



An  
Bord  
Pleanála

## Inspector's Report ABP-318352-23

### Development

Permission for a period of 10 years to construct and complete a Solar PV development with access tracks, temporary construction compound and client substation and all ancillary grid infrastructure and associated works. The solar farm would be operational for 40 years. The proposed site area transverses the Westmeath County and Offaly County administrative boundaries resulting in a breakdown of areas as follows: 1.8 hectares of the total site area including the access track, temporary construction compound and client substation, is located in Culleenagower, Moate, Co. Westmeath and the remaining 21.6 hectares for the associated Solar Farm is located at Lurgan, Moate, County Offaly and is subject to a concurrent application submitted to Offaly County Council. A Natura Impact Statement has been submitted with this planning application.

<b>Location</b>	Culleenagower, Moate, Co. Westmeath.
<b>Planning Authority</b>	Westmeath County Council
<b>Planning Authority Reg. Ref.</b>	2260041
<b>Applicant(s)</b>	Elgin Energy Services Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions.
<b>Type of Appeal</b>	Third Party v. Decision
<b>Appellant(s)</b>	Transport Infrastructure Ireland
<b>Observer(s)</b>	Patrick Guinan
<b>Date of Site Inspection</b>	28 <sup>th</sup> August, 2024
<b>Inspector</b>	Robert Speer

## **1.0 Site Location and Description**

- 1.1. The proposed development site is located in the rural townland of Culleenagower on the south-eastern fringe of Moate in Co. Westmeath, approximately 1.2km southeast of the town centre, in an area characterised by the gradual transition from the built-up environs of the town to the surrounding rural / agricultural hinterland, where it occupies a position to the south of Clara Road (Local Road No. L2031) (also referenced as Local Road No. L1307) opposite Moate Business Park and alongside the Moate All Whites GAA Club (Páirc Uí Ógain).
- 1.2. The site itself has a stated site area of 1.8 hectares, is irregularly shaped and comprises in part an agricultural access track which extends southwards from an existing access point off Local Road No. L2031 situated between the adjacent sports ground to the west and a detached dwelling house with outbuildings to the east. This trackway continues south to provide access to neighbouring agricultural lands and a further dwelling house (presently under construction) before terminating at an existing farmyard. The proposed development site subsequently encompasses part of an adjoining field and circumnavigates the aforementioned farmyard before including the access track to the south of same and following its route across the M6 overbridge. The remainder of the site comprises a narrow strip of land which extends from a field gate southwards through an agricultural field set as pasture as far as the county boundary (and the lands of a former quarry in Co. Offaly).
- 1.3. The broader site area is bound by a combination of tree lines, hedgerows and post & wire fencing while the prevailing topography generally falls in a southerly direction towards the county boundary and the proposed solar farm.

## **2.0 Proposed Development**

- 2.1. The submitted proposal forms part of a wider development that encompasses the construction of a solar PV development which includes ground-mounted solar photovoltaic panels set within metal frames, new internal access tracks, underground cabling, perimeter fencing with CCTV cameras, 14 No. inverter stations, substation, temporary construction compound, and all ancillary grid infrastructure and associated works. This larger development extends over a total site area of 23.4 No. hectares and transverses the Westmeath County and Offaly County administrative

boundaries with the result that concurrent planning applications have been lodged for those elements of the overall project which fall within the respective jurisdictions. It is anticipated that the project will produce up to 10MW, however, in light of the evolving nature of photovoltaic technology, a request was made that any grant of permission should include a condition that would allow for some flexibility with the final output to be agreed prior to construction.

- 2.2. Within the administrative area of Offaly County Council (PA Ref. No. 23/5), it is proposed to construct the solar arrays themselves along with internal access tracks, underground cabling, perimeter fencing with CCTV cameras, 14 No. inverter stations, and all ancillary grid infrastructure and associated works. However, the subject appeal relates solely to the proposed development of a substation, temporary construction compound, and an access track on those lands located within the administrative area of Westmeath County Council.
- 2.3. (For the purposes of clarity, duplicate documentation was initially submitted with both planning applications with no distinction having been made between the two sites etc. Following a request for further information, an updated '*Planning Statement*' and associated particulars were provided by the applicant on 5<sup>th</sup> April, 2023 which set out those works proposed solely within the administrative area of Westmeath County Council).
- 2.4. The subject matter of this appeal concerns the development of the following:
- A 38kV substation building (c. 11.99m x 7.32m with a pitched tiled roof extending to an apex height of 5.324m over ground level) incorporating an ESB control room, an IPP control room, and associated switchgear and metering equipment. This will be built upon a concrete foundation and set within an electrical compound to be surfaced in compacted stone and secured by palisade fencing (c. 24m x 41m) that includes for an ESB station and an IPP station.

(The Board is advised that the dimensions of the proposed substation building provided in Paragraph 3.7 of the applicant's '*Planning Statement*' would appear to refer to those of the 38kV substation (as opposed to the 20kV substation) shown on Drg. No. NEO01070\_0381\_A Figure 11 (Substation Building) of the submitted plans).

- The upgrading and extension of an existing access track (which extends from an established access point off Local Road No. L2031) to allow for the construction, operation, maintenance and decommissioning of the proposed solar panels and associated infrastructure. The tracks will measure between 3.5m and 4.0m wide, however, this will increase at bends and passing locations. Geosynthetic reinforcement or soil stabilisation may be used to reduce the depth of the track construction while the surface treatment will comprise compacted granular material (crushed rock) up to an approximate thickness of 0.3m, dependent on ground conditions.
- A temporary construction compound measuring 75m x 75m to contain the following:
  - Temporary site facilities ('Port-a-Cabin' type) to be used for site office and welfare facilities (e.g. security hut, canteen, changing room etc.), including welfare facilities with provision for sealed waste storage and removal;
  - Container storage unit(s) for tools and equipment storage;
  - Container storage unit(s) for components and materials;
  - Refuelling compound for construction vehicles and machinery;
  - Chemical toilets;
  - Adequate parking area for cars, construction vehicles and machinery;
  - Designated skips for construction waste; and
  - Wheel washing facility.

The compound will be surfaced with compacted stone and enclosed by 3m high fencing. The lands will be reinstated prior to the end of the construction phase with the areas regraded with stockpiled topsoil to a natural profile.

- 2.5. In response to a request for additional information, further particulars were received by the Planning Authority on 5<sup>th</sup> April, 2023 which detail an 'Indicative Cable Route' (Drg. No. NEO01070/050I/A: Figure 1) showing a possible grid connection between the proposed 38kV substation and the existing substation at the junction of Ballycumber Road / Clara Road, although it should be noted that this does not form

part of the subject application (or the concurrent application since determined by Offaly County Council).

- 2.6. Following a request for clarification of further information issued by the Planning Authority, on 16<sup>th</sup> August, 2023 the applicant submitted correspondence which stated that the final design for the cabling between the solar farm and the substation (seemingly in reference to the proposed substation) had not yet been finalised (as an approved planning application is apparently required before planning can be started for a grid connection). It is further stated that the cable specification will be decided closer to the energisation date and will likely depend on availability at that point in time (although it will have to adhere to the most up to date ETCI National Rules for Electrical Installations).
- 2.7. At this point, it is notable that the applicant's response to the request for further information issued by Offaly County Council in respect of the then concurrent planning application lodged under PA Ref. No. 23/5 shows an indicative route for underground cabling between the solar arrays (since permitted) and the subject proposed substation (please refer to Drg. Nos. 700-MOATE-002: '*Indicative Cable Route Plan*' Sheets 1 to 3 as received by Offaly County Council on 11<sup>th</sup> September, 2023). No such details have been provided as part of the subject application i.e. Westmeath County Council PA Ref. No. 2260041.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. Following the receipt of responses to requests for additional information and subsequent clarification, on 5<sup>th</sup> October, 2023 the Planning Authority issued a notification of a decision to grant permission, subject to 10 No. conditions which can be summarised as follows:

Condition No. 1 - Refers to the submitted plans and particulars.

Condition No. 2 – States that the duration of the grant of permission is for a period of 10 years. Furthermore, all development work is to be completed within 10 years of the date of the grant of permission, unless otherwise permitted by a subsequent planning approval.

- Condition No. 3 – States that the development will have an operational life of 40 years (unless otherwise permitted by a subsequent planning approval) following which all solar arrays and ancillary infrastructure are to be removed from the site and the lands reinstated unless planning permission has been granted for the continued use of the development. It also requires a detailed decommissioning and restoration plan to be agreed with the Planning Authority.
- Condition No. 4 – Requires full details of the final locations, designs and materials of the solar arrays to be submitted to the Planning Authority for written agreement prior to commencement of the development.
- Condition No. 5 – Prohibits the discharge of surface water onto the public road or neighbouring third-party lands.
- Condition No. 6 – Refers to the achievement and maintenance of unobstructed sightlines from the proposed access point at all times.
- Condition No. 7 – Requires the submission of a detailed Construction Environmental Management Plan for the written approval of the Planning Authority prior to the commencement of development.
- Condition No. 8 – Requires all the mitigation measures outlined in the Natura Impact Assessment to be incorporated into the Construction and Environmental Management Plan and complied with in full unless otherwise agreed in writing with the Planning Authority.
- Condition No. 9 – Specifies various environmental controls and emission limit values.
- Condition No. 10 - Refers to the payment of a development contribution.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

An initial report details the site context, planning history and the relevant policy considerations along with the contents of the various submissions and reports received with respect to the proposed development. It proceeds to refer to the need

to take cognisance of the status of a concurrent planning application (which was then pending a decision) lodged with Offaly County Council given that the subject works form part of a wider proposal for the development of a solar farm within the administrative area of that authority. The report further acknowledges that the subject proposal, which is integral to the wider proposed renewable energy development, is generally supported by the Development Plan, although Policy Objective CPO 10.151 requires the submission of details pertaining to the suitability / strength of the grid and its accessibility. More broadly, the proposed development is deemed acceptable in principle, subject to road safety, environmental considerations, and consistency with proper planning and sustainable development.

In relation to road and traffic safety, the report notes that the application site will be accessed from Local Road No. L2031 (Clara Road) via an existing agricultural track (which is to be upgraded as part of the proposed development) and that the required sightlines are achievable. It also refers to the proposed haul route crossing the M6 motorway via an existing overpass bridge and notes that larger delivery lorries are to be unloaded at the temporary construction compound with only smaller vehicles used to transport materials from the compound over the M6 to the main site area. Although the report accepts that the proposed development will not pose a risk to road safety, it recommends that further information be sought on a number of related matters, including the provision of any ducting or cabling etc. across the overbridge.

The report proceeds to state that any impacts on residential amenity attributable to the proposed development will be minimal and could be addressed by way of condition in the event of a grant of permission. Similarly, no concerns are raised as regards the submitted flood risk and drainage assessment, the outline construction management traffic plan, or the impact on environmental / ecological considerations. It is further stated that the proposed development does not fall within Schedule 5 of the Planning and Development Regulations, 2001, as amended, and thus does not require Environmental Impact Assessment.

In reference to the requirement for Appropriate Assessment, the report notes that the Natura Impact Statement submitted has identified hydrological and ecological connectivity between the proposed site and the River Shannon Callows SAC, potential ecological connectivity with the Lough Ree SAC, and hydrological and ornithological connectivity between the site and the Middle Shannon Callows SPA



and the Lough Ree SPA. It subsequently states that the Environment Section of the Local Authority accepts the conclusions of the NIS that with design measures, mitigation and best practice construction methods, the proposed development will not have a significant effect on any European Site.

The report concludes by recommending that further information be sought as regards a specific planning statement and site layout plan detailing those works solely within the administrative area of Westmeath County Council; confirmation that the proposal is consistent with Policy Objective CPO 10.152 of the Development Plan in terms of the suitability / strength of the grid and accessibility to the latter; details of the intended route to carry out cabling works in connecting the proposed solar farm to the electricity grid and the applicant's intentions with respect to obtaining planning approval for same; and a response to the contents of third party submissions received by the Planning Authority.

Following the receipt of a response to a request for additional information, a further report was prepared which noted that although reference had been made to the submission of 'Appendix C' (a drawing purportedly showing an indicative grid route), no such document accompanied the response. However, it was accepted that a map was provided that showed an intended cable route between the proposed 38kV substation and an existing substation. Furthermore, it was noted that no details had been submitted of any cabling works connecting the solar farm development to the electricity grid although the likelihood was that these would be routed along the overbridge crossing the M6 Motorway. Concerns were also raised as regards the need to clarify certain land ownership issues, including that of the M6 overpass. The report thus concludes by recommending that clarification of further information be sought in relation to the cabling connection between the proposed solar farm and the substation by reference to Objective CPO 10.152 of the Development Plan, along with land ownership having particular regard to the M6 overbridge.

