. Ireland’s National Energy and Climate Plan 2021-2030**

The National Energy and Climate (NECP) Plan is an integrated document mandated by the European Union to each of its member states in order for the EU to meet its overall greenhouse gases emissions targets. The Energy and Climate Plan addresses all five dimensions of the EU Energy Union: decarbonisation, energy efficiency, energy security, internal energy markets and research, innovation and competitiveness.

The plan establishes key measures to address the five dimensions of the EU Energy Union, including:

- To achieve a 34% share of renewable energy in energy consumption by 2030.
- To increase electricity generated from renewable sources to 70%, indicatively comprised of up to 1.5GW of grid-scale solar energy.

#### **5.5. Northern and Western Regional Assembly Regional Spatial and Economic Strategy RSES 2020-2032**

The regional strategy (RSES) for the Northern and Western Region supports harnessing on-shore and off-shore potential from wind, wave and solar and connecting the richest sources of that energy to major sources of demand.

Regional Policy Objective 4.16 outlines the NWRA shall co-ordinate the identification of potential renewable energy sites of scale in collaboration with Local Authorities and other stakeholders within 3 years of the adoption of the RSES.

Regional Policy Objective 4.17 seeks to position the region to avail of the emerging global market in renewable energy by stimulating the development and deployment of the most advantageous renewable energy systems.

Regional Policy Objective 4.18 seeks to support the development of secure, reliable and safe supplies of renewable energy, to maximise their value, maintain the inward investment, support indigenous industry and create jobs.

## 5.6. Development Plan

The Cavan County Development Plan 2022-2028 is the operative plan.

The development plan supports renewable energy development. **Chapter 7 Transportation and Infrastructure** sets out the following energy and solar energy objectives:

ED0 01 Promote energy conservation, increased efficiency and growth of locally based renewable energy alternatives, in an environmentally and socially acceptable and sustainable manner and having particular regard to the requirements of the Habitats Directive.

ED0 02 Require renewable developments to include for assessment of criteria that will be taken into account

ED0 03 Adopt a positive approach to renewable energy proposals, having regard to the proper planning and sustainable development of the area, including community, environmental and landscape impacts and impacts on protected or designated heritage areas/structures

SED 01 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, and other relevant planning considerations.

SED 02 Encourage the development of solar energy in suitable locations in an environmentally sustainable manner and in accordance with Government policy and the forthcoming Guidelines.

SED 03 Ensure that the assessment of solar energy development proposals will have regard to the following: Sensitivities of the county's landscape; Visual impact on protected views, prospects, scenic routes, as well as local visual impacts; Impacts on nature conservation designations, archaeological areas and historic structures, public rights of way and walking routes; Local environmental impacts, including those on residential; Visual and environmental impacts of associated development, such as access roads, plant and grid connections; Scale, size and layout of the project and any cumulative effects due to other projects; The impact of the proposed development on protected bird and mammal species; Impact of the grid connection from the proposal to the ESB network; Impact on drivers of glint and glare from the proposed development; Impact of the grid connection routing systems on the national road network

Chapter 10 **Natural Heritage** sets out the following objective:

NHDS1 Protect and conserve Special Areas of Conservation, Special Protection Areas, Natural Heritage Areas and proposed Natural Heritage Areas.

**Chapter 10** outlines the site is located within the Landscape Character Area Lake Catchments of South Cavan of the development plan and sets out the following objective:

LC1 Ensure the preservation of the unique landscape character type by having regard to the character, value and sensitivity of a landscape when determining a planning application.

## **5.7. Natural Heritage Designations**

- 5.7.1. The nearest designated European sites include Lough Sheelin SPA (Site Code 004065) located 1.1km east of the site, Moneybeg and Clareisland Bogs SAC (Site Code 002340) located 1.3km south east, and Lough Kinale and Derragh Lough SPA (Site Code 004061) is located 1.2km south west. Lough Kinale and Derragh Lough NHA (Site code. 000985) is located c.1km to the southwest of the appeal site. Lough Sheelin pNHA (site code 000987) is located c.0.2km to the southeast of the site.

## 5.8. Cultural Heritage

- 5.8.1. There is no recorded archaeology or architectural heritage sites within the appeal site. The applicant's Cultural Assessment report identified nine archaeological sites located between 210m to 680m of the appeal site.

## 5.9. EIA Screening

- 5.9.1. The Planning and Environmental Report prepared by RPS outlines with regard to the the Planning and Development Regulations 2001-2022, the proposed development does not require a mandatory or subthreshold EIA, and it is not necessary to undertake an assessment as set out under Schedule 7.
- 5.9.2. Solar energy development is not listed as a class of development for the purposes of EIA under Part 1 or 2 of Schedule 5, within the Planning and Development Regulations, 2001 (as amended). In this regard, a requirement for preliminary examination or EIA does not arise.
- 5.9.3. Class 10 *Infrastructure Projects* of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended includes for *(dd) All private roads which would exceed 2000 metres in length*. Internal access tracks of approx. 980 metres (c.120m existing, c.860m new access tracks) will serve the development. I consider that the proposed internal access tracks are not a 'private road' by virtue of these being used as internal access tracks which will serve the scheme only and terminate onsite. In addition, access tracks will consist of permeable stone access tracks used occasionally once the solar farm is operational. It is therefore my opinion that the access tracks are not a 'private road' for the purposes of EIA screening.
- 5.9.4. I note Class 1 *Agriculture, Silviculture and Aquaculture (a)* of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, which relates to restructuring of rural landholdings and removal of field boundaries. This states the following:
- (a) Projects for the restructuring of rural land holdings, undertaken as part of a wider proposed development, and not as an agricultural activity that must comply with the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011, where the length of field boundary to be removed is above 4 kilometres, or where re-contouring is above 5 hectares, or*

*where the area of lands to be restructured by removal of field boundaries is above 50 hectares.*

- 5.9.5. These thresholds reflect those set out in Schedule 1, Part B of the 2011 EIA (Agriculture) Regulations. In addition Part A of Schedule 1 of the 2011 regulations sets out the following thresholds for screening for EIA:

Restructuring of rural land holdings	Screening Required
Length of field boundary to be removed	Above 500m
Re-contouring (within farm-holding)	Above 2 hectares
Area of lands to be restructured by removal of field boundaries	Above 5 Hectares

- 5.9.6. The proposed development includes for the very limited removal of hedgerow (not exceeding 15m) at three locations to facilitate internal service tracks (with c.143 m of hedgerow relocated to accommodate sight lines), which is well below the threshold of 4 km as set out in the P&DR and significantly below the screening threshold set out in the 2011 EIA (Agriculture) Regulations. This removal relates to access arrangements and does not relate to the enlargement of fields within the site. Given the extent of the hedgerow removal significant effects on biodiversity or the environment are considered unlikely.
- 5.9.7. The proposed development will not require cut and fill, will follow the existing contours of the land and will retain the existing field boundary complex subject to the aforementioned access requirements works. The scheme will involve small localised areas of excavation to accommodate ancillary infrastructure including cabling with inverter stations and terminal station buildings being located on hard stands, however the proposed development would not involve the recontouring of the lands.
- 5.9.8. On the basis of the above, it is considered that the proposed solar farm development is not of a class of development which requires an EIA or screening for EIA. The grid connection proposed as part of the overall scheme and which does not form part of the current application is not of a class of development under Parts 1 of 2. The



development does constitute sub threshold development for rural restructuring (Class 1 *Agriculture, Silviculture and Aquaculture* (a) of Part 2 of Schedule 5). *Form no.2 Preliminary Examination* which is appended concludes that there is no real likelihood of significant effects on the environment arising from the development and the requirement for an EIA can therefore be excluded.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. The grounds of the appeal received from Declan and Linda Sheridan are summarised as follows:

- Application seeking to renew previously approved solar PV scheme (ref.16/443) and also states 'minor amendments' to dimensions of ESB Terminal station. When comparing present application map (1740.1.05) to original map (1740.1.05) in 2017 not only is there a 'structural dimension' change there is also a physical change to position of the ESB terminal station and site storage container, omission of prefabricated switchgear unit and appears solar modules are not to R194 roadside and queries where will these be installed.
- Size of project has not reduced/increased, timespan requested to be increased and granted by council. Questions how can changes be made and both maps still dated 2016 (older map) and 2017 for new map and no one has noticed.
- Trees on right hand side of property which were supposedly to form part of screening for project have been cut down. Appellant notified council and informed would be inspected and noted by planning officer at site visit, however appears not to have been noted. Appellant notified council in reference to works carried out when planning up-date sought, with Cavan Heritage Office acquiring funding to carry out hedgerow survey.
- Noise generation at construction stage

- No consultation and owners and operators will not see what appellant has to look out on for next 40 years
- Traffic generation at construction stage and the carrying out of road safety audit after grant of planning seems late. Road is narrow with accidents occurring in past due to dangerous bends in road. Only a matter of time before someone is seriously injured or worse.
- Construction duration of project questionable owing to ground conditions and query will pile driving alone support panels or will they require concreting which will increase noise and traffic. Nature of lands means panel height will be raised higher than outlined in application to achieve optimal light capture and make scheme more visible to appellant and from road
- In winter water runs off land to R194 and freezes. Notified Cavan County Council and doesn't appear to be mention of remedial works/ recommendations to prevent this, which could have been examined under road safety audit before planning was granted.
- Aware of need and requirement for clean cheap energy. However feel have demonstrated how vital it is for companies, councils to work with property owners, communities to achieve project that's fair to all, with nobody approaching appellant to discuss concerns on project and impact on appellant residing at this location.

6.1.2. The appeal documentation also included site layouts, including Site Layout (Sheet 1 of 5) Drawing Number 1704.1.01 Revision K, with Date 27.07.2016, and Site Layout (Sheet 5 of 5) Drawing Number 1704.1.05 Revision K, with the date not detailed.