Upon receipt of a response to the request for clarification of further information, a final report was compiled wherein it was noted that the applicant had provided a copy of the ESB Networks document '*Functional Specifications for the Installation of Ducts and Ancillary Structures for 20kV Underground Power Cables and Associated Communications Cables for Contestable Projects*'. The District Engineer is reported as having reviewed these details with no objection, subject to conditions. In relation

to landownership, it has been submitted that the overbridge is in the ownership of the Local Authority and that the applicant has been granted a right to use it. It has also been reiterated that HGVs will offload at the construction compound with only smaller vehicles traversing the overbridge (as is the right of the landowner). In this regard, the District Engineer is recorded as stating that the applicant is not permitted to use the overbridge for proposed cabling without securing the necessary consents from Transport Infrastructure Ireland (and if these consents cannot be secured then the applicant will require an alternative cabling route). The planning report continues by acknowledging the concerns raised by TII as regards usage of the M6 overbridge (both in terms of construction traffic etc. and any cable routing) before stating that the proposed access arrangements are acceptable. The report subsequently concludes by recommending a grant of permission, subject to conditions.

### 3.2.2. *Other Technical Reports*

*Engineering / Area Engineer:* Although an initial report indicated that there was no objection to the proposed development and no requirement for any specific engineering conditions, a subsequent report recommended that further information be sought as regards the following:

- With respect to the proposal to utilise the existing overbridge and access road (which are under the control of Westmeath County Council / Transport Infrastructure Ireland) to accommodate the cabling between the proposed solar farm and the substation, the applicant was required to provide:
  - a) Evidence of the use of the access road for such activities.
  - b) Details and connection of any ducting within the existing overbridge.
  - c) A drawing detailing the ducting route and marker plates on lands held by Westmeath County Council / Transport Infrastructure Ireland.
- Detailed drawings of the cabling route outside of those lands held by Westmeath County Council / Transport Infrastructure Ireland, including details of the connection between the proposed development and the electricity grid. Where the route involves works on third party lands, the necessary consent should be provided.

- Detailed drawings identifying the location of all lighting, security cameras, and cabling routes servicing the infrastructure.

Following the receipt of a response to a request for further information, a final report was prepared which stated that there was no objection to the proposed development, subject to conditions, including a requirement prohibiting the applicant from using the overbridge (Structure ID WH-M06-024.00) for the proposed cabling route without securing the necessary approvals from TII in accordance with Section 53 of the Roads Act, 1993 (if such licences cannot be secured, an alternative cabling route is to be proposed for review and approval by the planning authority).

*Environment:* No objection, subject to conditions.

### 3.3. Prescribed Bodies

3.3.1. *Transport Infrastructure Ireland:* An initial report states that the Authority will rely on the planning authority to abide by official policy in relation to development on / affecting national roads as outlined in the DoECLG's '*Spatial Planning and National Roads, Guidelines for Planning Authorities (2012)*', subject to the following:

- The Authority will entertain no future claims in respect of impacts (e.g. noise and visual) on the proposed development, if approved, due to the presence of the existing road or any new road scheme which is currently in planning.
- The planning authority is satisfied that there are no glint or glare impacts which may negatively affect the National Road network. Any recommendations arising from such assessments should be incorporated as conditions of the permission, if granted.

Following the receipt of a response to a request for clarification of further information, a further report was received on 7<sup>th</sup> July, 2023 which made the following additional observations as regards the proposed routing of a grid connection over the M6 overbridge:

- The farm accommodation overbridge which appears is proposed to be utilised as part of the grid connection routing is a TII structure (Structure ID WH-M06-024.00). A third party seeking to cross a motorway will require Works Specific Deeds of Indemnities, arrangements for third party access or consent from TII in accordance with Section 53 of the Roads Act, 1993. TII is not aware that

the applicant has addressed requirements for proposals crossing the M6 in the manner proposed.

- It is likely that utilising the M6 overbridge for grid connection routing is not technically feasible and an alternative grid connection routing should be developed having regard to the foregoing requirements. Motorway crossings should be by HDD in the first instance and, as noted above, Works Specific Deeds of Indemnities, arrangements for third party access or consent from TII in accordance with Section 53 of the Roads Act, 1993, is required. This matter should be resolved by the Council, in the interests of clarity, in advance of any decision on the application.
- In terms of the use of the M6 agricultural overbridge, it is also noted that the route is indicated as a potential haul route to the site. The Council will be aware of the previous refusal of permission for use of the overbridge under PA Ref. No. 17/7111 and it is unclear how those reasons for refusal have been addressed in the subject application.
- It is not clear that the planning application has included any review of the proposed use of the farm accommodation bridge as part of the haul route for construction and maintenance. Furthermore, the application has not identified the potential need for any mitigations or measures to demonstrate that any proposals will safeguard road user safety on the M6 strategic national road network. This matter should be resolved by the Council, in the interests of clarity, in advance of any decision on the application.
- In light of the foregoing, it is unclear why the access proposals via the adjoining local road network permitted under Offaly County Council PA Ref. No. 18/415 for the previous use of those lands was not included in the subject application. It is recommended that clarification be sought on this matter and that access to the site for construction and maintenance should be facilitated via the adjoining local road as opposed to use of the farm accommodation overbridge for the reasons previously outlined.
- The national road network is managed by a combination of PPP Concessions, Motorway Maintenance and Renewal Contracts (MMaRC) and local road authorities in collaboration with TII. In the subject instance, the M6 overbridge

is within the MMarC boundary and consultation with the MMarC contractor should be undertaken.

In subsequent correspondence received by the Planning Authority on 4<sup>th</sup> September, 2023, it was reiterated that the position of TII remained as set out in its letter of 7<sup>th</sup> July, 2023.

3.3.2. *Offaly County Council*: No observations.

### 3.4. **Third Party Observations**

3.4.1. A single submission was received from an interested third party and the principal grounds of objection / areas of concern raised therein can be summarised as follows:

- Objects to the use of the existing overbridge and agricultural track as an access to the proposed solar farm.
- Given that the existing agricultural track is a gated farm access and is not a public road, the County Council has no authority to permit access over it to a commercial company.
- The overbridge and agricultural track were constructed as part of the N6 Kinnegad to Athlone dual carriageway project in order to provide access for farmers whose land was severed by that scheme.
- Any use of the overbridge and agricultural track by commercial development would have a detrimental impact on the daily operation of the observer's dairy farm, including the free movement of livestock between lands.
- There is no right of way through Culleenagower to the proposed development site in Lurgan with the only alternative access / right of way being via Ballycumber Road.
- A lack of proper consultation by the applicant as regards the proposed development.

## 4.0 **Relevant Planning History**

### 4.1. **On Site:**

4.1.1. PA Ref. No. 061330. Was granted on 14<sup>th</sup> March, 2007 permitting Michael Heffernan permission for a haul road comprising 0.24 hectares to serve a proposed sand and

gravel pit at Lurgan, Co. Offaly, which is the subject of a concurrent planning application submitted to Offaly County Council. This haul road is included as part of an overall site area of 4.786 hectares for a proposed sand and gravel pit, which transverse the Westmeath County and Offaly County administrative boundaries. All at Culleenagower, Moate, Co. Westmeath.

- *Condition No. 2:*

The proposed use of the site as a haul road and reinstatement works shall cease to have effect on or before a period of 4 years from the date of grant of permission for this development, unless before the end of this period, permission for continuance beyond that date shall have been granted by the Planning Authority or by An Bord Pleanala on appeal.

Reason: To define the scope of the permission.

4.1.2. PA Ref. No. 177111. Was refused on 16<sup>th</sup> February, 2018 refusing Michael Heffernan permission for the development of 1 No. haul road comprising c. 0.24 hectares to serve a proposed sand and gravel pit at Lurgan, Moate, Co. Offaly, which is a subject to a concurrent planning application submitted to Offaly County Council. This haul road is included as part of an overall site area of 4.76 hectares for a proposed sand and gravel pit, which transverse the Westmeath County and Offaly County administrative boundaries. All at Culleenagower, Moate, Co. Westmeath.

- It has not been demonstrated to the satisfaction of the planning authority that the proposed development would afford the necessary levels of protection for road users of the M6 strategic national road network. The proposed development would endanger public safety by reason of a traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.

4.1.3. **On Adjacent Sites:**

*Co. Westmeath:*

PA Ref. No. 18/7185. Was granted on 24<sup>th</sup> December, 2018 permitting Michael Heffernan permission for a development consisting of 1 No. haul road comprising c. 0.09 ha to serve a proposed sand and gravel pit at Lurgan, Moate, Co. Offaly, which is subject to a concurrent planning application submitted to Offaly County Council.

This subject haul road is included as part of an overall site area of c. 4.97 ha for a proposed sand and gravel pit, which transverses the Westmeath County and Offaly County administrative boundaries resulting in a breakdown of areas as follows: 0.64 ha comprising this subject haul road, c. 4.88 ha of the total site area is located in County Offaly, comprising 2 No. extraction areas (c. 1.76 ha and c. 2.57 ha respectively) and an associated haul route (c. 0.55 ha). All at Ballyscarvan, Moate, Co. Westmeath.

- *Condition No. 2:*

The proposed use of the site as a haul road shall cease to have effect on or before a period of 3 years from the date of grant of permission for this development, unless before the end of this period, permission for continuance beyond that date shall have been granted by the Planning Authority or by An Bord Pleanála on appeal.

Reason: To define the scope of the permission.

4.1.4. PA Ref. No. 2360057. Was refused on 5<sup>th</sup> May, 2023 refusing Micheal and Eileen Heffernan permission for the construction of a two-bedroom single story dwelling, garage, an effluent treatment unit, percolation area and all associated site works and drainage. All at Culleenagower, Moate, Co. Westmeath.

- The subject site is located in a rural area outside any designated settlement and in an area defined 'Rural Areas Under Strong Urban Influence' as per the Westmeath County Development Plan 2021-2027, where development which is not rural generated should be more appropriately located in towns and villages and designated settlements. Having regard to the applicant's current circumstance in already owning and living in a dwelling in the local rural area, it is considered that the applicant's requirement for residential development in an area defined 'Rural Areas Under Strong Influence' has already been met. Accordingly, to permit the development as proposed would contravene Council policy objective CPO 9.1 and CPO 2.11 of the Westmeath County Development Plan 2021-2027, would be contrary to the Sustainable Rural Housing – Guidelines for planning Authorities (2005) and would therefore be contrary to the proper planning and sustainable development of the area.

4.1.5. PA Ref. No. 2360322. Was granted on 22<sup>nd</sup> January, 2024 permitting Daniel Heffernan permission for the construction of a two-bedroom single storey dwelling and garage. The application includes an effluent treatment unit, percolation area and all associated site works and drainage, all at Culleenagower, Moate, Co. Westmeath.

4.1.6. *Co. Offaly:*

PA Ref. No. 061566. Was granted on 21<sup>st</sup> February, 2007 permitting Michael Heffernan permission for the extraction of sand and gravel on a total site area of 4.76 hectares for the sole use of the construction of the proposed N6 (National Primary Road) dual carriageway and following extraction, the restoration of lands for agricultural use. The proposed site area transverses the Westmeath County and Offaly County administrative boundaries. A concurrent application has been submitted to Westmeath County Council. All at Lurgan, Moate, Co. Offaly.

4.1.7. PA Ref. No. 17187. Was refused on 3<sup>rd</sup> November, 2017 refusing Michael Heffernan permission for the extraction of sand and gravel. The development consists of a proposed sand and gravel pit on a site of c. 4.52 hectares for use in construction related projects and following extraction, the restoration of lands for agricultural use. The development comprises 2 No. extraction areas and an associated haul route. A concurrent application has been lodged with Westmeath County Council. All at Lurgan, Moate, Co. Offaly.

- The proposed development would endanger public safety by reason of traffic hazard as the proposal involves use of an existing M6 motorway overbridge structure which has inadequate safety structures to cater for the proposed development and the proposal would therefore endanger users of the M6 motorway. Accordingly, the proposal would be contrary to the proper planning and sustainable development of the area.

4.1.8. PA Ref. No. 18415. Was granted on 7<sup>th</sup> January, 2019 permitting Michael Heffernan a three-year permission for a proposed sand and gravel pit on site of c. 4.88 hectares for use in construction related projects and following extraction, the restoration of lands for agricultural use. The development comprises 2 No. extraction areas and associated haul route. The application is in conjunction with a proposed planning application submitted to Westmeath County Council. All at Lurgan, Moate, Co. Offaly.



- 4.1.9. PA Ref. No. 235. Was granted on 8<sup>th</sup> January, 2024 permitting Elgin Energy Services Ltd. permission for a period of 10 years to construct and complete a solar PV development. The development covers a total site area of 21.6 hectares and will include PV panels mounted on metal frames, new internal access tracks, underground cabling, perimeter fencing with CCTV cameras, 14 No. inverter stations, and all ancillary grid infrastructure and associated works. The solar farm would be operational for 40 years. The associated access, temporary construction compound and client substation is located at Culleenagower, Moate, Co. Westmeath, and is subject to a concurrent application submitted to Westmeath County Council. A Natura Impact Statement has been submitted with the planning application. All in the townlands of Lurgan, Moate, Co. Offaly.

## 5.0 Policy and Context

### 5.1. National Policy

#### 5.1.1. The Programme for Government - Our Shared Future:

The current programme commits to an average 7% reduction in greenhouse gas (GHG) emissions per annum over the 2021-2030 period (a 51% reduction over the decade) and the achievement of net zero emissions by 2050. It states that the reliable supply of safe, secure and clean energy will be essential in order to deliver a phase-out of fossil fuels and commits to taking the necessary action to deliver at least 70% of renewable electricity by 2030.

#### 5.1.2. Project Ireland 2040: National Planning Framework, 2018:

The National Planning Framework (NPF) sets out a vision for the future development of the country and includes strategic goals in respect of transitioning to a low carbon and climate resilient society. It contains a number of relevant National Strategic Outcomes (NSOs) and National Policy Objectives (NPOs) which can be summarised as follows:

- *NSO 8: Transition to a Low Carbon and Climate Resilient Society:*

Recognises that the diversification of energy production systems away from fossil fuels and towards a more renewables focused energy generation system (utilising sources such as wind, wave, solar and biomass) will be

necessary. It includes an aim to deliver 40% of electricity needs from renewable sources by 2020, with further increases through to 2030 and beyond in accordance with EU and national policy.

- *NPO 23*: Facilitate the development of the rural economy through supporting a sustainable and economically efficient agricultural and food sector, together with forestry, fishing and aquaculture, energy and extractive industries, the bio-economy and diversification into alternative on-farm and off-farm activities, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.
- *NPO 54*: Reduce our carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and adaptation objectives, as well as targets for greenhouse gas emissions reductions.
- *NPO 55*: 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.

#### 5.1.3. **National Development Plan, 2021-2030:**

The National Development Plan, 2021-2030 (NDP) sets out the Government's investment strategy and budget up to 2030. The NDP commits to increasing the share of renewable energy up to 80% by 2030 and acknowledges that this will require world-leading levels of wind and solar electricity penetration onto the national grid.

#### 5.1.4. **Policy Statement on Security of Electricity Supply, November 2021 (Government of Ireland):**

The Policy Statement notes that electricity is vital for the proper functioning of society and the economy and states that in order to contribute to the achievement of the targeted reductions in greenhouse gas emissions, the Government has committed that up to 80% of electricity consumption will come from renewable sources by 2030 on a pathway to net zero emissions. It emphasises that the continued security of electricity supply is a priority at national level and within the overarching EU policy framework in which the electricity market operates. The challenges to ensuring security of electricity supply are stated to include:

- ensuring adequate electricity generation capacity, storage, grid infrastructure, interconnection and system services are put in place to meet demand – including at periods of peak demand.

Within the Policy Statement the Government recognises inter alia that ensuring security of electricity supply continues to be a national priority as the electricity system decarbonises towards net zero emissions and that there is a need for very significant investment in additional flexible conventional electricity generation, electricity grid infrastructure, interconnection, and storage in order to ensure security of electricity supply.

#### 5.1.5. **Energy Security in Ireland to 2030: Energy Security Package, November, 2023:**

This document outlines a new strategy to ensure energy security in Ireland for the decade, while ensuring a sustainable transition to a carbon neutral energy system by 2030. It has been published as part of an Energy Security Package, containing a range of supplementary analyses, consultations, and reviews, which have informed recommendations and actions related to energy security. The report sets out that Ireland's future energy will be secure by moving from an oil- and gas-based energy system to an electricity-led system, maximising our renewable energy potential, flexibility and being integrated into Europe's energy systems. It further states that energy security must be prioritised, monitored, and reviewed regularly, and includes a range of measures to implement such an approach in the short and medium term by prioritising:

- Reduced and Responsive Demand
- A Renewables-Led System
- More Resilient Systems
- Robust Risk Governance

Under each of these four areas of actions, the report sets out a range of mitigation measures, including the need for additional capacity of indigenous renewable energy, but also energy imports, energy storage, fuel diversification, demand side response, and renewable gases.

5.1.6. **Climate Action Plan, 2023 – Changing Ireland for the Better:**

This plan is the second annual update to Ireland's Climate Action Plan, 2019 and is the first such plan to be prepared under the Climate Action and Low Carbon Development (Amendment) Act, 2021 as well as since the introduction of economy-wide carbon budgets and sectoral emissions ceilings in 2022. It implements the carbon budgets and sectoral emissions ceilings and sets out a roadmap for taking decisive action to halve Ireland's emissions by 2030 and reach net zero no later than 2050, as committed to in the Programme for Government. Moreover, it supports the accelerated delivery of renewable electricity generation to the national grid with a target of achieving 80% of electricity demand being met from renewable energy by 2030. This includes a target of providing up to 5GW of solar energy by 2025 with a longer-term target of 8GW by 2030. The Plan proceeds to list the actions needed to deliver on climate targets and sets emission ceilings reductions for each sector of the economy. These include an increased reliance on renewable energy sources with the following actions of particular relevance to the proposed development:

- EL/23/1: Establish a taskforce to accelerate renewables.
- EL/23/2: Publish the Renewable Electricity Spatial Policy Framework.
- EL/23/3: Publish a roadmap for the development and implementation of Regional Renewable Electricity Strategies.
- EL/23/5: Complete analysis to update Shaping Our Electricity Future to accommodate 80% renewables and align with carbon budgets and sectoral emissions ceilings for electricity.
- EL/23/6: Ensure electricity generation grid connection policies and regular rounds of connection offers which facilitate timely connecting of renewables, provides a locational signal and supports flexible technologies.

5.1.7. **Climate Action Plan, 2024:**

An updated Climate Action Plan, 2024 was approved by Government on 21<sup>st</sup> May, 2024. It aims to build upon the last plan by refining and updating the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings.

Chapter 12: '*Electricity*' of the Plan states that the electricity sector continues to face an immense challenge in meeting its requirements under the sectoral emissions

ceiling, as the decarbonisation of other sectors, including transport, heating, and industry, relies to a significant degree on electrification. The deployment rates of renewable energy and grid infrastructure required to meet the carbon budget programme for electricity are unprecedented and require urgent action across all actors to align with the national target. The EPA has projected that the electricity sector emissions are currently not aligned to Climate Action Plan, 2023 (CAP23) pathways and targets (the projections forecast an overshoot of ~5.2 MtCO<sub>2</sub>eq. in the period 2021 to 2025, and ~8.2 MtCO<sub>2</sub>eq. in the period 2026 to 2030). Therefore, the scale of the challenge to meet the sectoral emissions ceiling has been described as immense and requires policies to be moved from an ‘end of decade’ target trajectory towards a ‘remaining carbon budget’ target.

The Plan emphasises that transformational policies, measures, and actions, along with societal change, are required to meet the electricity sector’s sectoral emissions ceiling. In order to facilitate the major acceleration and increase in onshore wind turbines and solar PV required nationwide to achieve national and regional targets, a previously unseen level of electricity network upgrades and construction will be required. For onshore renewables, greater alignment between national, regional and local plans and renewable energy targets to support investment in and delivery of onshore wind and solar renewable energy will be critical.

Extract from Table 12.5: ‘*Key Metrics to Deliver Abatement in Electricity*’:

Theme	2025 KPI	2030 KPI
<b>Accelerate Renewable Energy Generation</b>	50% renewable electricity share of demand  Up to 5 GW solar PV capacity, including at least 1 GW of new non-utility solar.	80% renewable electricity share of demand.  8 GW solar PV capacity, including 2.5 GW of new non-utility solar.

It has been stated that the achievement of further emissions reductions between now and 2030 will require a major step up across three key measures:

- Accelerate and increase the deployment of renewable energy to replace fossil fuels;
- Deliver a flexible system to support renewables and demand;
- Manage demand.

With respect to the acceleration of renewable electricity generation to reach 80% of electricity demand from renewable sources by 2030, necessary measures include:

- Accelerate the delivery of utility-scale onshore wind, offshore wind, and solar projects through a competitive framework;
- Target of up to 5GW of solar by 2025;
- Target of 8GW of solar by 2030;
- Commence drafting of Solar Energy Development Guidelines.

Extract from Table 12.6: *‘Key Actions to Deliver Abatement in Electricity sector for the period 2024-2025’*:

Measure	2024 Actions	2025 Actions
<b>Accelerate Renewable Energy Generation</b>	Accelerate Renewable Electricity Taskforce to oversee delivery	Accelerate Renewable Electricity Taskforce to oversee delivery
	Revision to the National Planning Framework to include regional capacities for the allocation of national targets at a regional level in order to inform local development plan policy	Ensure that electricity generation grid connection policies, and regular rounds of connection offers (which facilitate timely connection of renewables and supporting flexible technologies), provide a locational signal and support flexible technologies

	Publish Regional Renewable Electricity Strategies	Deliver onshore and offshore RESS auctions as per the annual RESS auction calendar.
	Publish revised methodology for Local Authority Renewable Energy Strategies	

The following 2024 actions are of relevance to the proposed development:

- EL/24/1: Accelerating Renewable Electricity Taskforce to publish programme of work.
- EL/24/3: Revision to the National Planning Framework to include regional capacities for the allocation of national targets at a regional level in order to inform local development plan policy.
- EL/24/4: Publish Regional Renewable Electricity Strategies.
- EL/24/6: Publish revised methodology for Local Authority Renewable Energy Strategies.
- EL/24/7: Publish new Electricity Generation Grid Connection Policy.

5.1.8. **‘Spatial Planning and National Roads, Guidelines for Planning Authorities, 2012’:**

These Guidelines set out the planning policy considerations relating to development affecting national primary and secondary roads, including motorways and associated junctions, outside the 50-60kph speed limit zones for cities, towns and villages. They replace the document, ‘Policy and Planning Framework for Roads’, published by the Department in 1985, supplement other policy guidance on roads-related matters in other Ministerial guidelines in relation to retail planning and sustainable rural housing, and replace the National Roads Authority policy statement on national roads published in May, 2006.

## 5.2. Regional Policy

### 5.2.1. Eastern & Midland Regional Economic and Spatial Strategy, 2019-2031:

The RSES provides a long-term strategic planning and economic framework for the development of the Eastern & Midland Region and represents a significant evolution of regional policy making which replaces the previous Regional Planning Guidelines. A key underlying principle of the Strategy is the need to enhance climate resilience and to accelerate a transition to a low carbon society. Relevant Policy Objectives include:

- *RPO 10.20:* Support and facilitate the development of enhanced electricity and gas supplies, and associated networks, to serve the existing and future needs of the Region and facilitate new transmission infrastructure projects that might be brought forward in the lifetime of this Strategy. This includes the delivery of the necessary integration of transmission network requirements to facilitate linkages of renewable energy proposals to the electricity and gas transmission grid in a sustainable and timely manner subject to appropriate environmental assessment and the planning process.

## 5.3. Development Plan:

### 5.3.1. Westmeath County Development Plan, 2021-2027:

*Chapter 5: Economic Development and Employment:*

*Section 5.13.13: Transition to a Low Carbon Economy/Green Economy (Guiding Principle 5)*

*CPO 5.59:* Support Renewable energy initiatives that supports a low carbon transition.

*Chapter 10: Transport, Infrastructure and Energy:*

*Section 10.22: Renewable Energy Sources:*

*CPO 10.139:* Support local, regional, national and international initiatives for limiting emissions of greenhouse gases through energy efficiency and the development of renewable energy sources which make use of the natural resources in an environmentally acceptable manner and having particular regard to the requirements of the Habitats Directive.



*CPO 10.140:* Facilitate measures which seek to reduce emissions of greenhouse gases and support the implementation of actions identified in the Westmeath County Council Climate Change Adaptation Strategy 2019-2024 and any future amendments.