## 6.2. **Applicant Response**

A response to the appeal was received from RPS on behalf of the applicant. This includes for details on site layouts approved under 16/443 and 22/460 and correspondence of Cavan County Council relating to Enf.Ref. 22-071. The main points are summarised as follows:

- Proposed works under referenced 22/460 are almost identical to those approved under 16/443, with two minor changes: in the 2016 application, the

ESB Terminal Station and the Switchgear Enclosure were proposed in two separate single storey buildings. In 2022 application, these two elements have been amalgamated into one small single storey building in same location. In the 2016 application the proposed operating life was 25 years, in the 2022 application the proposed life is 40 years.

- The proposed development accords with relevant policies of the Cavan Development Plan 2022-2028
- Cultural Heritage Assessment, Ecological Impact Assessment, Glint and Glare Assessment are same documents submitted in support of 2016 application and conclusions remain valid. The Landscape and Visual Impact Assessment (LVIA) and Residential Amenity combined reports submitted in 2016 and 2017, with one new dwelling approved since 2016 to the north and it is not geometrically possible for dwellings to north to be negatively impacted by glint and glare. No significant visual effects are predicted.
- The Planning and Environmental report was prepared to consider any updated policy including Cavan County Development Plan 2022-2028
- In addressing the Further information request, an updated LVIA and updated Ecological Impact Assessment including Screening for AA and NIS were submitted
- In relation to changes to the proposed development between 2016 and 2022 and Extract 1 from point 1 of the third party appeal, the applicants response outlines Drawing 1704.1.05 Rev J was approved as part of 16/433 and this illustrates the ESB terminal Station and Switchgear Enclosure in two separate single storey buildings. Drawing 1704.1.05 Rev K was approved by CCC as part of 22/460 which illustrates the two elements have been amalgamated into one small building. Design of substation reflects ESB Network functional specifications. Total gross floor space of ancillary infrastructure is 101.26 sq m, the same as previously approved.
- On question of where solar panels will be located as are no longer to roadside, the position of the ESB terminal Station and site storage container and omission of prefabricated switchgear enclosure, the response outlines the

panels and associated infrastructure will be in locations specified by Drawing 17040.1.05 Rev K, which is further reinforced by Condition 1, and no solar panels or ancillary infrastructure have been removed.

- The response outlines in addressing the Further Information request in 16/433, Elgin Energy amended the development design and it was at this time the panels were removed from the south-eastern field (roadside) and the ESB Terminal Station and Switchgear Enclosure were relocated, and amended layout was approved by CCC in March 2018. Response details a comparison of previously approved layout Figure 3.1 and present layout extract Figure 3.2 illustrating the panels and ancillary infrastructure are located in the same position as previously approved.
- On Extract 2 from point 1 of appeal, RPS acknowledge the appellants position accords with the applicants in that the project has not reduced/increased with planning permission sought for an operating phase of 40 years, as opposed to 25 years approved under 16/443. Applicant outlines panel efficiencies up to the 40 year period are significantly improved so proposed facility is viable, with the timeline becoming industry standard since 16/443.
- On Extract 3 from point 1 of the third party appeal, the applicant refers to Figure 3.4 and extracts of Title Blocks of drawings submitted under (i) 22/460 listed as drawing reference 1704.1.05 revision K and (ii) the equivalent drawing submitted under 16/443 listed as Revision J. Outlines Title Blocks record date of revision from the original version of the plan produced in 2016 and this stems from architects internal methods.
- On Extract 4 from point 2 of the third party appeal, the applicant outlines the trees in question are unrelated to the proposed development, with landowner removing trees in November 2020 as a health and safety precaution due to risk of them falling. Elgin received a letter from CCC 26<sup>th</sup> April 2023 confirming the works carried out were independent of and not in relation to any foregoing planning permission. The applicant outlines the LVIA submitted at further information under 22/460 concluded that there were no significant changes to surrounding environment, no significant visual effects predicted from the 10 viewpoints, and no significant effects predicted on residential amenity

including at dwelling approved in period between 2016 application and new 2022 application.

- On Extract 5 from point 2 of the third party appeal, the applicant outlines construction will be completed in accordance with best practice, BS5228:2009 and A1:2014 'Code of practice for noise and vibration control on construction and open sites'. Noise will be mitigated by implementation of a Construction Management Plan as required by Condition 12 and include consideration of construction noise and where appropriate a range of outlined mitigation measures will be included. It is outlined this approach was previously accepted by ABP in PL02.248710.
- On Extract 6 from point 2 of the third party appeal, applicant outlines LVIA including a Residential Amenity Assessment was undertaken as part of 16/443 and 22/460, which included an assessment of visual impacts on residential properties within 500m of the proposed development which included an assessment of the appellants dwelling. An updated Residential Amenity Survey was undertaken (November 2022) to verify the contents of LVIA submitted with 16/443, and concluded development is not predicted to have any substantial impacts on residential amenity at any surrounding dwellings and outlined ABP accepted LVIA findings in respect of 2016 application.
- On Extract 7 from point 3 of the third party appeal, the applicant outlines operational traffic will be limited, anticipated to be less than 1 van per week. The construction period is anticipated to be c.12-16 weeks, include 120 large vehicle movements in addition to light goods vehicles, with no oversized loads. Given short duration and generation of low level of additional trips on network, construction phase not expected to result in any significant impacts on existing road conditions. A Construction Traffic Management Plan will be agreed with the Planning Authority with Condition 12 requiring a CMP and Condition 17 requiring submission of Road Safety Audits and is consistent with 2016 application.
- On Extract 8 from point 3 of the third party appeal, applicant outlines concrete foundations not required to facilitate construction process minimising ground

disturbance and noise generation. Each frame table will be supported on aluminium steel posts/frames. Posts are pushed into the ground via typical agricultural methods used to erect fence posts on farms.

- On Extract 9 from point 3 of the third party appeal, which relates to the nature of the lands, raising and visibility of panels, the applicant outlines the infrastructure and dimensions will be as per that outlined in the Planning and Environmental Report.
- On Extract 10 from point 3 of the third party appeal, applicant outlines infrastructure and layout will allow for rainwater dispersal and infiltration, and will not increase rate of discharge from current pre development run off rates. ABP inspector report PL02.248710 is referenced where it was not considered the surface water regime would be altered such that it would result in any significant increase in flood risk. Planners report in 22/460 referenced where it is not anticipated the proposed development will result in rate of discharge from current run off rates. Outlines scheme will not result in any surface water run off onto the local road.
- Concludes principle of proposed development was established through 16/443 and endorsed by ABP in PL02.248710, is compliant with national, regional and local planning policy, is not materially different from that previously approved and will not result in any change in associated environmental impacts.

### **6.3. Planning Authority Response**

- No response

### **6.4. Observations**

- None

## **7.0 Assessment**

- 7.1. Having examined the application details and documentation on file, having inspected the site and having regard to the relevant planning policy and guidance, I consider

that the key issues in determining this appeal can be addressed under the following headings:

- Principle of the Development
- Landscape and Visual
- Glint and Glare
- Ecology
- Traffic and Safety
- Noise and Disturbance
- Flood Risk and Drainage
- Archaeology and Cultural Heritage
- Other Matters
- Appropriate Assessment

## 7.2. Principle of the Development

- 7.2.1. The grounds of appeal recognise the need and requirement for clean cheap energy. National Policy (including the NPF and Climate Action Plan 2023) include objectives to support proposals which aim to achieve a climate neutral economy. In line with EU ambition, the Programme for Government, Our Shared Future commits to achieving a 51% reduction in Ireland's overall GHG emissions from 2021 to 2030, and to achieving net-zero emissions no later than 2050. The National Planning Framework National Strategic Outcome (NSO) 8 focuses on the 'Transition to a Low Carbon and Climate Resilient Society' and includes National Policy Objective (NPO 55) to 'promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050'.
- 7.2.2. At a regional level, the Regional Spatial and Economic Strategy (RSES) for the Northern and Western Region supports the harnessing of the on-shore potential from solar and connecting the richest sources of that energy to major sources of demand. RPO 4.17 and RPO 4.18 seek to position the region to avail of the emerging global

market in renewable energy and support the development of secure, reliable and safe supplies of renewable energy. At a local level, the proposed development accords with the Cavan County Development Plan Objectives SED01 and SED02 which support the development of solar energy infrastructure in suitable locations in an environmentally sustainable manner.

- 7.2.3. The principle of a solar farm has been previously accepted under P.A.reg. ref. 16/443 & ABP Ref. PL02.248710. The application site is located in a rural location on agricultural pasture lands which are not covered by any specific land use zoning objective in the development plan. The proposed development would be temporary and would not result in the permanent loss of agricultural lands. It is noted that it is intended that the lands will continue to be used for agricultural purposes by way of sheep/livestock grazing in conjunction with the solar farm use.
- 7.2.4. Having regard to the foregoing and the national, regional and local planning policy which supports the development of renewable energy, I consider the principle of the proposed development is acceptable. Planning and environmental considerations are addressed in the following sections.

### 7.3. Landscape and Visual

- 7.3.1. Concerns are outlined on the visibility of the scheme over its lifetime in the grounds of appeal. Concerns are outlined in relation to construction practices and that the nature of lands will require panel heights being raised above that outlined in the application, resulting in scheme being more visible to the appellant and the public road.
- 7.3.2. The site is located within Landscape Character Area 3: Lake Catchments of South East Cavan in the Cavan County Development Plan 2022-2028. Lough Sheelin and Lough Ramor are the largest lakes in this region and have a notable amenity value due in part to their size and location within a scenic landscape and their recreational value. The CDP outlines Lough Sheelin is identified as a Major Lake (ML3). I note there are no scenic routes in the vicinity of the site in the Cavan County Development Plan.
- 7.3.3. The *Landscape and Visual Impact Assessment* (LVIA) including for baseline photography has been carried out by RPS Group. The report assesses the landscape and visual impacts of the proposed development on the receiving



environment, identifying an area beyond a distance of 5km of the site. The study is supported by 10 viewpoints taken from various receptors within the study area. A number of the viewpoints include for existing views and predicted views. In relation to visual impacts, the LVIA outlines the predicted effects from viewpoints would range from none to minor and not significant, with the magnitude of impacts arising ranging from no change to negligible to small, owing to a range of factors including intervening topography, landform screening, existing vegetative cover and screening.