Section 10.24: *Solar Energy:*

Solar energy is any type of energy generated by the sun. It is a renewable energy source which reduces demand for electricity supply from the national grid where energy is mainly sourced from finite fossil fuels. Solar can be a passive energy source i.e. sunlight heating up a room or an active energy source where sunlight is harvested and converted to electricity in solar cells. Solar technology is developing at a rapid pace and has minimal impact on the environment. The Council will continue to encourage solar energy in commercial and residential developments, subject to design and other environmental considerations.

*CPO 10.149:* Support Ireland's renewable energy commitments outlined in national policy by facilitating solar power where such development does not have a negative impact on the surrounding environment, landscape, historic buildings or local amenities.

*CPO 10.150:* Encourage and support the development of solar energy infrastructure, including solar PV, solar thermal and seasonal storage facilities.

*CPO 10.151:* Ensure that proposals for solar farms consider the following criteria:

- The Landscape Character of the County.
- Visual impact particularly on raised/elevated sites.
- Zone of visual influence and visual impact of the structures.
- Glint and glare report and potential impact on adjoining road networks and dwellings.
- Road access and impact on road network serving the site during the construction phase (A pre and post construction impact report may be required).
- Archaeological Impact.

- Incorporation of security measures – use of CCTV/surveillance cameras and security fencing.
- The suitability/strength of the grid and accessibility to it.
- The suitability of the site, having regard to other land use policies, including the need to protect areas of important built and natural heritage.
- Decommissioning of obsolete infrastructure and after-use.

### *Chapter 11: Climate Action:*

#### *Section 11.9: Clean Energy:*

The Plan recognises the contribution that wind and solar energy make to meeting national renewable energy targets. In this regard, the plan strongly supports the development of renewable energy resources. In this regard, since the adoption of the Westmeath County Development Plan 2014-2020, the Council has granted permission for a number of solar farms within the County. The total number of photovoltaic panels permitted to date, on a total site area of approximate 330 hectares, which when operational will generate renewable energy output of approximately 130 MW. It is further noted that consent has been granted for a windfarm of 13 turbines at Coole with potential to generate 50MW of renewable energy.

It is acknowledged in the plan that the Council is open to new and innovative renewable energy sources and technological solutions to addressing climate change. In this regard, the Council will seek to collaborate with the Bord Na Mona Transition Team and adjacent Local Authorities to progress the transition from brown to green energy.

### *Chapter 13: Landscape and Lake Amenities:*

#### *Section 13.6: Westmeath Landscape Character Assessment:*

*CPO 13.1:* Support the implementation of the National Landscape Strategy.

*CPO 13.2:* Protect the distinctiveness, value and sensitivity of County Westmeath's landscapes and lakelands by recognising their capacity to sustainably integrate development.

- CPO 13.3:* Support and implement objectives contained in any Regional Landscape Character Assessment.
- CPO 13.4:* Conserve and enhance the high nature conservation value of the Landscape Character Areas in order to create/protect ecologically resilient and varied landscapes.
- CPO 13.5:* Identify and integrate new green and blue infrastructure networks within the existing landscape character areas in the interests of biodiversity and climate change and in recognition of the tourism potential of these assets.
- CPO 13.6:* Require that development is sensitively designed, so as to minimise its visual impact on the landscape, nature conservation, archaeology and groundwater quality.

*Section 13.13: Character Area 7: Western Lowlands:*

The character of this area contains a variety of landscape features including eskers, lakes and bogs. This landscape is generally low-lying but is characterised by a gently undulating topography, particularly around Mount Temple and to the northwest of Moate. Visual containment in the landscape is created by elevated areas and glacial kames, irregular ridges or mounds of gravel deposited by melting glaciers feature at intervals. Low-lying areas, however, are generally contained visually due to high quality, species rich hedges that dominate field boundaries in the area, limiting the extent of views across the landscape. This area includes the settlements of Moyvore, Ballymore, Mount Temple, Moate and Ballinahown and is bounded to the east by the change in topography that characterises the South-Central Hills Character Area at Ballymore and west of Rosemount.

- CPO 13.8:* Protect the landscapes and natural environments of the County by ensuring that any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area. Any development which could unduly impact upon such landscapes will not be permitted.
- CPO 13.9:* Ensure the preservation of the uniqueness of a landscape character type by having regard to the character, value and sensitivity of a landscape in new development proposals.

*CPO 13.10:* Ensure development reflects and, where possible, reinforces the distinctiveness and sense of place of the landscape character types, including the retention of important features or characteristics, taking into account the various elements which contribute to their distinctiveness.

*Chapter 16: Development Management Standards:*

*Section 16.13.2: Solar Farms:*

The Council recognises that solar farms as a renewable energy source, can contribute to reductions in fossil fuel dependency and greenhouse gas emissions.

Currently, there is no national policy guidelines on solar farms. In the assessment of any applications for solar farms, the Council will consider Section 10.24 of the plan which provides the policy context and criteria required in the assessment of solar farms within County Westmeath.

## **5.4. Natural Heritage Designations**

The following natural heritage designations are located in the general vicinity of the proposed development site:

### *5.4.1. Special Areas of Conservation:*

- Clara Bog Special Area of Conservation (Site Code: 000572), approximately 6.5km southeast of the site.
- Carn Park Bog Special Area of Conservation (Site Code: 002336), approximately 8.4km west-northwest of the site.
- Crosswood Bog Special Area of Conservation (Site Code: 002337), approximately 10.5km west of the site.
- Ballymore Fen Special Area of Conservation (Site Code: 002313), approximately 11.9km north of the site.
- Split Hills and Long Hill Esker Special Area of Conservation (Site Code: 001831), approximately 12.7km east of the site.
- River Shannon Callows Special Area of Conservation (Site Code: 000216), approximately 13.4km west-southwest of the site.

- Ferbane Bog Special Area of Conservation (Site Code: 000575), approximately 13.5km southwest of the site.
- Lough Ree Special Area of Conservation (Site Code: 000440), approximately 14.5km northwest of the site.

5.4.2. *Special Protection Areas:*

- Middle Shannon Callows Special Protection Area (Site Code: 004096), approximately 13.4km west of the site.
- Lough Ree Special Protection Area (Site Code: 004064), approximately 14.4km northwest of the site.

5.4.3. *Natural Heritage Areas:*

- Ballynagrenia and Ballinderry Bog Natural Heritage Area (Site Code: 000674), approximately 2.6km north of the site.
- Clonydonnin Bog Natural Heritage Area (Site Code: 000565), approximately 7.9km southwest of the site.

5.4.4. *Proposed Natural Heritage Areas:*

- Ballymagarbry Proposed Natural Heritage Area (Site Code: 001713), approximately 2.7km northwest of the site.
- Woodfield Bog Proposed Natural Heritage Area (Site Code: 000586), approximately 4.6km east of the site.
- Clara Bog Proposed Natural Heritage Area (Site Code: 000572), approximately 6.5km southeast of the site.
- Carn Park Bog Proposed Natural Heritage Area (Site Code: 000676), approximately 8.4km west-northwest of the site.
- Crosswood Bog Proposed Natural Heritage Area (Site Code: 000678), approximately 10.5km west of the site.
- Doon Esker Wood Proposed Natural Heritage Area (Site Code: 001830), approximately 11km southwest of the site.
- Lough Sewdy Proposed Natural Heritage Area (Site Code: 000689), approximately 11.8km north of the site.

- Ballyduff Esker Proposed Natural Heritage Area (Site Code: 000885), approximately 12.4km southeast of the site.
- Waterstown Lake Proposed Natural Heritage Area (Site Code: 001732), approximately 12.4km northwest of the site.
- Split Hills and Long Hill Esker Proposed Natural Heritage Area (Site Code: 001831), approximately 12.7km east of the site.
- River Shannon Callows Proposed Natural Heritage Area (Site Code: 000216), approximately 13.4km west-southwest of the site.
- Ferbane Bog Proposed Natural Heritage Area (Site Code: 000575), approximately 13.5km southwest of the site.
- Lough Ree Proposed Natural Heritage Area (Site Code: 000440), approximately 14.5km northwest of the site.
- Grand Canal Proposed Natural Heritage Area (Site Code: 002104), approximately 14.5km west-southwest of the site.
- Derrygolan Esker Proposed Natural Heritage Area (Site Code: 000896), approximately 14.6km southeast of the site.
- Ballyduff Wood Proposed Natural Heritage Area (Site Code: 001777), approximately 14.8km southeast of the site.
- Clonllyn Glebe Bog Proposed Natural Heritage Area (Site Code: 000893), approximately 14.9km southwest of the site.

## 5.5. EIA Screening

- 5.5.1. Although solar farms are a project for the purposes of the Environmental Impact Assessment Directive, they do not fall within a class of development set out in Parts 1 or 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, and therefore no preliminary examination, screening for environmental impact assessment, or environmental impact assessment is required for the proposed solar farm.

5.5.2. However, there are two classes of development within Part 2 of Schedule 5 to the Planning and Development Regulations 2001, as amended, which may be of relevance in this instance which require consideration.

5.5.3. ***Rural Restructuring:***

In 2023, the Planning and Development (Amendment) (No. 2) Regulations, 2023 (SI 383/2023) amended Schedule 5 of Part 2 of the Planning and Development Regulations, 2001, by including the restructuring of rural landholdings, where it formed part of a wider proposed development and not an agricultural activity of itself, through the insertion of the following:

*‘Class 1(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’.*

5.5.4. The subject proposal (i.e. those works located within the jurisdiction of Westmeath County Council) will involve the removal of a limited extent of post and wire / rail fencing and possibly some hedgerow primarily to accommodate the extension of the existing access track (thereby providing access to the proposed substation and temporary construction compound) and to facilitate the widening of existing gated entrances onto the upgraded access track. Such removal is associated with access requirements and does not result in the amalgamation or enlargement of existing fields. It is estimated that the removal of field boundaries is minimal and will not exceed c. 30m and thus is significantly below the EIA threshold of 4km set out under Class 1(a) of Planning and Development Regulations 2001, as amended. However, the development would constitute sub-threshold development for rural restructuring (Class 1(a), Part 2 of Schedule 5). In this regard, I refer to Appendix 1 of this report and the completed Form 1 Pre-screening & Form 2 Preliminary Examination.

5.5.5. At this point, it should also be noted that the subject proposal forms part of a wider development that encompasses the construction of a solar PV development which

includes ground-mounted solar photovoltaic panels set within metal frames, new internal access tracks, underground cabling, perimeter fencing with CCTV cameras, 14 No. inverter stations, substation, temporary construction compound, and all ancillary grid infrastructure and associated works. This larger development extends over a total site area of 23.4 No. hectares and transverses the Westmeath County and Offaly County administrative boundaries.

- 5.5.6. Having reviewed the entirety of the wider solar PV development for potential cumulative considerations, with particular regard to that element of the development permitted under Offaly County Council PA Ref. No. 23/5, it is notable that those works proposed within the administrative area of Co. Offaly will occur within an area identified in the accompanying habitat mapping (Drg. No. NEO01070/001/A: Figure 2: '*Habitat Map*') as primarily comprising a former quarry (undergoing reinstatement), improved agricultural grassland, scrubland, cutover bog and spoil depositions. The perimeter site boundary generally comprises mature hedgerow and is to be retained while the proposal also includes provision for a 5m buffer to be maintained from hedgerows and tree lines.
- 5.5.7. Regrettably, no details have been provided of the extent of any loss of field boundaries associated with the construction of that element of the solar farm located in Co. Offaly, however, from a review of the available information, including aerial photography, and having conducted a site inspection, I am satisfied that any loss of field boundaries (including hedgerows) will be minimal with any cumulative loss across the wider development (within Counties Offaly and Westmeath) considerably below the 4km threshold for EIA as regards rural restructuring (Class 1(a), Part 2 of Schedule 5). This matter is considered further in the completed Form 1 Pre-screening and Form 2 Preliminary Examination appended to this report.
- 5.5.8. For the purposes of completeness by reference to Class 1(a), the proposed development does not involve any significant excavation or the recontouring of the lands by, for example, the levelling off of hills or by the infilling of hollows (by removing or shifting earth or rocks), or other use or drainage works. Although the proposed substation building and the temporary construction compound will be sited on areas of hardstanding (along with the inverter stations etc. permitted in Co. Offaly under PA Ref. No. 23/5) which will require some localised levelling and foundation



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

#### 5.5.9. **Private Roads:**

Given that the proposed development (including when taken in conjunction with Offaly County Council PA Ref. No. 23/5) includes for the upgrading and extension of an existing access track along with the provision of new access tracks, the proposal has been examined having regard to Class 10(dd) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, as amended, which requires EIA for “*All private roads which would exceed 2000 metres in length*”. On the basis that the proposed development does not include any such private roads, any requirement for EIA by reference to Class 10(dd) can be screened out at pre-screening stage as per Form 1 appended to this report.

#### 5.5.10. **Conclusion:**

Having regard to the nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, as well as the criteria set out in Schedule 7 of the Planning & Development Regulations, 2001, as amended, following a preliminary examination as detailed under Form 2 of Appendix 1 of this report, it can be concluded that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded and an EIA is not required.

## 6.0 **The Appeal**

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

- The grant of permission appears to include for the utilisation of an existing agricultural overbridge (which forms part of the M6 motorway and is identified as *TII Structure ID: WH-M06-024.00, Culleenagower Farm Accommodation Overbridge*) as an access for construction and development purposes as well as for the routing of electrical cabling connecting a solar array permitted in Co. Offaly to a proposed substation in Co. Westmeath (planned as part of the subject proposal) from which a connection to the national grid will be made. In

this regard, it is submitted that the permitted development has the potential to compromise the safety and efficiency of the national road network at a location where a 120kph speed limit applies and is also at variance with official policy.

- By way of context, the Culleenagower Farm Accommodation Overbridge was designed and constructed as part of the N6 Kinnegad to Athlone Dual Carriageway Scheme approved under ABP Ref. No. ER25.ER2020 (with the upgraded roadway having been designated as motorway in the same year as opening in 2008) to serve as a private access for the farming of neighbouring agricultural lands. For the avoidance of doubt, the national road network includes motorways and all associated over and underground structures and services such as the Culleenagower Farm Accommodation Overbridge. Works proposed to be carried out over, on, and in close proximity to the national road network must be subject to coordination with and receive the prior approval of Transport Infrastructure Ireland (TII). All such works are also subject to the processes and standards outlined in TII Publications.
- Following the receipt of a response to a request for clarification of further information (with the request itself noting that the cabling proposed to connect the solar farm to the substation '*appears to route over [the] M6 overpass / bridge*'), TII was prompted to make a submission (dated 7<sup>th</sup> July, 2023) wherein it queried the rationale for the proposed use of the M6 overbridge for construction and development access. It was further noted that the overbridge itself was not suitable for the proposed cabling route and that an alternative arrangement would be required along with compliance with other TII requirements. This position was reiterated in a further submission dated 4<sup>th</sup> September, 2023.
- With regard to the potential routing of a grid connection from the proposed substation northwards onto the local road network (as shown in response to the request for further information), it is noted that the response to the request for clarification of further information includes typical details of underground 20kV cabling. Taken together with the narratives supplied in these responses, the appellant is of the opinion that insufficient information has been provided to determine the full extent and nature of the works proposed to *TII Structure*

ID: WH-M06-024.00, Culleenagower Farm Accommodation Overbridge or within and over that area maintained by TII.

- Neither the decision to grant permission nor the technical reports prepared in support of same reflect the concerns raised by TII or the Engineering Section of Westmeath County Council. Accordingly, the appellant has been compelled to lodge this appeal as the grant of permission appears to permit the use of a TII structure over the M6 motorway as both a construction and development access route as well as for the purposes of the laying of an electricity cable connection despite the concerns previously raised and the further requirements of TII publications.
- Given the need to maintain the strategic function of the national road network and to protect, maintain and ensure its safety, caution must be exercised in the assessment of any development proposal which could potentially impact on the safe operation of strategic routes in accordance with the '*Spatial Planning and National Roads, Guidelines for Planning Authorities, 2012*'.
- In support of its general function to provide a safe and efficient national road network, Transport Infrastructure Ireland is authorised under Section 19(1)(e) of the Roads Act, 1993, as amended, to specify standards in relation to design, construction or maintenance that will need to be complied with by any person, road authority or public authority, carrying out works to a national road. These standards are set out in a suite of technical design standards collectively referred to as '*TII Publications*' and their application safeguards road user safety and ensures the resilience of national roads infrastructure. In this regard, it is reiterated that TII Structure ID: WH-M06-024.00, Culleenagower Farm Accommodation Overbridge forms part of the national road network.

TII publications include the '*Technical Approval of Road Structures on Motorways and Other National Roads for Structures (TII, 2009, DN-STR-03001)*' which specifies the procedures to be followed to obtain 'Technical Acceptance' for structures on motorways and other national road schemes and for the submission of 'as-built' records. These procedures cover the

design of all road structures under or over motorways or other roads carrying public traffic.

With regard to an overbridge structure, a Technical Acceptance procedure must be fulfilled and approved by TII ahead of the design and construction of any works. In the subject instance, TII has not been consulted on any preliminary design proposal for the use of the overbridge for electricity cabling. Furthermore, no design information for the cable crossing of the '*Culleenagower Farm Accommodation Overbridge*' was submitted in response to the requests for further information or clarification of same.

In the absence of any design information as regards the existing and proposed use of the overbridge, TII is unable to identify the potential for any other interactions of the proposed development works with the national road network, however, given the intended use of the overbridge as both a cabling route and a construction access, along with the proposed siting of a temporary compound adjacent to the motorway area, it is likely that other TII publications will apply.

Based on the information available, Transport Infrastructure Ireland is not satisfied that the permitted development complies with TII Publications Design Standards and Procedures or that it safeguards the safety of all road users in accordance with official policy.

- Elements of the national road network are operated and managed by a combination of Public Private Partnership (PPP) Concessions, Motorway Maintenance and Renewal Contracts (MMaRCs) and local road authorities in association with Transport Infrastructure Ireland. In this regard, the Culleenagower Farm Accommodation Overbridge and the M6 motorway in its vicinity form part of '*MMaRC Maintenance Area B*'.

In accordance with Section 53 of the Roads Act, 1993, as amended, works proposed by a state authority, statutory undertaker or local authority for new infrastructure along, adjoining, in, on, under or over a motorway, will require consent from the National Roads Authority (TII). Any other works undertaker must observe the third-party works consent process of TII that, if successful,

will include requirements such as access and Works Specific Deeds of Indemnities.

In addition to the Culleenagower Farm Accommodation Overbridge, it is unclear what extent of the permitted works will occur within MMarC Maintenance Area B. For example, the proposed temporary construction compound would appear to at least abut MMarC Maintenance Area B. Therefore, TII has been unable to ascertain or evaluate any national road interactions within Maintenance Area B and all its associated infrastructural assets.

The presence of the motorway and its maintenance and management arrangements by a MMarC Contractor have been highlighted in TII submissions, as was the need for consultation with that Contractor in respect of any works impacting the MMarC area.

The Planning Authority has been advised that TII's consent is required for any proposed crossing of the motorway and that its preferred methodology for cable ducting crossing motorways is by way of Horizontal Directional Drilling (HDD). Any such underground crossing will also require adherence to the TII's third party works procedures but as launch and reception pits can be established outside of MMarC and the construction and installation of cables can be undertaken without direct contact with national road network assets and without interruption of the safe and efficient operation of the national road network as would occur for works on and maintenance of an overhead cable route. This is a concern as TII considers that regard by the local authority of the HDD crossing method could have resolved the significant engineering and road safety issues that arise in relation to the proposed utilisation of the overbridge for cable crossing and the absence of appropriate mitigations.

- Despite repeated submissions referencing the need for TII consent for any works to the overbridge, it appears that the concerns raised as regards the status of the overbridge (as part of the M6 motorway) and other matters (including the standards and consents required by TII Publications) have not been considered or reflected in the decision to grant permission. This is a

serious oversight and sets an inappropriate precedent for similar developments.

- The Planning Statement which accompanied the initial application (and the concurrent application made to Offaly County Council under PA Ref. No. 23/5) references pre-planning discussions undertaken with both Westmeath and Offaly County Councils in September, 2022:
  - In reference to the discussions held with Offaly County Council, Para. 1.4 of the Planning Statement records that *'An initial pre-application meeting was also held with Westmeath County Council, however, since this meeting changes to the proposed development have occurred, with relocation of the access from the west to the east and the inclusion of the temporary construction compound and client substation now also being included within the land area that falls within Westmeath'*.
  - The initial report of the case planner for Westmeath County Council notes that *'A pre-planning consultation took place under reference PP6061 on the 21<sup>st</sup> of September 2022. Discussion held in relation to an alternative access point off the L-1301 (Ballycumber Road). Principle of the development is acceptable'*.

(The Ballycumber Road (L-1301) is a public road to the west of the application site).

The Planning Statement also details the historical pattern of concurrent applications lodged in Counties Westmeath and Offaly as regards the development of lands which include the subject site, however, this planning history is incomplete with previous applications illustrating a strong preference for alternative access arrangements.

Permission was previously refused by Westmeath County Council under PA Ref. No. 17/7111 for a haul road via the existing overbridge to serve a sand and gravel pit proposed in Co. Offaly (PA Ref. No. 17/187):

- It has not been demonstrated to the satisfaction of the planning authority that the proposed development would afford the necessary levels of protection for road users of the M6 strategic national road

network. The proposed development would endanger public safety by reason of a traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.

The contemporaneous application for the sand and gravel pit was refused by Offaly County Council under PA Ref. No. 17187 for the following reason:

- The proposed development would endanger public safety by reason of traffic hazard as the proposal involves use of an existing M6 motorway overbridge structure which has inadequate safety structures to cater for the proposed development and the proposal would therefore endanger users of the M6 motorway. Accordingly, the proposal would be contrary to the proper planning and sustainable development of the area.

Offaly County Council subsequently issued a temporary grant of permission under PA Ref. No. 18/415 for a sand and gravel pit (on the majority of those lands proposed for the subject solar array) which included an alternative haul route to the west onto the Ballycumber Road (L-1301). Concurrently, permission was also granted for that section of the haul route in Co. Westmeath under PA Ref. No. 18/7185. Crucially, the approved access to the sand and gravel pit and the associated haul route was from the Ballycumber Road.

During the pre-planning consultations, it would appear that the subject proposal was to have been accessed via Ballycumber Road, however, this is not the case in the application as lodged (which provides for crossing of the M6 Motorway to the north) with no rationale seemingly provided for the change to the access and haul route arrangements. The Culleenagower Farm Accommodation Overbridge was designed and constructed as a private access to agricultural lands and not as a haul route for the regular passage of vehicles etc. serving other commercial land uses (unlike the Ballycumber Road TII Structure which is a public road having been designed and constructed as such).

On a related point, it is unclear how the reason for the refusal of PA Ref. No. 177111 (which sought to develop a haul route across the overbridge) has been addressed in the subject proposal given that the status of the M6 and

the overbridge has not changed since that decision and thus the crossing remains unsuitable for construction and development access purposes.

- In respect of any mitigation of impact of the proposed construction haul route, the documentation submitted with the application refers to submitted Technical Appendix 5: '*Construction Traffic Management Plan*' and a series of accompanying figures / drawings depicting the proposed haul route, swept path analysis and visibility spay.

Any works potentially impacting the national road network are required to demonstrate compliance with TII Publications (Standards) in accordance with the relevant TII Publications (Technical). In this regard, it appears that the Construction Traffic Management Plan only considers TII Publications (Technical) *Traffic and Transport Assessment Guidelines* (Ref. PE-PDV-02045) and proposes no mitigation for any impacts on the national road network arising from the proposed use of the Culleenagower Farm Accommodation Overbridge.

It is the preference of TII that the haul route and grid connection avoid the existing overbridge.

- Having regard to the wider aims etc. of 'Project Ireland 2040: National Planning Framework, 2018', 'Project Ireland 2040: National Development Plan, 2021-2030' (as supplemented by the National Investment Framework for Transport in Ireland), and the Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy, 2019-2031 as regards maintaining the strategic capacity and safety of the national roads network, including planning for future capacity enhancements, the appellant is concerned that the proposed development does not safeguard national road user safety or the maintenance of the efficient operation of the national road network in accordance with official policy.
- The observations lodged by the appellant seek to ensure the safety, capacity and strategic function of the national road network in accordance with its statutory functions and the provisions of official policy as outlined in the '*Spatial Planning and National Roads, Guidelines for Planning Authorities*,



2012' and the Regional Spatial and Economic Strategy for the Eastern and Midlands.

- Section 10.5.1: '*National Roads*' of Chapter 10: '*Transport, Infrastructure and Energy*' of the Westmeath County Development Plan, 2021-2027 recognises and endorses official national roads policy as follows:

*'Significant investment and improvements in the existing road infrastructure have been made by the Local Authority in terms of upgrades, realignments, maintenance, traffic management measures, traffic calming measures and road safety measures, and it is important to protect and maintain the carrying capacity of this road network in the future as deemed necessary and as resources allow. In doing so, regard will be made to the Spatial Planning and National Roads Guidelines for Planning Authorities 2012, relating to development affecting National Primary and Secondary roads, including motorways and associated junctions'.*

This is given effect by reference to Policy Objectives CPO 10.45 - CPO 10.51 of the Plan.