- 7.3.4. The LVIA included for a *Residential Amenity Survey*, which included for a visual assessment of over 40 residential properties within 500m of the proposed development, which included the appellants property. While theoretical visibility is predicted for a number of dwellings in the vicinity of the scheme, the survey outlines this is negated by a range of factors including intervening screen vegetation, vegetation cover, topographical changes, and there will be no significant effects on residential amenity. A *Sequential Impact Assessment* has been carried out for receptors along regional roads in the vicinity of the site. Theoretical visibility is predicted for the R194 with the predicted magnitude of change is considered to be generally no change, rising to small for a 140m long section of the route adjacent the site, with the significance of visual impact ranging from minor to not significant. Theoretical visibility is predicted for the R394 with the predicted magnitude of change considered generally to be no change, rising to negligible where gaps in intervening vegetation allow glimpses of the scheme, with the significance of visual impact ranging from none to minor-not significant. Mitigation measures to reduce the impacts arising from the scheme are set out in Section 1.9 of the LVIA, and include for planting, retention of existing vegetation, and translocation of the existing mature hedgerow to the R194 roadside. The LVIA concludes that the landscape and visual context at the site can accommodate the proposed development.
- 7.3.5. It is noted the submitted ZTV as indicated in the LVIA indicates the main visual influence will be concentrated in the immediate site vicinity, and from medium and long range views to the south, southeast, east and west. Following an inspection of the site, the surrounding area and an examination of the information submitted including the visual aids, it is noted while the proposed scheme would be visible from a number of locations within the immediate and wider surrounding area, I consider

the receiving environment has the capacity to accommodate and absorb the proposed scheme at this location from a visual and landscape perspective.

- 7.3.6. Having regard to the topography of the site, its enclosure and screening by hedgerows and trees for the most part, the scale and height of the proposed development, the extensive network of hedgerows and treelines adjacent the surrounding road network, the separation distances to residential development and the intervening topography between the site and the various receptors, I consider that the proposed scheme would not result in an adverse impact on the visual amenities of the area. It is considered that the mitigation as outlined including the retention of trees/hedgerows and additional planting would serve to further enclose the proposed scheme visually. While the proposed development is sited within the Lake Catchments of South East Cavan Landscape Character Area, it is considered that the characteristics of the scheme and its outlined site context would not adversely impact on this Landscape Character Area or its landscape setting.
- 7.3.7. While views of the scheme would arise on the road network in the immediate and wider area, these would be intermittent for the most part and it is considered would not result in an adverse visual impact. I consider a moderate visual impact would arise on the R194 regional road adjacent the site given the partial exposure of the site and the translocation/setting back of the roadside hedgerow at this location to accommodate the scheme from a roads perspective, however this road is not a scenic route and these impacts would be mitigated by the landscape mitigation measures proposed. Furthermore, to enable the schemes integration into the lands at this location and in the interests of safeguarding visual and residential amenities, I consider additional screen planting should occur to the field boundary to the east adjacent to the site of the ESB terminal building. This issue can be addressed by condition, should the Board be minded to grant permission.
- 7.3.8. Having regard to the scale and nature of the scheme, site and landscape context and the demonstration of the visual and landscape effects in the LVIA and associated documentation, I consider the proposed development would not likely result in an adverse visual impact on receptors or on visual amenities of the area and that any visual impacts arising on the landscape at this location would range from negligible to low, subject to the application of the outlined mitigation measures. I

therefore consider that the proposed development is acceptable from a visual and landscape perspective.

#### 7.4. Glint and Glare

- 7.4.1. The application was accompanied by a Glint and Glare Study carried out by PagerPower, dated August 2016. A description of glint and glare is outlined. Receptors identified in the study include for key receptors entailing road and dwelling receptors. South facing panels with an elevation angle of 25 degrees was considered.
- 7.4.2. Road receptors were taken approx. every 200m along a 4.2km section of road surrounding the site, which includes the R394, R194 and connecting roads to the north and south, with 21 locations assessed, with roads beyond those assessed not expected to have a view of the proposed solar farm. The assessment identified that solar reflection is not geometrically possible at 10 receptors, while 11 of the 21 road receptors could geometrically experience a solar reflection. Taking into account existing screening, the study outlined solar reflection was only possible to receptors 12 and 13 and a road length of c.350m. The assessment outlines that solar reflections will occur for up to approx. 15 minutes per day, only when a solar reflection is geometrically possible and only when the sun is out. It is further stated that solar reflection would be fleeting in nature for a moving receptor such as a vehicle.
- 7.4.3. 34 dwelling receptors within 1km of the proposed development were assessed for solar reflection. The assessment identified 1 no. dwelling where a solar reflection is possible which is a dwelling owned by the landowner. Solar reflection was not possible from other dwelling receptors due to existing screening or due to the orientation of the panels. The assessment outlines a minor impact upon residential amenity at this location is expected, and it is outlined that in the event that a solar reflection is visible, it will occur for approx. 15 minutes per day during certain months of the year, only when a solar reflection is geometrically possible and only when the sun is out. In the interests of residential amenity and to ensure that glint impacts are minimised, I consider that additional screening/screen planting at this dwelling

location (no.19) should be required as a condition, should the Board be minded to grant permission.

- 7.4.4. Having regard to the site layout and panel orientation, separation distances to roads and dwellings, the existing vegetative screening onsite, the proposals for new and additional planting and application of appropriate mitigation measures, I am satisfied that the issue of glint and glare would not likely give rise to significant adverse impacts on road or residential receptors or on the amenities of the area.

## 7.5. Ecology

- 7.5.1. An Ecological Impact Assessment prepared by RPS Group accompanies the application. A landscape Management Plan is also submitted. A wintering Bird Survey was also carried out. A Natura Impact Statement (NIS) was submitted with the application and this is considered in Section 8.
- 7.5.2. Desk based studies and a Fossitt Habitat surveys were undertaken with the habitats on the site including improved grassland and wet grassland, which are of local (lower value) importance and the loss was considered negligible and having no significant effect. A negligible impact is predicted for drainage ditches. In the absence of mitigation the loss of hedgerow with trees habitat was considered a significant negative - minor adverse. The development will involve the permanent loss of 15m of hedgerows to facilitate internal service tracks and 143m of hedgerow will be relocated to the rear of proposed sight lines. Hedgerow and woodland planting is proposed as part of the landscape mitigation strategy which will include a new native hedgerow 40m long being planting to the southern area of the site to offset the loss of hedgerows. Mitigation will include for the relocation of the roadside hedgerow being carried out within a period of one day from October to March to protect plants and involve the excavation of plants and roots in their entirety. With the implementation of the outlined landscape mitigation measures including for additional planting, I consider there would be no likely significant effects on biodiversity or the ecology of the site.
- 7.5.3. Lough Sheelin pNHA is located c.225km from the site and it is outlined there would be no significant effect on the habitats within this site.

- 7.5.4. In relation to bat species, it is outlined except for breakages in hedgerow continuity for proposed access tracks, hedgerows will remain unchanged. One ash tree may be felled which while it is outlined as being of low suitability for roosting bats, it may support individual bat roosts. Mitigation includes for any felling to occur between 1 September – 15 October and left in situ for 48 hours to allow species should they occur the opportunity to relocate, and it is outlined this would result in no significant effects to bats. As the hedgerow habitat is to be retained aside from breakages totalling 15m and the proposed roadside hedgerow will be relocated, I consider that impacts on bats are unlikely, subject to the application of appropriate mitigation measures during the construction phase.
- 7.5.5. In relation to badgers, a pre-construction survey is proposed to identify any new setts onsite. If setts are found within 25m of construction works, work will stop and the project ecologist will be contacted, with any works near a sett being conducted under supervision of an Ecological Clerk of Works. It is outlined these works may only be permitted under licence from NPWS. It is outlined these measures would result in no significant effects to badgers. Having regard to the nature of the site and the retention of the linear features onsite for the most part, I consider that impacts on badgers are unlikely, subject to the application of appropriate mitigation measures during the construction phase.
- 7.5.6. In relation to bird species, mitigation measures include for pre-construction site clearance removal of vegetation for access tracks and relocation of hedgerows to take place outside of the bird breeding season (1 March – 31 August) to ensure species are protected from harm. It is outlined these measures would result in no significant effects to birds. I consider that impacts on birds are unlikely, subject to the application of appropriate mitigation measures during the construction phase.
- 7.5.7. No otter/signs of otter were recorded during a site survey, and it is outlined the watercourse/drainage ditches and terrestrial habitats onsite do not support fish/other prey items considered encouraging otters to forage within the site except on rare occasion. Having regard to the drainage characteristics of the site which are considered suboptimal for otter and the surface water protection mitigation measures set out in the EclA, I consider the proposed development would not affect otter by way of disturbance or water quality.

- 7.5.8. In relation to cumulative effects, the assessment has considered planning applications within 1km of the site and it is not considered there is a potential for these to act in-combination with the proposed development on the ecological environment subject to the implementation of mitigation measures.
- 7.5.9. No impacts or potential for impacts have been identified on nationally designated sites i.e proposed NHAs or NHAs. I note that the construction works are temporary in nature and the site and immediate local area entails agricultural pasture lands. Having regard to the existing baseline, the report submitted and the mitigation measures as set out, I am satisfied that the mitigation measures are capable of being successfully implemented. This is a relatively common construction project of relatively limited construction phase duration and I do not consider that the proposed development would have an undue adverse impact on the biodiversity of the site or area.

## 7.6. Traffic and Safety

- 7.6.1. The third party appellant raises concerns with regard to traffic generation at construction stage and the applicability of carrying out of road safety audit after a grant of planning. Concerns are also outlined in relation to traffic safety due to the nature of the road network.
- 7.6.2. The proposed development is to be accessed by a new entrance from the R194 which will include for achievable sightlines of 120m to the southwest and 160m to the northeast. The entrance will serve the construction and operational phases of the scheme. It is noted that the Local Authority Engineer has not raised traffic concerns in relation to the scheme, subject to conditions of previous permission Reg. Ref. 16/443 applying, which requires a Stage 1/2 Road Safety Audit prior to commencement of development followed by a Stage 3 Road Safety Audit on completion of the development. It is noted that Condition 11 the previous permission ABP Ref. PL02.248710 included a similar condition and the audit stages as outlined within are considered to accord with TII publication Road Safety Audit GE-STY-01024 December 2017.
- 7.6.3. The Planning and Environmental Report outlines that the construction period will be approx. 12-16 weeks during which there would be 120 large vehicles movements

over the period and in addition there would be light goods vehicles for construction workers. It is outlined there would be no abnormal loads associated with the construction phase. The Report outlines a Construction and Traffic Management Plan (CTMP) will be prepared and agreed prior to commencement of the development in the event of a grant, and will include for details on site compound, parking, timing and routing of traffic, signage, deliveries, measures to obviate queueing of construction traffic on road network, mitigation measures for noise, dust, vibration and construction management measures.

- 7.6.4. The operational period would accommodate a very low number of trips which would entail maintenance vehicles with the site being serviced on a quarterly basis and occasional visits being required to undertake minor repairs. I consider this level of trip generation would not result in any material intensification.
- 7.6.5. Having regard to the details on file and the sites rural location, I do not consider there is any deficiency in the network that would render it unsuitable to carry the additional load required during the construction phase of the proposed development. Additional traffic movements associated with the construction phase would be short-term (12-16 weeks) in duration and would not, in my view, lead to any undue congestion or hazard.
- 7.6.6. In conclusion, subject to the implementation of mitigation measures and conditions including for Road Safety Audits and a CTMP, I consider issues of traffic and safety can be adequately addressed.

## 7.7. Noise and Disturbance

- 7.7.1. The appellant has raised concerns in relation to noise generation at construction stage. The Planning and Environmental Report outlines the construction phase of the development will be carried out in accordance with best practice with potential noise impact controlled in accordance with BS5228:2009 and A1:2014 'Code of practice for noise and vibration control on construction and open sites'. The report outlines a Construction Management Plan (CMP) will be prepared which will consider construction noise, confirm a programme of works and working hours, consider vibration and set noise and vibration limits at noise sensitive receptors. Where appropriate the CMP will include for noise and vibration mitigation measures

in accordance with standards, which include for plant and equipment using exhaust silencers, selection of quiet plant and machinery, use of non-metallic dolly for solar pile driver, minimising noise emissions in material handling.

- 7.7.2. Having regard to the nature and scale of the proposed development, the separation distances between the site and neighbouring dwellings and the limited construction duration (12-16 weeks), I do not consider that significant adverse effects by way of noise are likely to arise on residential or other amenities of the area during the construction phase subject to the mitigation measures set out in the Planning Environmental Report and implementation of a CMP.
- 7.7.3. The third party has also raised concerns in relation to the construction duration of the project owing to ground conditions and as to whether panels would require concreting which would increase noise and traffic.
- 7.7.4. I note the Planning and Environmental Report outlines the mounting system will include for ground fixtures which will consist of frames or frames on posts being driven into the ground, via typical agricultural methods used to erect fence posts on farms. The report further outlines concrete foundations are not required to facilitate this process minimising ground disturbance. It is outlined in cases where it is required to safeguard archaeology frames can be mounted using a shallow concrete 'shoe', which includes a pre-cast concrete base.
- 7.7.5. On the basis that the proposed panels would not require concrete foundations, with the use of a pre-cast concrete bases in specific cases, I am satisfied that the proposed development would be carried out within a projected timeframe which is standard for developments of this type and that there would be no increases in noise or traffic.
- 7.7.6. In relation to operational noise, details submitted outline there are no recorded noise issues with any existing solar panels and cooling of inverter stations require internal fans which emit some localised noise perceptible immediately adjacent the inverter station. Details outline the proposed development will be operated in accordance with best practice. Having regard to the details submitted, the nature and scale of the proposed development and the separation distances between the site and neighbouring dwellings, I do not consider that significant effects by way of noise are likely to arise during the operational phase.



7.7.7. Having regard to the nature and scale of the scheme, I consider there is the potential for environmental impacts to arise during construction including potential pollution events, disturbance and dust and dirt on the roads. Should the Board be minded to grant permission, I consider that a construction management plan (CMP), including for a traffic management plan and mitigation measures to control environmental emissions should be prepared, prior to the commencement of development works on the site and should be required as a condition of any planning permission.

#### 7.8. Flood Risk and Drainage

7.8.1. The appellant has raised concerns in relation to drainage with water stated to run off the lands to the R194 and freezes in winter which was notified to Cavan County Council. The appellant further outlines works to prevent same appear not to have been outlined and this could have been examined in Road Safety Audit prior to grant.

7.8.2. In relation to flood risk and surface water, the Planning and Environmental Report outlines the proposed development will not increase the rate of discharge from pre-development run-off rates, with limited areas of impermeable surfaces proposed. It is outlined access and maintenance roads will be constructed from permeable surfaces, which will not contribute to run off rates with surface water soaking into tracks and infiltrating into the ground as existing. No formal drainage systems are being installed.

7.8.3. I have consulted the OPW Floodmaps database which includes National Indicative Fluvial Mapping and CFRAM Rainfall (Pluvial) Flooding and which indicate that the site is not within an area of flood risk. I have consulted the GSI Groundwater Flooding Mapping which indicate the site is not located in an area subject to groundwater flooding. On the basis of the information submitted, I am satisfied that the proposed development is sited at an appropriate location and would not alter surface water run off rates from that existing such that it would give rise to a risk of flooding or surface water drainage issues in the area.

7.8.4. I note the Local Authority Engineer Report did not raise any concerns in relation to surface water, flooding or traffic concerns in relation to the scheme, subject to the implementation of a condition requiring Stage 1/2 Road Safety Audit and Stage 3 Road Safety Audit. As highlighted in Section 7.6.2 of this report Condition 11 of ABP

Ref. PL02.248710 included a similar condition and the audit stages as outlined within are considered to accord with TII publications.

## 7.9. Archaeology and Cultural Heritage

- 7.9.1. A Cultural Heritage Assessment prepared by John Cronin and Associates accompanies the application which was informed by a desktop survey and field inspection. There is no recorded archaeology or architectural heritage sites within the appeal site. The applicant's Cultural Heritage Assessment report identified nine archaeological sites located between 210m to 680m of the appeal site. The assessment outlines the proposed development will not impact on any recorded monument or protected archaeological or built heritage site and mitigation measures including for pre-development archaeological testing are outlined.
- 7.9.2. Any potential for impacts on unknown archaeological monuments or features would be removed subject to the implementation of mitigation measures and compliance with conditions including monitoring and recording. I note condition 10 of PL.02.248710 which made provision for archaeological monitoring. I am satisfied, subject to appropriate conditions, that the proposed development is satisfactory from an archaeological, architectural and cultural heritage perspective and that no significant adverse effects are likely to arise.

## 7.10. Other Matters

- 7.10.1. **Proposed development and site layout** - The appellant has raised concerns in relation to the renewal and amendments being sought in the application where these are compared to the previously approved PV scheme. It is outlined in comparing the present application map (1740.1.05) to the original map (1740.1.05) in 2017 there is a structural dimension change and there is also a physical change to position of the ESB terminal station, site storage container, omission of prefabricated switchgear unit with solar modules absent to R194 roadside and queries where will these be installed. The appellant outlines the size of project has not reduced/increased, with the timespan requested to be increased and granted by council and that such

changes have not been taken into account with both maps still dated 2016 (older map) and 2017 for the new map.

- 7.10.2. In response the applicant has outlined Drawing 1704.1.05 Rev J approved as part of 16/433 (I note this appears to be a typo and should read 16/443) illustrates the ESB Terminal Station and Switchgear Enclosure in two separate single storey buildings. Drawing 1704.1.05 Rev K approved in 22/460 illustrates the two elements have been amalgamated into one small building, with the substation design dictated in part by network operator ESB and reflecting ESB Network functional specifications. The applicant outlines the total gross floor space of ancillary infrastructure is 101.26 sq m, the same as previously approved, albeit the substation and switchgear were in two separate buildings.
- 7.10.3. In relation to the removal of panels to roadside, location of ESB terminal Station and site storage container and the omission of the prefabricated switchgear enclosure, the applicant response outlines the panels and associated infrastructure will be in locations specified by Drawing 1704.1.05 Rev K (I note this drawing number appears to be a typo), and no solar panels or ancillary infrastructure have been removed.
- 7.10.4. In relation to the dating of mapping, the applicant in response has provided details on drawing references and provides extracts of the Title Blocks of the drawings submitted under (i) 22/460 listed as drawing reference 1704.1.05 revision K and (ii) the equivalent drawing submitted under 16/443 listed as Revision J. The response outlines the Title Blocks record the date of revision from the original version of the plan produced in 2016.
- 7.10.5. I note the total floor area of ancillary infrastructure as indicated on submitted plans and particulars is c.154 sq m (ESB Terminal Station & Switchgear c.54.06 sq m, Storage Container c.29.7 sq m and inverter stations c.17.5 sq m x 4). I have reviewed the site layout plans, structural plans and mapping submitted for Reg. Ref. 16/443 and 22/460 and in my view, the proposed plans and development sought in the current subject application are the same as the plans outlined in the approved 16/443, aside from the minor amendments now being sought. On review of the plans submitted for 16/443 and as outlined by the applicant response, I note that it was in addressing the further information request in 16/443 that panels were removed from

the south-eastern roadside field and the ESB Terminal Station, Switchgear Enclosure and Site Storage Container were relocated and this amended layout was approved in 16/443 & PL.02.248710. I am therefore satisfied that no changes are being sought to the approved 16/443 in the current subject application, outside of the minor amendments now being sought, and which are indicated in the plans and particulars.