For example, Policy Objective CPO 10.45 states the following:

*'It is a policy objective of Westmeath County Council to maintain and protect the safety, capacity and efficiency of National roads and associated junctions in accordance with the Spatial Planning and National Roads Guidelines for Planning Authorities, DECLG, (2012) and the Trans-European Networks (TEN-T) Regulations'.*

In light of the foregoing, as well as the contents of the appellant's earlier observations on file and the interdepartmental engineering reports of Westmeath County Council, it is of serious concern that the reports of the case planner do not appear to identify the Cullenagower Farm Accommodation Overbridge as part of the M6 motorway with the result that the assessment does not include any consideration of official national roads policy as expressed in the '*Spatial Planning and National Roads Guidelines for Planning Authorities, 2012*' or the national roads policy objectives of the County Development Plan.

- The appellant is not satisfied that the proposed development (through its use of the overbridge for construction and development access as well as the routing of electricity cabling) does not undermine the safe and efficient operation of the M6 motorway and does not contravene Development Plan policy objectives as regards the protection of the national road network.
- The submitted particulars provide no depiction whatsoever of the proposed cable routing on the overbridge. The only details supplied by the applicant and accepted by the Planning Authority show cabling routed across the overbridge to carry Alternating Current to the proposed substation and onwards to the national grid. Therefore, it is apparent that the overbridge will form part of the grid connection contrary to previous TII observations, the Westmeath County Council interdepartmental engineering reports, and the matters raised in this appeal. Accordingly, the proposal does not comply with the requirement to prove ‘*Accessibility*’ to the national grid as per CPO 10.151 of the Westmeath County Development Plan.
- The proposed development, by itself and the precedent that a grant of permission would set, would endanger public safety by reason of traffic hazard, and would interfere with the efficiency and operation of the M6 motorway by the construction, existence and maintenance of an electrified cable on a TII structure and by the use of an overbridge designed and built as a private agricultural access for construction and development purposes.
- No exceptional reasons have been outlined to justify a departure from official policy and road safety considerations (which a grant of permission would represent in this instance).
- The applicant has not satisfactorily fulfilled the requests for further information and clarification as issued by the Planning Authority.
- The notification of the grant of planning permission does not appear to reflect the technical appraisals contained in the interdepartmental engineering reports prepared ahead of the decision.
- It is of concern that the reports of the case planner do not appear to identify the overbridge as a TII structure or its role as part of the M6 motorway. In this way, the assessment contained in the planning reports is absent of

consideration of official national roads policy / requirements and local development plan policy for national roads.

- There is no record of adherence to, or compliance with, the procedures set out in TII Publications nor has any commitment been given as part of the planning application or the Construction Traffic Management Plan to the mitigation of impacts on the national road network through consultations with TII and / or the MMarC Area B Coordinator.
- A third party seeking to cross a motorway / dual carriageway will require Works Specific Deeds of Indemnities, arrangements for third party access, or consent from TII in accordance with Section 53 of the Roads Act, 1993. Arrangements for third party access are also likely to be required.
- The development as permitted would set an undesirable precedent for other similar developments and circumstances which would impact adversely on the strategic national road network.
- Having regard to the contents of the grounds of appeal, with particular reference to TII's specifications for methodologies and works impacting national roads as well as the necessary consent procedures, it is considered that the grant of permission as issued is not implementable.
- The Council is aware of the planning history of the subject lands and the availability of an alternative access route from the local public road network which was previously used to avoid any use of the overbridge as a haul route for a temporary sand and gravel pit permitted on adjacent lands. In this regard, the status and function of the M6 motorway and overbridge remain unchanged and it continues to be inappropriate to use the latter as a haul route given the associated traffic hazard that would be exacerbated further by any role as a development access and / or cable route.
- The permitted development conflicts with official policy to maintain the safety of the national roads network as outlined in the National Planning Framework and National Development Plan, 2021-2030, and reflected in the Eastern and Midland Regional Spatial and Economic Strategy and the Westmeath County Development Plan, 2021-2027. It would set an undesirable precedent for other similar development impacting on road safety.

- In the event of a grant of permission, the appellant would recommend the following amendments:
  - Any crossing of the M6 by electrified grid connection cable routing shall be by horizontal directional drilling (HDD) only. Prior to the commencement of development, a methodology shall be submitted for the written agreement of the planning authority, subject to the written agreement of TII, that includes the following:
    - i) A pre-construction survey along the length of the crossing over the extents of the motorway boundary;
    - ii) Commitment to, and methodology for, the preparation and submission of a post-construction survey along the length of the crossing over the extents of the motorway boundary;
    - iii) Details demonstrating compliance of all works on or in the vicinity of the motorway with TII Publications;
    - iv) Record of consultation with the Public Private Partnership (PPP) Concession holders via TII and the relevant road authority;
    - v) Detailed information on traffic management, including signage (static and VMS) to ensure the strategic function of the national road network is protected; and
    - vi) Record of works specific indemnities, Section 53 consent and arrangements for third party access as arise following consultations with [thirdpartyworks@tii.ie](mailto:thirdpartyworks@tii.ie).
  - Prior to commencement of development, a construction traffic management plan, including access to services, shall be submitted for the written agreement of the planning authority, subject to the written agreement of TII, and shall:-
    - a) Demonstrate consultation with the MMarC Area B Contractor via TII and the relevant road authorities;
    - b) Include detailed information on traffic management, including signage (static and VMS); and

- c) Include specific measures to avoid and mitigate any impact on the Culleenagower Farm Accommodation Overbridge (TII Structure ID: WH-M06-024.00) and to protect the M6 to ensure the strategic function of the national road network is protected.

## 6.2. Applicant's Response

- The landowner has access rights along the Culleenagower Farm Accommodation Overbridge.
- Given the anticipated construction period of c. 4 No. months, any impacts arising will be short-term and of low significance.
- The Construction Traffic Management Plan submitted with the application states the following:

*' . . . the largest delivery vehicles will unload at the Construction Compound area and will not be crossing the bridge over the M6. Smaller construction vehicles will then be used to take materials from the compound to the main site area'.*

These smaller construction vehicles and loads will be of a similar size and weight to standard agricultural equipment.

- Traffic associated with the operational phase of the development is below the threshold for a Traffic Impact Assessment as per the National Roads Authority's '*Traffic and Transport Assessment Guidelines*' and will equate to c. 1 No. trip per month (with an additional visit every 4 No. months).
- The integrity and use of the overbridge will not be affected by the proposed cable route.
- While it may be the appellant's preference to avoid any use of the Culleenagower Farm Accommodation Overbridge for either access and / or grid connection purposes, due to ownership rights associated with the alternative access suggested, the submitted proposal is the only viable option presently open to the applicant.
- In terms of establishing 'accessibility' to the grid as per Policy Objective CPO 10.151 of the County Development Plan, the applicant is satisfied that this

requirement has been met as evidenced by the decision to grant permission. Connection to the national grid is viable along the Culleenagower Farm Accommodation Overbridge with existing ducting within the bridge being capable of accommodating the proposed cabling with very little work. There will be no real impact for users of the overbridge nor will there be any impact on its structural integrity. Therefore, it is considered that there is accessibility to the grid by way of a simple solution.

- The proposed development will not adversely impact the strategic road network due to the low level of traffic generated and the absence of abnormal loads (all equipment and materials can be delivered by way of standard HGVs).
- The 'Construction Traffic Management Plan', 'Road Safety Audit' and 'Traffic & Transport Assessment' submitted in support of the application clearly outline that with the measures proposed the development will not result in any significant effects.
- There will be limited traffic generation from the project with peak volumes not expected to exceed 20 No. HGV deliveries per day (and an estimation of only 493 No. deliveries in total during the 4 No. month construction period).
- No remedial works are required to achieve the required sightlines and thus there are no safety concerns with the proposed use of the access point.
- Pre- and post- construction condition surveys will be carried out along Local Road No. L2031 for a distance of 200m either side of the access point. The applicant accepts that it will be liable for the repair of any damage to the public road attributable to the construction of the proposed development and is therefore amenable to the imposition of a condition to this effect.
- The Outline Construction Traffic Management Plan sets out various mitigation measures that will be implemented to minimise the impact of construction traffic on the surrounding environment and local communities, including:
  - Limitations on working times and HGV scheduling;
  - Site security and signage; and

- Measures to control emissions of dust and other airborne contaminants.

This CTMP conforms to the policies and objectives of the Offaly and Westmeath County Development Plans as well as the Design Manual for Roads and Bridges.

- The applicant will comply with the recommendations of the Road Safety Audit.
- In response to the amendments recommended by the appellant should the Board decide to grant permission, including the suggestion to deploy Horizontal Directional Drilling for any cable crossing of the M6 motorway, it is submitted that there are viable solutions for a cable connection via the bridge which will not affect its integrity i.e. the cabling could be placed within existing ducts using standard connection methodologies with the result that there would be there no physical change to the bridge.
- A number of technical environmental assessments were carried out in support of the subject application, all of which concluded that the proposed development will not result in adverse impacts.
- The proposed development will have a number of benefits, including:
  - The expected generation of up to 10MW of renewable energy.
  - A significant saving of CO<sub>2</sub> per year compared to equivalent fossil fuel generation.
  - Helping the counties of Offaly and Westmeath to fulfil its aims of increased renewable energy production.
  - Assisting the national efforts to achieve legally binding renewable energy targets at EU level.
  - Improving energy security for Irish consumers in a volatile marketplace.
  - Providing local economic benefits in the form of rural diversification.
  - Implementing environmental benefits in the form of hedgerow enhancements that will benefit a range of species.
- The proposed development is consistent with Ireland's international, European and national commitments as regards the reduction of greenhouse

gas emissions and the provision of energy from renewable sources and further accords with the strategic objectives of the National Planning Framework in relation to the transition to a low carbon and climate resilient society.

- Having regard to National Policy Objective 55 of the National Planning Framework which aims 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*', the application site has been identified as an appropriate location for the proposed development through a series of surveys and assessments completed as part of the planning application.
- The proposed development will not have any significant impacts on roads or the integrity of the overbridge.

### 6.3. Planning Authority's Response

None.

### 6.4. Observations

#### 6.4.1. Patrick Guinan:

- The proposal to access the solar farm by way of the existing agricultural track and overbridge at Culleenagower, Moate, Co. Westmeath, is objectionable. This is a gated farm access track and is not a public road taken in charge by the County Council.
- The existing access track and overbridge were provided for use by farmers affected by the N6 Kinnegad to Athlone Dual Carriageway whose farmland would be severed by the scheme as a result of the Compulsory Purchase Order approved by An Bord Pleanála.
- The farm access track and overbridge cannot be used to serve commercial development as this would have a detrimental effect on the daily operation of the observer's dairy farm, including the free movement of livestock, as there



are gates on both the track and the overbridge for directing the animals where they are required to go.

- The accompanying map shows the observer's lands and the farm access track and overbridge which he uses on a daily basis. The access track and overbridge have been incorporated into the proposed solar farm development as is evident from the submitted planning application.
- Alternative access is available to the developers to facilitate the proposed development via the Ballycumber Road, Lurgan, Moate.
- The observer objects to the installation of any CCTV cameras in any common areas in use by the development.

## **7.0 Assessment**

7.1. From my reading of the file, inspection of the site, and assessment of the relevant policy provisions, I conclude that the key planning issues arising are:

- The requirement for access via Local Road No. L2031 / Clara Road (also identified as Local Road No. L1307)
- Proposed use of the existing access from Local Road No. L2031 / Clara Road
- Proposed use of TII Structure ID: WH-M06-024.00: Culleenagower Farm Accommodation Overbridge:
- The intersection of the proposed access with Local Road No. L2031 / Clara Road
- Traffic volumes and road capacity
- Appropriate assessment

These are assessed as follows:

### **7.2. The Requirement for Access via Local Road No. L2031 / Clara Road (also identified as Local Road No. L1307):**

7.2.1. At the outset, concerns have been raised as regards the proposal to utilise an existing agricultural track which extends southwards from Local Road No. L2031 / L1307 (the Clara Road) to access the proposed development (along with the

remainder of the solar energy development already permitted by Offaly County Council in its determination of PA Ref. No. 23/5 of which the subject works form part) as opposed to an alternative access arrangement potentially available via another agricultural track that extends eastwards from Local Road No. 1301 (the Ballycumber Road). In this regard, I would advise the Board that permission was previously granted (on a temporary basis) under PA Ref. Nos. 18/7185 & 18/415 by Westmeath and Offaly County Councils respectively for access to a sand and gravel pit on those lands to be occupied by the solar farm permitted under PA Ref. No. 23/5 via an existing agricultural track leading from Local Road No. 1301 (Ballycumber Road). By way of further background, it is of note that the foregoing approval of access from Ballycumber Road appears to have been in response to an earlier refusal of permission for access via the agricultural track from Local Road No. L2031 / L1307 (Clara Road) and the overbridge crossing the M6 Motorway.