- 7.10.6. **Operational lifetime** – In relation to changes being made, the appellant outlines the size of project has not reduced/increased, with the timespan requested to be increased. The grounds of appeal recognise the need and requirement for clean cheap energy. It is noted that the size of the project has not reduced/increased. In their justification for an increase in the operational lifespan to 40 years, the applicant in response outlines since the approval of 16/443 technology has improved so that panels and ancillary components have become much more durable. The applicant outlines this means panel efficiencies up to the 40 year period are now significantly improved so the proposed facility is completely viable with the timeline becoming industry standard since 16/443. I note the planning authority has not raised any concerns in relation to an operational lifetime of 40 years.
- 7.10.7. As set out in this report the proposed development aligns with relevant renewable energy policy and it is considered that an extension of the lifespan would not impact negatively on the visual or residential amenity of the area. In terms of land use, the development would not prevent the use of the land for agricultural purposes but would limit the range of uses over its lifetime. However, the nature of the development would enable for ease of reversibility of its impact. A temporary permission as sought would also enable for panels to be removed at the end of their lifetime. Guidance in relation to time limits for renewable energy is outlined in the Draft Revised Wind Energy Guidelines 2019 which outlines for wind energy development 'current technology would suggest that a time limit of approximately 30 years is reasonable'. Furthermore I note that the vast majority of recent permissions in relation to solar energy at the upper limit of operational duration ranges from 30-35 years. Having regard to the above and the nature and location of the development, I consider that an increase in the operational lifespan of the project from 25 years to 35 years (with to 40 years being sought) would be appropriate for this development, would align with recent solar energy permissions while taking cognisance of

advances in solar PV technology and would also enable for a review of the scheme within an appropriate timeframe.

- 7.10.8. **Removal of Screening** - The appellant outlines that trees on right hand side of property which were to form part of screening of the project have been felled, which was notified to the Council and appears was not taken into account, at a time when Cavan Heritage Office has acquired funding to carry out a hedgerow survey. In response the applicant has outlined the trees in question are unrelated to the proposed development, with landowner removing trees in November 2020 as a health and safety precaution due to risk of them falling. The response outlines the applicant received a letter (attached in Appendix A) from Cavan County Council 26<sup>th</sup> April 2023, confirming the works carried out were independent of and not in relation to any foregoing planning permission. I note the correspondence Enf. Ref. 22-071 which states the enforcement case is closed. In addition, I have not identified any active enforcement case at this site location following a search of the Cavan County Council Online Planning Search System.
- 7.10.9. As set out in Section 7.3 Landscape and Visual of this report, it is considered that the proposed development would not likely result in an adverse visual impact on receptors or on visual or residential amenities of the area and that any visual impacts arising on the landscape at this location would range from negligible to low, subject to the application of the outlined mitigation measures. It is therefore considered that the proposed development is acceptable from a visual and landscape perspective.
- 7.10.10. **Consultation** - The third party appellant outlines no consultation has occurred. I note that there is no mandatory requirement for an applicant to engage in pre-application consultation/consultations with local residents.
- 7.10.11. **Grid connection** - The Planning and Environmental Report outlines that it is proposed to connect into the ESB Network via the existing 38kV substation at Bracklagh which is located 1km to the west. This connection would be by way of underground cable. Details outline the applicant has a connection agreement with ESB Networks for an underground cable connection from the site to Carrickabane 38kV substation. The grid connection does not form part of the subject planning application and is considered in the Appropriate Assessment below.

## **8.0 Appropriate Assessment**

### **8.1. Introduction**

- 8.1.1. The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000, as amended), are considered fully in this section.

### **8.2. Screening for Appropriate Assessment - Test of likely significant effects**

- 8.2.1. The proposed development is not directly connected with or necessary to the management of any European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 8.2.2. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

### **8.3. Description of Development**

- 8.3.1. The proposed development is described in Section 2 above, Section 3 of the NIS and in other accompanying documentation including the Planning and Environmental Report and the Ecological Impact Assessment. The proposed development is seeking permission to renew the planning approval granted previously under planning application 16/443 for a solar farm project (granted permission in ABP Ref PL02.248710).
- 8.3.2. The proposed development will consist of a solar PV farm with an export capacity of approximately 4.2MVA comprising photovoltaic panels on ground frames, an enclosed single storey building containing the ESB terminal station and switchgear apparatus, storage container, 4 no. single storey inverter stations, ducting and underground electrical cabling, perimeter fencing, 11 no. mounted CCTV cameras, provision of new access from R194 (and internal access tracks), and all associated site development and landscaping works. The planning application also seeks minor amendments to the dimensions of the approved substation and increase in the operational lifespan of the project from 25 years to 40 years.

- 8.3.3. There will be no cut and fill to facilitate the development. It is proposed that the land will continue to be used for agricultural purposes. It is envisaged the construction phase will total 16 weeks.
- 8.3.4. It is noted that 16/443 granted permission in ABP Ref PL02.248710 was screened out for the requirement for Appropriate Assessment (Stage 2).
- 8.3.5. A Screening Report/Appraisal for Appropriate Assessment is included as part of the NIS, prepared by RPSGROUP, dated May 2023. The screening report/appraisal was prepared in accordance with best practice and provides a description of the proposed development, identifies European Sites within a zone of influence, and assesses the potential for likely significant effects.
- 8.3.6. Field based surveys including a habitat survey and overwintering bird surveys have been undertaken to inform the AA Screening report and NIS. Information forming part of an overall ecological assessment for the site was used to inform the assessment of potential adverse effects on species and habitats. The main fossitt classified habitats in the EclA included improved grassland, wet grassland, hedgerows, drainage ditches, grassy verge. The Screening Report outlines two drainage ditches onsite flow to the River Inny located to the south of the site which is connected to Lough Kinale and Derragh Lough SPA. The screening report can be read in conjunction with the Planning and Environmental Report and the Ecological Impact Assessment which accompany the planning application.
- 8.3.7. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:
- Construction related -uncontrolled surface water/silt/ construction related pollution
  - Habitat loss/ fragmentation
  - Habitat disturbance /species disturbance (construction and or operational)
  - In combination effects with other projects

#### 8.4. **Submissions and Observations**

8.4.1. I note that no observation or submission has been received from any prescribed body or third party that relates to impacts on a European site.

## 8.5. European Sites

8.5.1. The development site is not located in or immediately adjacent to a European site. The closest European site is Lough Sheelin SPA, within 1.1km of the proposed development, with Lough Kinale and Derragh Lough SPA 1.2km from the site.

8.5.2. I have set out a summary of European Sites that occur within 15km/ within a possible zone of influence of the proposed development which is presented in the table below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

8.5.3. Table 1.1. Summary Table of European Sites within a possible zone of influence of the proposed development

European site (SAC/SPA) and distance from proposed development	Qualifying Interests QI / Special conservation interests (SCI)	Conservation Objective	Connections/source/pathways	Considered further in screening. y/n
Lough Sheelin SPA (004065)  1.1km	A005 Great Crested Grebe  A059 Pochard  A061 Tufted Duck A067 Goldeneye  (A999) Wetland and Waterbirds	To maintain or restore the favourable conservation condition	Hydrological connection exists between site and SPA. Site is connected to SPA via River Inny, which flows from east to west from Lough Sheelin to Lough Kinale, therefore the project can have no effect on the upstream Lough Sheelin.  Potential ornithological connection exists.	y
Lough Kinale and Derragh Lough SPA (004061)	Pochard [A059] Tufted Duck [A061]  Wetland and Waterbirds [A999]	To maintain or restore the favourable	Hydrological connection exists between site and SPA  Potential ornithological connection exists.	y



European site (SAC/SPA) and distance from proposed development	Qualifying Interests QI / Special conservation interests (SCI)	Conservation Objective	Connections/source/pathways	Considered further in screening.  y/n
1.2km		conservation condition		
Lough Derravarragh SPA (004043)  13.5km	Whooper Swan [A038] Pochard [A059] Tufted Duck [A061] Coot [A125] Wetland and Waterbirds [A999]	To maintain or restore the favourable conservation condition	Hydrological connection exists between site and SPA.  Given the nature and scale of the proposed development, the separation distance of the proposed development from this site, the length of the hydrological link, the dilution and dispersion action of watercourses and waterbodies, the potential for significant effects on this site to arise from the proposed development is unlikely.  Potential ornithological connection exists.	y
Moneybeg and Clareisland Bog SAC (002340)  1.31km	7110 Active raised bogs  7120 Degraded raised bogs still capable of natural regeneration  7150 Depressions on peat substrates of the Rhynchosporion	To restore the favourable conservation condition of active raised bogs	Hydrological connection exists between site and SAC.  Site is connected to SAC via River Inny, which flows from east to west from Lough Sheelin to Lough Kinale, therefore the project can have no effect on the upstream SAC.	N

European site (SAC/SPA) and distance from proposed development	Qualifying Interests QI / Special conservation interests (SCI)	Conservation Objective	Connections/source/pathways	Considered further in screening. y/n
Derragh Bog SAC (002201)  2.5km	Active raised bogs [7110]  Degraded raised bogs still capable of natural regeneration [7120]	To restore the favourable conservation condition of active raised bogs	Hydrological connection exists between site and SAC.  Given the nature and scale of the proposed development, the nature of the qualifying interest, the separation distance of the proposed development from this site, the length of the hydrological link at 3.5km, the dilution and dispersion action of watercourses and waterbodies, the potential for significant effects on this site to arise from the proposed development is unlikely.	y
Ardagullion Bog SAC (002341)  10.8km	Active raised bogs [7110]  Degraded raised bogs still capable of natural regeneration [7120]  Depressions on peat substrates of the Rhynchosporion [7150]	To restore the favourable conservation condition of active raised bogs	No known connection	n
Garriskil Bog SAC (000679)  15km	Active raised bogs [7110]  Degraded raised bogs still capable of natural regeneration [7120]	To restore the favourable conservation	Hydrological connection exists between site and SAC.  Given the nature and scale of the proposed development,	n

European site (SAC/SPA) and distance from proposed development	Qualifying Interests QI / Special conservation interests (SCI)	Conservation Objective	Connections/source/pathways	Considered further in screening. y/n
	Depressions on peat substrates of the Rhynchosporion [7150]	condition of active raised bogs	the separation distance of the proposed development from this site, the length of the hydrological link, the dilution and dispersion action of watercourses and waterbodies, the potential for significant effects on this site to arise from the proposed development is unlikely.	
Garriskil Bog SPA (004102)	Greenland White-fronted Goose [A395]	To maintain or restore the favourable conservation condition	Potential ornithological connection exists.	y
White Lough, Ben Loughs and Lough Doo SAC [001810] 14km	Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140]  Austropotamobius pallipes (White-clawed Crayfish) [1092]	To maintain the favourable conservation condition	No known connection	n

- Lough Kinale and Derragh Lough SPA (004061)**

8.5.4. As outlined in Table 1.1, a hydrological connection exists between the proposed development site and Lough Kinale and Derragh Lough SPA and the AA Screening report outlines in the absence of mitigation measures to control surface water

pollution and sedimentation during construction, the potential for likely significant effects to this SPA cannot be ruled out. I note aquatic systems and the species /habitats which are dependent on these system are sensitive to pollution/contamination of surface waters.