7.2.2. Given that permission was previously approved for access to a commercial enterprise (i.e. a sand and gravel pit) on the wider site via Ballycumber Road, I would acknowledge the legitimacy of the concerns raised that permission has now been sought to access a solar farm via Clara Road thereby giving rise to potential interference with the agricultural activities of neighbouring interests. Regrettably, the documentation submitted in support of the subject application provides little explanation as to the rationale for the selection of an access arrangement from Local Road No. L2031 / Clara Road as opposed to Ballycumber Road, although Para. 2.7 of the applicant's response to the grounds of appeal refers to unspecified 'ownership rights' as regards possible access from Ballycumber Road which in turn renders access from Clara Road the only viable option. However, further clarity on the matter can be derived from PA Ref. No. 23/5 i.e. the concurrent planning application lodged by the applicant and since approved by Offaly County Council for that element of the solar farm development which falls within its administrative area.

7.2.3. In response to a request for further information issued by Offaly County Council in respect of PA Ref. No. 23/5, the applicant states that the 'existing access' (in reference to that from Ballycumber Road) is subject to an easement from three different parties whereas the 'proposed access' from Clara Road is within the landowner's remit and is the favoured option. This would find support by reference to the landholding maps submitted as part of the subject application which confirm that

the laneway from Clara Road is in the same ownership as those lands upon which it is proposed to build the solar farm. The '*Traffic & Transportation Assessment*' (Page Nos. 6-7) which accompanied that further information response elaborates on the foregoing by stating that access from the Ballycumber Road to the west is unavailable due to an inability to obtain an easement from the one of the four landowners who apparently hold an interest in that route. Therefore, given that the applicant would appear to have been unable to obtain the necessary consent to avail of access from Ballycumber Road, it was decided to pursue access from the Clara Road instead. In my opinion, this decision would seem reasonable given the absence of any obvious alternative means of access to the wider site.

7.2.4. In addition to the assertion that the applicant has been unable to acquire the necessary consents that would allow it to access the appeal site from Ballycumber Road, it has also been submitted (under Offaly County Council PA Ref. No. 23/5) that the proposed access arrangement from Clara Road is the preferred option for a number of reasons. In the first instance, it is claimed to be a requirement of the DSO (Designated System Operator) for it to have its own access to the substation and, therefore, given the proposed location of the substation on the northern side of the wider landholding (and development) it would make sense to avail of access from Clara Road. In turn, given the need to provide an area with enough space for a turning circle for emergency services, having the access as close to the substation as possible and under the full remit of the solar farm landowner is suggested to be the safer and more efficient arrangement.

7.2.5. The case has also been put forward that it would be less desirable to access the proposed development from Ballycumber Road given that it would extend the haul route for construction traffic etc. to c. 4km while simultaneously requiring all development traffic, with particular reference to HGVs, to travel through the urban area of Moate (including the intersection of the L1301 (Ballycumber) and L2031 (Clara) roads) thereby increasing the risk to road users. In addition, it has been suggested that the junction of the existing agricultural access with Ballycumber Road is substandard with poor visibility (in this regard it is noteworthy that any improvements to the available sightlines onto the main carriageway would involve works on lands outside of the applicant's control and that the roadway itself is

subject to a speed limit of 80kph unlike the proposed access from Clara Road which lies within the 50kph posted speed limit).

- 7.2.6. Having considered the available information, with particular reference to that derived from the concurrent planning application made to Offaly County Council under PA Ref. No. 23/5, and noting that the applicant has been unable to obtain the necessary consent to avail of access from Ballycumber Road, on balance, I am satisfied that the applicant has made a reasonable case for pursuing the proposed access arrangement from Clara Road.

**7.3. Proposed Use of the Existing Access from Local Road No. L2031 / Clara Road:**

- 7.3.1. Concerns have been raised as regards the proposed use of the existing access arrangement from Local Road No. L2031 / Clara Road both in terms of the applicant's entitlement to avail of same and the associated implications for other third-party interests.
- 7.3.2. In terms of the applicant's legal interest to utilise the existing accessway extending from Local Road No. L2031 / Clara Road to serve the proposed development, I would reiterate that the landholding maps submitted with the application show that section of the agricultural track between the public road and the Culleenagower Farm Accommodation Overbridge to be within the same ownership as those lands upon which it is proposed to build the solar farm. By extension, it would be reasonable to surmise that as the relevant landowner (Mr. Michael Heffernan) has given his consent for the applicant to seek planning permission to develop a solar farm on his lands, he is amenable to authorising the use of his laneway to accommodate the construction and operation etc. of that development.
- 7.3.3. With respect to the proposal to avail of access to the more southerly aspect of the development proposal via the Culleenagower Farm Accommodation Overbridge which spans the M6 Motorway, it has been submitted by way of clarification of further information that the bridge in question is in the ownership of Westmeath County Council following the authority's acquisition of the relevant lands (as per the folio numbers provided) by way of the Compulsory Purchase Order approved for the construction of the N6 Kinnegad to Athlone Dual Carriageway (Phase 2) Scheme (although the appellant has sought to emphasise that the Culleenagower Farm Accommodation Overbridge (identified as TII Structure ID: WH-M06-024.00) forms

part of the M6 motorway and thus falls within the remit of Transport Infrastructure Ireland). In this regard, I note that the applicants' response to the request for further information issued by Offaly County Council in respect of PA Ref. No. 23/5 has been accompanied by correspondence from Westmeath County Council which states that it has no objection in principle to the use of the Culleenagower Farm Accommodation Overbridge for the installation of sub-ducting, subject to the developer entering into a licence agreement with the Authority (while also referencing a requirement for the developer to enter into an agreement with TII in respect of Section 53 consent and to receive approval from Leinster Regional Bridge Management). That response further confirms that an easement was granted across the overbridge to those landowners who were cut off from their lands to the south of the M6 Motorway. Accordingly, the applicant is relying on the easement afforded to the existing landowner to facilitate construction and operation of the wider solar farm development.

7.3.4. While I am satisfied that the applicant has demonstrated a sufficient interest over the Culleenagower Farm Accommodation Overbridge to lodge the subject application, following consideration of the observations made by Mr. Patrick Guinan as a third-party observer to the appeal (along with the contents of his original submission to the file), it is unclear whether this easement would extend to accommodate the development itself. Firstly, the implication from the observation is that the easement granted to those landowners whose farmland was severed by the N6 Kinnegad to Athlone Dual Carriageway is only intended to facilitate the continued agricultural use of the affected lands i.e. it does not allow for non-agricultural use or for access to commercial development such as a solar farm. Secondly, it has been suggested that the lands in the townland of Lurgan, Co. Offaly, upon which it is proposed to construct the solar farm, have not historically been accessed from Clara Road and were instead accessed from Ballycumber Road.

7.3.5. Notwithstanding the foregoing, in my opinion, it is not the function of the Board to adjudicate on property disputes and, therefore, any allegations as regards the validity (or not) of a right of way over the existing access track to serve the proposed development would essentially amount to a civil matter for resolution between the parties concerned. In this respect, I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that *'A person shall not be entitled solely by reason of a permission under this section to carry out any*

*development'* and, therefore, any grant of permission for the subject proposal would not in itself confer or diminish any right over private property.

- 7.3.6. Further concerns have been raised as regards the compatibility of the proposed development with the neighbouring dairy farm operation of a third-party observer (Mr. Patrick Guinan) and, more specifically, the potential for conflict both across and in the immediate vicinity of the Culleenagower Farm Accommodation Overbridge. In this regard, I would refer the Board to the mapping provided with Mr. Guinan's observation which identifies the extent of his farming operation to the north and south of the M6 Motorway and the associated reliance placed on use of the overbridge in order to facilitate the movement of livestock between his lands without necessitating direct access to or from the public road.
- 7.3.7. The applicant had previously sought to address the observer's concerns in response to an earlier request for further information by referring to the Construction Traffic Management Plan wherein it had been indicated that larger delivery vehicles would unload at the temporary construction compound so as not to cross the overbridge with only smaller construction vehicles then used to take materials from the compound to the main site area. It was also emphasised that the construction phase of the development would be comparatively short at four months thereby lessening any potential disturbance and that traffic would only cross the overbridge periodically during the operational phase. In addition, it was suggested that spring-loaded gates could be utilised to prevent any unauthorised movement of cattle to the solar farm site. More broadly, the CTMP aims to mitigate the impact of construction traffic through the implementation of a delivery booking system and by engaging with the local area to ensure that deliveries are scheduled to avoid peak times where relevant. Further support is lent to this approach by reference to PA Ref. No. 23/5 wherein the developer has indicated that it is amenable to working with the observer so as not to disturb his cattle movements.
- 7.3.8. On balance, while I would accept that the construction and operation of the proposed development may result in some disturbance / inconvenience to neighbouring third party interests, I am satisfied that any impacts arising would not be of such significance as to warrant a refusal of permission. For example, any constructional impacts will be of a temporary four-month duration and can likely be satisfactorily mitigated in large part by way of condition (including adherence to the mitigation

measures contained in the Construction Traffic Management Plan) whereas only minimal traffic movements will be generated during the operational phase of the development. Cognisance should also be taken of the fact that the existing overbridge appears to serve multiple landholdings thereby suggesting there is already some mechanism in place as regards its shared usage and an understanding by all parties of the need to respect the rights of those with an entitlement to avail of access via that route.

#### **7.4. Proposed Use of TII Structure ID: WH-M06-024.00: Culleenagower Farm Accommodation Overbridge:**

- 7.4.1. Within the grounds of appeal, it has been emphasised that the Culleenagower Farm Accommodation Overbridge (identified as TII Structure ID: WH-M06-024.00) was designed and constructed as part of the N6 Kinnegad to Athlone Dual Carriageway Scheme approved under ABP Ref. No. ER25.ER2020 (with the upgraded roadway having been designated as motorway in the same year as opening in 2008) and thus forms part of the national road network which in turn falls under the remit of Transport Infrastructure Ireland (TII). By extension, it has been submitted that any works proposed to be carried out over, on, or in close proximity to the national road network must be subject to coordination with and receive the prior approval of Transport Infrastructure Ireland. In this respect, the appellant is of the opinion that the subject proposal, which appears to include for the use of the existing agricultural overbridge as an access for construction and development purposes as well as for the routing of electrical cabling connecting the solar array already permitted in Co. Offaly to the proposed substation from which a connection to the national grid will be made, has the potential to compromise the safety and efficiency of the national road network and is also at variance with official policy. This is primarily premised on an objection in the first instance to any use of the overbridge for access purposes given the potential availability of an alternate route via Ballycumber Road; the unsuitability of the overbridge for the proposed cabling connection route; the inadequacy of the information provided to determine the nature and extent of any works to the overbridge and the area maintained by TII; and a failure to demonstrate compliance with TII consent procedures along with adherence to 'TII Publications' design standards and procedures.

- 7.4.2. In relation to the proposal to utilise the existing overbridge for construction and development purposes, I would refer the Board to my assessment of the requirement for access via Local Road No. L2031 / Clara Road which equally applies to use of the overbridge. In particular, it should be noted that the applicant has been unable to obtain the necessary consent to access the appeal site from Ballycumber Road with the result that the arrangement proposed is the only alternative and potentially feasible option. It is also of relevance that the subject proposal does not appear to require any permanent works to the overbridge to facilitate the proposed access arrangements with the only physical intervention to the bridge structure comprising the erection of temporary security fencing for the duration of the construction works in order to prevent objects from falling onto the motorway below. Accordingly, I would suggest that the applicant has made a reasonable case for use of the overbridge for access purposes and that matters pertaining to the design and approval (or not) of any interim works required to facilitate its safe usage (including whether the bridge can structurally accommodate the anticipated traffic movements) would be more appropriately considered through the relevant consent procedures required by TII as the authority responsibility for the national roads network.
- 7.4.3. The primary area of contention referenced in the grounds of appeal concerns the proposal to route electrical cabling across the overbridge in order to connect the solar farm permitted in Co. Offaly to the proposed 38kV substation in Co. Westmeath (with an onwards connection to the national grid). It has been submitted that the applicant has failed to provide sufficient design information as regards the potential routing of the grid connection / underground cabling and, therefore, the appellant is not in a position to determine the full extent and nature of the works proposed nor can it identify the potential for any interactions with the national road network. Consequently, in the absence of this information, TII has not been able to ascertain if the proposal complies with the relevant standards and would not be contrary to its general function of ensuring a safe and efficient national road.
- 7.4.4. In its assessment of the subject application, and noting that the proposal forms part of a wider solar farm development that extends across the administrative boundaries of two planning authorities, Westmeath County Council sought clarity by way of further information as regards that element of the proposed works which fell solely within its administrative boundary. In response, the applicant confirmed in a revised



*'Planning Statement'* and associated drawings that the full extent of those works proposed within the administrative boundary of Westmeath County Council comprised the proposed access track utilising an existing access point off the Clara Road; 1 No. substation; and 1 No. temporary construction compound, all within the townland of Culleenagower, Moate, Co. Westmeath. The development description provided in this documentation makes no reference to any grid connection or electrical cabling works as part of the proposal under consideration.