- **Other European Sites identified for further consideration in Table 1.1**

- 8.5.5. The possibility of significant effects on remaining European Sites listed in table 1.1 has been excluded on the basis of objective information. No direct habitat loss will occur within a European Site given the distance of the site from these sites. As the River Inny flows from east to west from Lough Sheelin to Lough Kinale, significant effects to Lough Sheelin SPA (004065) by way of hydrological connectivity can be ruled out. Given the separation distance of the proposed development from Lough Derravarragh SPA (004043), the potential for significant effects on this site to arise by way of hydrological connectivity can also be ruled out.
- 8.5.6. In relation to disturbance/displacement of species, the AA screening report has ruled out the possibility of significant effects arising on the **Lough Sheelin SPA**, and **Lough Derravarragh SPA**, based on the nature of the development, the separation distances from the application site and bird surveys carried out (2023). A series of overwintering bird surveys at the proposed site identified no bird species listed as qualifying interests for Lough Sheelin SPA and Lough Kinale and Derragh Lough SPA, with Lough Derravarragh SPA located 14km from the site. On the basis of the above, the nature of the development and the separation distance to Garriskil Bog SPA, I consider the possibility of significant effects arising on Garriskil Bog SPA (004102) can also be ruled out.
- 8.5.7. The **Derragh Bog SAC site (002201)** can be screened out from further assessment because of the nature and scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances and the lack of a substantive linkage between the proposed works and the European site. I consider that the hydrological pathway from the source to the SAC which is via a river, lake water body, and rivers at a significant distance of approx. 3.5km (at nearest point) is weak given the separation distance and that dilution and dispersion of any potential pollutants in watercourses, water bodies and watercourses would occur. I therefore consider that the proposed

development would not be likely to have a significant effect on the SAC. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 002201 (Derragh Bog SAC) in view of the sites conservation objectives and a Stage 2 Appropriate Assessment is not therefore required for this site.

- 8.5.8. The remaining European sites as set out Lough Sheelin SPA (site code 004065), Lough Derravarragh SPA (site code 004043), Derragh Bog SAC (site code 002201), Moneybeg and Clareisland Bog SAC (site code 002340), Garriskil Bog SAC (site code 000679), Garriskil Bog SPA (site code 004102), Ardagullion Bog SAC (site code 002341), White Lough, Ben Loughs and Lough Doo SAC (site code 001810), can be screened out from further assessment because of the nature and scale of the proposed works, their separation distances from the proposed development site, the lack of a substantive hydrological linkage between the proposed works and the European sites, and that dilution and dispersion of any potential pollutants in watercourses and waterbodies would occur. It is therefore considered that the potential for significant effects on these sites to arise from the proposed development are unlikely.
- 8.5.9. It is noted the proposed ESB terminal station is intended to be connected to the grid by way of a cable connection. This indicative grid connection has been considered in the EclA with the route outlined in the Cultural Heritage Assessment submitted. It is noted the indicative grid connection has not been considered in the AA screening report submitted at further information stage and it is noted this grid connection will be the subject of a separate consent procedure. Regard is also had to permitted development in the site vicinity.
- 8.5.10. Following the screening process, it has been determined that Appropriate Assessment is required, as it cannot be excluded on the basis of objective information that the proposed development individually or in-combination with other plans or projects will not have a significant effect on the European Site Lough Kinale and Derragh Lough SPA (004061).

## **8.6. Mitigation Measures**

- 8.6.1. This screening determination is not reliant on any measures intended to avoid or reduce potential harmful effects of the project on a European Site.

## **8.7. Appropriate Assessment Screening Determination**

- 8.7.1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site Lough Kinale and Derragh Lough SPA (004061), in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is therefore required.

## **8.8. Appropriate Assessment**

- 8.8.1. The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:
- Compliance with Article 6(3) of the EU Habitats Directive
  - Screening the need for appropriate assessment
  - The Natura Impact Statement and associated documents
  - Appropriate assessment of implications of the proposed development on the integrity of the European site

## **8.9. Compliance with Article 6(3) of the EU Habitats Directive**

- 8.9.1. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the

management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

- 8.9.2. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

#### **8.10. Screening Determination**

- 8.10.1. Refer to AA screening above. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site Lough Kinale and Derragh Lough SPA (004061), in view of the site's Conservation Objectives. An Appropriate Assessment (and submission of a NIS) is therefore required.

#### **8.11. The Natura Impact Statement (NIS)**

- 8.11.1. The application is accompanied by an NIS which describes the proposed development, the project site and area, European Sites within the zone of influence, includes an assessment of potential impacts, an in-combination assessment, mitigation and a conclusion.
- 8.11.2. Having carried out Screening for Appropriate Assessment of the project, it has been determined that likely significant effects from the project individually (or in combination with other plans or projects) on European Site Lough Kinale and Derragh Lough SPA (004061) cannot be excluded and Appropriate Assessment is therefore required.
- 8.11.3. The NIS submitted and prepared by RPS Group dated May 2023 was informed by desktop and site surveys, ecological assessments, and a search of the Cavan County Council planning portal. Section 5.1 includes an assessment of potential impacts of the proposed development on the European Site. Details of mitigation

measures are provided in Section 5.2 of the NIS. The NIS concludes that the proposed development, either individually or in combination with other plans and projects, will not have an adverse effect the integrity of Lough Kinale and Derragh Lough SPA (004061) or any European Sites in view of best scientific knowledge given the implementation of mitigation measures outlined.

8.11.4. Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions and identifies the potential impacts. In relation to the use of best scientific information and knowledge I note the applicant has referenced the Europeans Sites qualifying interests with reference being made to the conservation objectives for the sites sourced from the NPWS. Sections 8.15-8.16 of this Inspectors Report include for an examination of qualifying interests and conservation objectives and Table 1.2 summarises the Appropriate Assessment and site integrity test. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

## **8.12. Consultations and Submissions**

8.12.1. I note that no observation or submission has been received from any prescribed body or third party that relates to impacts on a European site.

## **8.13. Appropriate Assessment Stage 2**

8.13.1. The following is an objective scientific assessment of the implications of the project on the qualifying interest features of the European site using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

## **8.14. Lough Kinale and Derragh Lough SPA (004061)**

8.14.1. Description of Site

8.14.2. Lough Kinale is a relatively small lake that is situated immediately downstream of Lough Sheelin, both lakes being near the top of the catchment of the Inny River, a main tributary of the River Shannon. Derragh Lough, a much smaller system, is connected to Lough Kinale and the Inny River. The site is located on the border of



Cos Cavan, Longford and Westmeath. This is a typical limestone system and is very shallow (maximum depth of Lough Kinale is c. 4 m). As with Lough Sheelin, the trophic status of the lake has varied greatly since the 1970s due to pollution. It was recently (1998-2000) classified as a highly eutrophic system. The lake was formerly an important Trout fishery.

8.14.3. Lough Kinale and Derragh Lough SPA is of conservation significance for holding nationally important populations of two species, Pochard and Tufted Duck.

8.14.4. Lough Kinale and Derragh Lough SPA (004061) Conservation Objectives

8.14.5. The conservation objectives are set out in the Conservation Objectives for Lough Kinale and Derragh Lough SPA (004061) document published by the Department of Housing, Local Government and Heritage. The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. For the QI which includes wetland habitat and bird species, the conservation objective is to maintain or restore the favourable conservation condition.

#### 8.15. **Lough Kinale and Derragh Lough SPA (004061) - Potential Impacts**

8.15.1. Having regard to the development proposals, I consider that the main aspects of the proposed development which could affect the conservation objectives of the European site arises from:

- Loss/degradation of habitats
- Impairment of water quality/surface water pollution during construction through release of suspended solids/silt/hydrocarbons
- Disturbance /displacement to species due to construction and operation

8.15.2. Loss/degradation of habitats: The site is located a distance of over 1.2 km from the SPA and I consider there will be no direct loss of habitat given the location of the proposed development. The NIS outlines that silt, grit, fuels, oils or contaminants could enter the surface water during the construction of the proposed development. Mitigation measures are set out to ensure there will be no adverse effects to watercourses. These include for measures which aim to minimise and prevent surface water pollution including the erection of silt fencing along drainage ditches,

storage controls, refuelling measures, fuel spillage control and these are referenced at section 8.17. I consider this would be an indirect impact of the proposed development. Having regard to the separation distance to the SPA (2.7km via hydrological connection), I consider that the effects of dilution and dispersion would serve to reduce this potential indirect effect on the Wetlands and Waterbirds Habitat.

- 8.15.3. Impairment of water quality/surface water pollution: The NIS outlines a hydrological connection was identified between the proposed development site and the SPA. It is therefore considered in the NIS there is a potential for receiving waters within the SPA to be impacted as a result of surface water pollution such as silt/hydrocarbons/contaminants during the construction phase of the proposed development. This could potentially impact on protected habitats and species within the SPA and I consider this could lead to a degradation of habitat and with resultant decreasing food availability for SCI.

I note that while the QI for the Lough Kinale and Derragh Lough SPA are referenced in the NIS, the Conservation Objectives for SCI are not identified. I have examined the Lough Kinale and Derragh Lough SPA conservation objective document through the NPWS website for the SCI species, which includes for 2. no. protected bird species. I have also examined 'S.I No. 108/2010 European Communities (Conservation of Wild Birds (Lough Kinale and Derragh Lough Special Protection Area 004061)) Regulations 2010. In the event of pollution run off to local watercourses, there is a potential for water quality to affect foraging of 2 SCI species. I consider this would be an indirect impact of the proposed development. It is therefore accepted that mitigation would be required to control emissions to water. Having regard to the separation distance to the SPA (over 2.7 km via hydrological connection) and the receiving waters, I consider that the effects of dilution and dispersion would serve to reduce this potential indirect impact.

- 8.15.4. Disturbance /displacement to species: In relation to disturbance and displacement of species, the AA screening report outlines construction activities will be short term, the noise generated by machinery will be similar to existing agricultural use of the land and any construction noise generated will attenuate to background levels long before reaching the nearest SPA site. The screening report outlines that appreciable risks of disturbance to or displacement of feature species populations of any European Site are negligible and there is no possibility of a significant effect upon

the conservation objectives of any European Site designed for waterfowl as a consequent of aerial noise emissions or visible plant or operatives. It is further outlined a series of overwintering bird surveys (2023) at the proposed site identified no bird species listed as qualifying interests for Lough Kinale and Derragh Lough SPA. The screening report outlines on this basis the project does not have the potential to give rise to likely significant effects upon the SPA.

8.15.5. I note an indirect physical pathway exists via mobile SCI species of the SPA.

However having regard to the temporary nature of the works and noise generation associated with the project, the details presented in the Screening Report and NIS in relation to the site, its separation distance to the SPA and habitats, and that surveys undertaken at the proposed site identified no bird species listed as qualifying interests for Lough Kinale and Derragh Lough SPA, I consider there is no real likelihood of any significant effects to arise on SCI by way of indirect noise/visual disturbance during the construction phase. Furthermore, have regard to the nature of the scheme, I consider there is no real likelihood of any significant effects to arise on SCI by way of indirect noise/visual disturbance during the operational phase.

8.15.6. In conclusion, I therefore consider there is a potential for indirect effects to occur on SCI species and on Wetlands and Waterbirds Habitat by way of impacts on water quality only. I consider there is no real likelihood of any significant effects to arise on SCI species by way of indirect noise/visual disturbance. I also consider there will be no direct loss of habitat.

#### **8.16. Lough Kinale and Derragh Lough SPA – Mitigation measures**

8.16.1. Mitigation measures to be employed during the construction phase are set out in section 5.2 of the applicant's NIS. Mitigation measures are set out for surface water pollution and these include for the following:

- Works shall comply with: Technical Guidance C648: Control of Water Pollution from Linear Construction Projects (CIRIA 2006), Technical Guidance C532: Control of Water Pollution from Construction Sites: Guidance for Consultants and Contractors (CIRIA 2001), PPG:5 Works and Maintenance in or near water; and PPG6: Working at demolition and construction sites
- Concrete will not be produced onsite

- Silt fences will be erected along vulnerable drainage ditches where they occur downslope
- Any tanks or drums shall be stored in a secure container or compound which shall be kept locked when not in use
- Refuelling of mobile plant will be undertaken in a designated area, on an impermeable surface well away from drains or water bodies
- Hoses and valves will be checked prior to use for signs of wear and ensure that they are turned off and securely locked when not in use. Diesel pumps and similar equipment will be placed on drip trays to collect minor spillages or leaks
- Stone which is imported to site to be used for tracks and hardstanding areas shall be washed stone
- All stoned areas will be laid with a geotextile layer
- Leaking or empty drums will be removed from the site immediately and disposed of via a registered waste disposal contractor
- All valves and trigger guns shall be protected from vandalism within a secured compound and securely locked when not in use

8.16.2. The NIS outlines provided the full implementation of mitigation measures is carried out, it is envisaged that there will be no significant residual effects on the integrity of any European Sites. I agree with this viewpoint.

8.16.3. I consider that the proposed mitigation measures are appropriate and have a high degree of likely success. The proposed development is a routine construction project, and these are standard and well-proven mitigation measures.

## **8.17. Lough Kinale and Derragh Lough SPA – Potential in-combination effects**

8.17.1. The NIS does not consider there would be in-combination effects. On review of the Cavan Planning Register Portal there are a number of small scale permitted residential developments and a commercial development in the vicinity of the site. It is outlined in the NIS when the effects of the proposed development are considered in-combination, there is no additive pathway for significant cumulative or in-

combination effects which can be considered to significantly affect the QIs or conservation objectives of European sites being assessed.

8.17.2. Having reviewed the details submitted in the Screening Report and NIS, the Cavan County Council website and the Department of Housing, Local Government and Heritages EIA map portal, I do not consider there are any in-combination effects on the Lough Kinale and Derragh Lough SPA that arises from these or other projects. I note the proposed development is intended to connect into the ESB Network via the existing 38kV substation at Bracklagh which is located 1km to the west. Details submitted outline the applicant has a connection agreement with ESB Networks for an underground cable connection from the site to Carrickabane 38kV substation. This connection would be by way of underground cable and a separate consent procedure. In the event of permission for the subject development and any grid connection development, it is likely that works would be carried out in tandem. I note this grid project would be subject to the provisions of the Habitats Directive and Birds Directive and may only be consented if adverse effects on the integrity of the European Site(s) can be objectively ruled out during the AA process. Furthermore, I consider subject to the implementation of mitigation measures during construction no significant effects on the qualifying interests of the SPA would arise. Therefore there is no potential for in-combination effects to arise in this regard.

8.17.3. Having regard to the foregoing, I am satisfied that no plans or projects are considered to give rise to potential for adverse effects on the European Site in combination with the proposed development. Having regard to the online resources referred to and the limited nature and scale of the proposed development, I concur that the proposed development would not be likely to have any in-combination effects together with any other project.

#### **8.18. Lough Kinale and Derragh Lough SPA - Residual effects /further analysis**

8.18.1. In consideration of the outlined mitigation measures, I am satisfied that no residual impact is anticipated.

#### **8.19. Lough Kinale and Derragh Lough SPA - NIS omissions**

8.19.1. I previously referred to the Conservation Objectives for SCI are not identified in the NIS for the Lough Kinale and Derragh Lough SPA. Notwithstanding, I consider that a robust Stage 2 AA can be and has been carried out based on the NPWS data and the information contained within the submitted NIS.

#### **8.20. Lough Kinale and Derragh Lough SPA - Suggested related conditions**

8.20.1. Given the relatively limited nature and scale of the proposed development, I do not consider any specific related conditions are necessary in addition to the mitigation measures proposed.

#### **8.21. Lough Kinale and Derragh Lough SPA - Conclusion**

8.21.1. Following the implementation of mitigation, I am able to ascertain with confidence that the construction and operation of the proposed development would not adversely affect the integrity of Lough Kinale and Derragh Lough SPA in light of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects.

8.21.2. Having regard to the foregoing, I consider that it is reasonable to conclude on the basis of the information on the file, and other available information, which I consider adequate in order to carry out a Stage 2 AA, that the proposed development, individually or in combination with other plans and projects, would not adversely affect the integrity of the Lough Kinale and Derragh Lough SPA European site no.004061, in view of the sites' conservation objectives, subject to the implementation of mitigation measures outlined above. In my view, the mitigation measures are appropriate to the risks identified and would, if implemented correctly, be sufficient to avoid any adverse effect on site integrity.

**Table 1.2 Summary of Appropriate Assessment of implications of the proposed development on the integrity of European Site alone and in combination with other plans and projects in view of the sites' Conservation Objectives.**

<b>Appropriate Assessment</b>
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**Lough Kinale and Derragh Lough SPA (004061) - Summary of Key issues that could give rise to adverse effects:**

- Impairment of water quality/surface water pollution during construction through release of suspended solids/silt/hydrocarbons
- Loss/degradation of habitats
- Disturbance /displacement to species due to construction and operation

<b>Qualifying Interest feature</b>	<b>Conservation Objectives Targets and attributes</b>	<b>Potential adverse effects</b>	<b>Mitigation measures</b>	<b>In-combination effects</b>	<b>Can adverse effects on integrity be excluded?</b>
Wetlands & Waterbirds [A999]	To maintain or restore the favourable conservation condition of the wetland habitat at Lough Kinale and Derragh Lough SPA as a resource for the regularly-occurring migratory waterbirds that utilise it.	Yes, according to NIS there is a potential for receiving waters to be impacted as a result of surface water pollution such as silt/hydrocarbons/contaminants during the construction phase. This could potentially impact on protected habitats within the SPA	Yes, surface water pollution measures including erection of silt fencing, storage control, fuel control, spillage management controls	None	Yes
A059 Pochard A061 Tufted Duck	To maintain or restore the favourable conservation condition of	Yes, according to NIS there is a potential for receiving waters to be impacted as a result of surface water pollution such as	Yes, surface water pollution measures including erection of	None	Yes

	the bird species listed as Special Conservation Interests for this SPA	<p>silt/hydrocarbons/contaminants during the construction phase.</p> <p>This could potentially impact on SCI species by way of adverse impacts on food availability, foraging.</p> <p>Potential adverse effects by way of disturbance /displacement – None.</p> <p>No evidence of SCI species onsite during surveys.</p>	silt fencing, storage control, fuel control, spillage management controls		
<p><b>Overall conclusion: Integrity test: Lough Kinale and Derragh Lough SPA (004061)</b></p> <p>Following the implementation of mitigation, the construction, operation and decommissioning of this proposed development will not adversely affect the integrity of Lough Kinale and Derragh Lough SPA in view of the site's conservation objectives.</p> <p>No reasonable scientific doubt remains as to the absence of such effects.</p>					

## Recommendation

I recommend that planning permission should be granted for the proposed development for the reasons and considerations set out below, and subject to the attached conditions.



## **Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives)
- National Planning Framework - Ireland 2040
- Climate Action Plan, 2023
- Regional Spatial and Economic Strategy for the Northern and Western Region
- The policies and objectives of the Cavan County Development Plan 2022-2028
- The nature, scale and design of the proposed development and the pattern of development in the vicinity of the site
- The information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement
- 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 likely significant effects of the proposed development on European Sites,
- the submission received in relation to the proposed development, and
- the report and recommendation of the Inspector, including the examination, analysis and evaluation undertaken in relation to the appropriate assessment and environmental impact assessment screening.

## **Proper Planning and Sustainable Development**

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 Cavan County Development Plan 2022-2028, would not seriously injure the visual or residential amenities of the area or have an unacceptable impact on the character of the landscape or on cultural or archaeological heritage, would not significantly adversely affect biodiversity in the

area, would be acceptable in terms of traffic safety and would make a positive contribution towards 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 Screening Report for Appropriate Assessment and carried out an appropriate assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites. The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site and considered the nature, scale, and location of the proposed development, as well as the report of the Inspector. The Board agreed with and adopted the screening assessment and conclusion carried out in the inspector's report that the Lough Kinale and Derragh Lough SPA (site code 004061) is the European site for which there is a likelihood of significant effects. The Board concluded that, having regard to the qualifying interests for which the site was designated and in the absence of viable connections to, and distance between, the application site and the European Sites Lough Sheelin SPA (site code 004065), Lough Derravarragh SPA (site code 004043), Derragh Bog SAC (site code 002201), Moneybeg and Clareisland Bog SAC (site code 002340), Garriskil Bog SAC (site code 000679), Garriskil Bog SPA (site code 004102), Ardagullion Bog SAC (site code 002341), White Lough, Ben Loughs and Lough Doo SAC (site code 001810), could be screened out from further consideration and that the proposed development, individually or in combination with other plans and projects would not be likely to have significant effects on these European Sites or any other European Sites in view of the sites conservation objectives and that the Stage 2 appropriate assessment is therefore not required in relation to these European Sites.

## **Appropriate Assessment - Stage 2**

The Board considered the Natura Impact Statement and carried out an appropriate assessment of the implications of the proposal for Lough Kinale and Derragh Lough SPA (site code 004061), in view of the Sites Conservation Objectives. The Board

considered that the information before it was adequate to allow the carrying out of an appropriate assessment as well as the report of the Inspector.

In completing the assessment, the Board considered the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans and projects, the mitigation measures which are included as part of the current proposal and the Conservation Objectives for this European Site. In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspectors report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the Conservation Objectives. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of Lough Kinale and Derragh Lough SPA (site code 004061) or any other European Site in view of the sites' Conservation Objectives.

## **Conditions**

1.The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 25th day of May 2023 and on the 13<sup>th</sup> day of June 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

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

Reason: Having regard to the nature of the proposed development, the Board considers it appropriate to specify a period of validity of this permission in excess of five years.

3.(a) The permission shall be for a period of 35 years from the date of the commissioning of the solar array. The solar array and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.

(b) Prior to commencement of development, a detailed restoration plan, including a timescale for its implementation, providing for the removal of the solar arrays, including all foundations, inverter stations, ESB terminal station, storage container, CCTV cameras, fencing and site access to a specific timescale, shall be submitted to, and agreed in writing with, the planning authority.

(c) On full or partial decommissioning of the solar farm, or if the solar farm ceases operation for a period of more than one year, the solar arrays, including foundations, 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, Planning and Environmental Report, the Ecological Impact Assessment and other plans and particulars submitted with the planning application shall be implemented in full by the

developer, except as may otherwise be required in order to comply with the conditions of this permission.

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

6. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall incorporate all mitigation measures set out in the application documentation and provide details of intended construction practice for the development, including:

- (a) Location of site and material compound (s) including areas (s) identified for the storage of construction refuse, site offices, construction parking and staff facilities, re-fuelling arrangements, security fencing and hoardings;
- (b) a comprehensive construction phase traffic management plan including details of the timing and routing of construction traffic to and from the construction site and associated signage;
- (c) measures to prevent the spillage or deposit of clay, rubble, or other debris on the public road network
- (d) details of appropriate mitigation measures for noise and dust, and monitoring of such levels
- (e) containment of all construction related fuel and oil within specifically constructed bunds to ensure that fuel spillages are fully contained; such bunds shall be roofed to exclude rainwater;
- (f) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (g) means to ensure that surface water run-off is controlled such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses;

(h)an audit list of all construction and operational mitigation measures, their timelines for implementation and responsibility for reporting.

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

7. (a) Details of materials, colours, textures and finishes to the inverter stations, terminal station, storage container shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b)CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the public road.

(c)Cables within the site shall be located underground.

Reason: In the interests of visual and residential amenity.

8.(a) Prior to the commencement of development, a revised Landscape Management Plan shall be submitted to and agreed with the Planning Authority making provision for semi-mature woodland mix/thicket species screen planting along the field boundary to the east adjacent the site of the terminal building.

(b) The Landscaping Management Plan shall be carried out within the first planting season following commencement of development.

(c)All landscaping shall be planted to the written satisfaction of the Planning Authority. Any trees or hedgerow that are removed, die or become seriously damaged or diseased within five years from planting shall be replaced within the next planting season by trees or hedging of similar size and species, unless otherwise agreed in writing with the Planning Authority.

Reason: In the interest of biodiversity and the visual and residential amenities of the area.

9. Prior to the commencement of development, details of additional screening and/or planting shall be submitted to and agreed with the Planning Authority to ensure there is no glint impact on the adjoining dwelling house as a result of the development.

Reason: To mitigate against any glint impact and in the interest of residential amenity.

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

(a) notify the planning authority and the Department of Housing, Local Government and Heritage in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works,

(c) provide arrangements, acceptable to the planning authority and the Department of Housing, Local Government and Heritage for the recording and for the removal of any archaeological material which it considers appropriate to remove,

(d) Should archaeological material be found during the course of monitoring, the archaeologist may have work on the site stopped, pending as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigation action (e.g. preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found,

(e) The planning authority and the Department of Housing, Local Government and Heritage shall be furnished with a report describing the results of the monitoring.

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

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

11. Prior to the commencement of the development, a Stage 1/2 Road Safety Audit shall be carried out by a TII approved team and a Stage 3 Road Safety Audit shall be carried out by a TII approved team on completion of the development and agreed in writing with the Planning Authority.

Reason: In the interest of road safety.

12. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

13. Water supply and drainage arrangements, including the disposal of surface water shall comply with the requirements of the planning authority for such works in respect of both the construction and operation phases of the proposed development.

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

14. Prior to commencement of development, the developer shall lodge with the Planning Authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the Planning Authority, to secure the reinstatement of public roads that may be damaged by construction transport 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 the reinstatement of public roads that may be damaged by construction transport.

15. Prior to commencement of development, the developer shall lodge with the Planning Authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the Planning Authority, to secure the satisfactory reinstatement of the site upon 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 the satisfactory reinstatement of the site upon cessation of the project

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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

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David Ryan  
Planning Inspector

26th January 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-317916			
<b>Proposed Development Summary</b>	Permission to renew previously granted application 16/443 (PL02.248710) for a solar farm project including buildings and CCTV cameras. Provision of new access from the R194 and to increase the operational lifespan of the project from 25 to 40 years, on a site of 14.7 hectares			
<b>Development Address</b>	Carrickabane, Finnea, Co. Cavan			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	x	
		<b>No</b>		
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>		Class.....	EIA Mandatory EIAR required	
<b>No</b>	x		Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>		N/A		No EIAR or Preliminary Examination required
<b>Yes</b>	x	Class 1 of Part 2 of Schedule 5		Proceed to Q.4

		(a) Projects for the restructuring of rural land holdings, undertaken as part of a wider proposed development, and not as an agricultural activity that must comply with the European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011, where the length of field boundary to be removed is above 4 kilometres, or where re-contouring is above 5 hectares, or where the area of lands to be restructured by removal of field boundaries is above 50 hectares.		
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4. Has Schedule 7A information been submitted?		
No	x	Preliminary Examination required
Yes		Screening Determination required

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-317916	
<b>Proposed Development Summary</b>	Permission to renew previously granted application 16/443 (PL02.248710) for a solar farm project including buildings and CCTV cameras. Provision of new access from the R194 and to increase the operational lifespan of the project from 25 to 40 years, on a site of 14.7 hectares	
<b>Development Address</b>	Carrickabane, Finnea, Co. Cavan	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development in a rural area involves a change from existing agricultural pasture lands use to a renewable energy and ancillary/small livestock grazing use</p> <p>The extent of hedgerow removal is minimal in the context of the rural area and will not result in any significant waste, emissions or pollutants</p>	No
<p><b>Size of the Development</b></p> <p>Is the size of the proposed</p>	<p>The size of the development is exceptional in terms of its rural context, but is not exceptional in relation to solar energy development.</p>	No

<p>development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>Hedgerow removal will be minimal (not greater than 15m) and is significantly below thresholds set out in the Part 2 of Schedule 5.</p> <p>It is considered that there is no likelihood of significant cumulative effects having regard to other existing or permitted developments in the area.</p>	
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The site does not comprise and is not located proximate to any ecologically sensitive site or location. The site is connected to SPAs and SACs and these sites are assessed in the AA. Having regard to the nature of the works proposed and pathways, significant effects on the environment are unlikely.</p> <p>There are no known monuments or protected structures within or adjoining the site, and these are assessed in the Cultural Heritage assessments submitted.</p>	No
<p><b>Conclusion</b></p>		

<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>		
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David Ryan  
Planning Inspector

26th January 2024