- 7.4.5. The request for further information also required the applicant to confirm the extent to which the proposed development works (insofar as those contained within the administrative boundary of County Westmeath) were consistent with Policy Objective CPO 10.152 of the Westmeath County Development Plan, 2021-2027 as regards *'The suitability/strength of the grid and accessibility to it'*. This was to be accompanied by details of the intended route to carry out cabling works in connecting the solar farm development to the electricity grid and confirmation of the applicant's intentions with respect to obtaining planning approval for same. In response, the applicant submitted Drg. No. NEO01070/0501/A: Figure 1: *'Indicative Cable Route'* which shows an 'indicative cable route' / grid connection extending between the proposed 38kV substation and the existing substation at the junction of Ballycumber Road / Clara Road. Reference was also made to an accompanying 'Appendix C' although this was absent from the response as submitted.
- 7.4.6. A request for clarification of further information was subsequently issued by the Planning Authority which noted that while an indicative cable routing between the proposed 38kV substation and the existing substation had been provided, engineering details for the cabling connecting the solar farm to the proposed substation had not been submitted (the route of which was noted as appearing to cross the M6 overpass/bridge). In response, the applicant submitted a copy of ESB Networks' *'Functional Specification for the Installation of Ducts and Ancillary Structures for 20kV Underground Power Cables and Associated Communications Cables for Contestable Projects'*, however, it is of particular relevance to note that applicant also stated the following:

*'The final design for the cable from the proposed Solar Farm to the Substation has not yet been finalised as an approved planning application is required before planning can be started for a grid*

*connection. The cable specification will be decided closer to the energisation date and will likely depend on availability at that point in time. It will however have to adhere to the most up to date ETCI National Rules for Electrical Installations’.*

- 7.4.7. This admission serves to confirm that the subject application does not include for the laying of any electrical cabling across the existing overbridge and thus has not sought permission for such works. Instead, the applicant has expressly indicated that planning for the grid connection has yet to commence with no design having been finalised.
- 7.4.8. At this point, I would advise the Board that although indicative grid connection details were provided by way of further information in respect of Offaly County Council PA Ref. No. 23/5 (in reference to Drg Nos. 700-MOATE-002: ‘*Indicative Cable Route Plan*’: Sheets 1 – 3 which showed a potential cabling route between the solar array and the proposed 38kV substation and Drg. No. NEO01070/50I/A: Figure 1: ‘*Indicative Cable Route*’ which detailed a possible grid connection between the proposed 38kV substation and the existing substation at the junction of Ballycumber Road / Clara Road), those were solely for indicative purposes and, more notably, cannot have been approved as part of PA Ref. No. 23/5 given that they were located in Co. Westmeath and thus outside the administrative area of Offaly County Council as the relevant planning authority in that instance.
- 7.4.9. By way of summation, neither the subject application nor the development approved under Offaly County Council PA Ref. No. 23/5 include for the installation of any electricity cabling over the Cullenagower Farm Accommodation Overbridge.
- 7.4.10. Therefore, in view of the foregoing, it is my opinion that those aspects of the grounds of appeal which relate to the potential installation of electrical cabling across the existing overbridge, including the acceptability of such works from first principles and the need to adhere to the applicable design standards and consent mechanisms, are moot and do not require further consideration in the determination of this appeal.

**7.5. The Intersection of the Proposed Access with Local Road No. L2031 / Clara Road:**

- 7.5.1. With respect to the adequacy and design of the junction arrangement between the proposed access and Local Road No. L2031 / Clara Road, I would refer the Board to

the 'Construction Traffic Management Plan' (CTMP) included as Technical Appendix 5 of the submitted particulars wherein it is noted that the existing access arrangement is located along a stretch of roadway subject to a speed limit of 50kph with good visibility and no major hazards proximate. The roadway itself is described as comprising a single carriageway (approximately 8m in width) with defined road markings although there is a lack of public street lighting and pedestrian facilities in the area. The CTMP subsequently refers to Drg. No. NEO01070\_0171\_A: Figure 5.3: '*Visibility Splay*' and asserts that the standard requirement of the Development Plan for unobstructed sightlines of 90m in both directions from a position set back 3m from the near road edge can be achieved at the proposed access with no need for remedial works. In addition, the accompanying swept-path analysis (Drg. No. NEO01070\_0181\_A Figure 5.2: '*Swept Path Analysis*') conducted for the largest of construction vehicles expected to enter / exit the junction shows that the access point design is suitable with no enabling works being required.

- 7.5.2. Further support is lent to the adequacy of the junction arrangement by reference to the Traffic & Transportation Assessment (TTA) submitted by way of further information to Offaly County Council in its determination of PA Ref. No. 23/5. While it is regrettable that this analysis was not provided in support of the subject application, given that the implementation of the solar farm permitted under PA Ref. No. 23/5 is intrinsically linked to and reliant on the subject proposal for access, in my opinion, it is reasonable to have due regard to the plans and particulars lodged and approved in support of that development. Within the aforementioned TTA cognisance has been taken of the applicable road safety and sightline objectives of both the Offaly and Westmeath County Development Plans along with the Design Manual for Urban Roads and Streets given the site location within the 50kph urban speed limit zone of Moate. It is further suggested that consideration could be given to the measurement of sightlines with a reduced 2m setback from the road edge given the lightly trafficked nature of the junction in question. The assessment ultimately concludes that the visibility available at the existing site access is suitable for its continued use and accords with the requirements of both DMURS and the local authorities provided that parking to its right-hand side is restricted as outlined in the supporting Road Safety Audit (the designer's response to the RSA has confirmed that the area to the east of the access point forms part of the landowner's residence and thus mitigations

against unauthorised car parking can be put in place during construction of the proposed development).

- 7.5.3. Having conducted a site inspection, it is my opinion that the overall horizontal and vertical alignment of the public roadway at the location of the proposed access point affords adequate forward visibility and stopping sight distances while the carriageway itself is in a generally good condition with defined road markings and comfortably accommodates two-way passing traffic. It is also notable that there is a footway located opposite the proposed access while a signalised crossing with lighting allows for the safe movement of pedestrians across the carriageway. Moreover, given the site context and the nature of the development proposed, while noting that construction of the solar farm is anticipated to be completed within a 4-month period, I am satisfied that the access arrangement as proposed complies with the relevant standards and that adequate sightlines are available onto the public road.

## **7.6. Traffic Volumes and Road Capacity:**

- 7.6.1. With respect to the additional traffic volumes consequent on the proposed development and the capacity of the surrounding road network to accommodate same, the Construction Traffic Management Plan details the traffic volumes expected to be generated during the construction and operational phases of the development. Within this document it is anticipated that construction works will occur over a four-month period during which a combination of HGVs (for component and material deliveries) and cars / vans (for construction workers / staff) will visit the site.
- 7.6.2. An estimation of HGV movements is set out in Table 5-2 of the CTMP wherein it is detailed that approximately 493 No. vehicles will visit the site over the construction period giving rise to 986 No. movements. These figures are considered to represent a best estimation of the likely HGV volumes by reference to the construction of comparably sized solar farms, however, it has been emphasised that they are for guidance purposes only and that the overall number of site visits may differ due to factors such as local conditions and weather restrictions. HGV movements are expected to be more intensive in the first few weeks of construction with a daily estimation of c. 20 No. HGV deliveries (i.e. 40 No. HGV movements) while other car / van movements are likely to be constant throughout.

- 7.6.3. It is regrettable that the CTMP does not include an overall figure for the total volume of construction traffic inclusive of all vehicle types e.g. LGVs, vans & cars etc. However, I would draw the Board's attention to Para. 5.78 of the CTMP which forecasts that there will be approximately 50 No. staff on site at any one time during the construction phase (although this will vary subject to the overall programme of works). It is further anticipated that there will be a degree of vehicle sharing by staff and, therefore, less than 50 No. staff vehicles (with an estimated maximum of 30 - 40 No. vehicles per day during peak construction periods) are expected to arrive on site each day. This would broadly correspond with Para 8.51 of Technical Appendix 8: '*Outline Construction Environmental Management Plan*' which refers to a maximum of 50 No. staff on site at any one time during the construction period, subject to the programme of works. Accordingly, it would seem reasonable to surmise that up to 50 No. staff vehicles (LGVs, private cars etc.) could potentially visit the site daily giving rise to an additional 100 No. traffic movements. It can therefore be estimated that the maximum combined total of HGVs and other traffic visiting the site daily will be approximately 70 No. vehicles generating up to 140 No. movements to / from the site per day with no account having been taken of any car-pooling / vehicle sharing.
- 7.6.4. In addition to the foregoing, I would draw the Board's attention to the Traffic & Transportation Assessment submitted in support of Offaly County Council PA Ref. No. 23/5 and the estimates of the likely traffic volumes generated during the construction phase of the development which correspond with those contained in the aforementioned CTMP. The TTA subsequently provides a detailed analysis of the traffic impact of the proposed development on the local road network and the operation of the existing and proposed access to and from the site by way of comparison with the existing two-way Annual Average Daily Traffic levels extrapolated for Local Road No. 2031 i.e. the Clara Road. This analysis has assumed that all development-generated construction traffic will arrive at and depart from the site via the identified haul route connecting to the national road network (i.e. all traffic will travel to / from an easterly direction), although it is acknowledged that some staff vehicles may travel west from the direction of Moate (with any future traffic management plan for the development being adapted to accommodate same). Both the 'Do-Nothing' and 'Do-Something' scenarios have been assessed (with the latter being representative of the proposed development in place) with the results

establishing that development-related (construction) traffic will represent less than 10% of turning movements and traffic flows at the access junction in the design / opening year. It is anticipated that the volume of traffic generated by the site will be so low that the assignment of the flows to the network based on the assumed distribution will have a negligible impact on the capacity of any of the local links in the area as well as the site access junction.

- 7.6.5. Having regard to the submitted information, the nature and scale of the proposed development, the comparatively short timescale for construction and the works involved, and my past experience of similar projects, I am satisfied that the anticipated volumes of construction traffic appear reasonable.
- 7.6.6. At this point, I also note the various mitigation / management measures set out in the CTMP which are to be put in place for the duration of the works in order to minimise the impact of construction traffic, including the implementation of a delivery booking system to ensure that site deliveries are spread out across the week or any given day to minimise potential disruption; the scheduling of deliveries to avoid peak times; limitations on working hours; adherence to an identified haul route; temporary traffic management, signage and road safety measures; pre & post construction roads surveys to either side of the access point; the promotion of car-pooling; and the use of banksmen to assist with the manoeuvring of delivery vehicles to / from the site.
- 7.6.7. With respect to the future operation and maintenance of the proposed development, I would anticipate that the operational traffic levels arising will be quite low and unlikely to give rise to any significant impact on traffic safety. In this regard, Para. 5.84 of the CTMP confirms that the operational phase of the development is expected to have a negligible trip generation potential with approximately c. 10 - 15 LGVs visiting the site every year for scheduled maintenance checks and additional visits as required to attend to remedial issues when necessary. Although no mention has been made to the traffic generation attributable to any ongoing use of the wider development site for agricultural purposes (noting that the former sand and gravel pit was accessed from Ballycumber Road), I have taken cognisance of same.
- 7.6.8. During the decommissioning of the proposed development, it is expected that the number of HGVs required will be slightly higher than the construction phase due to the materials not being as neatly packed as when shipped from factory conditions. It

has therefore been estimated that the decommissioning phase will result in a 10% increase in traffic volumes when compared to the construction stage, however, I would concur with the applicant that this increase is not considered significant, particularly as the TTA has already established a negligible impact on the surrounding road network during the construction phase.

- 7.6.9. On the basis of the foregoing, it is inevitable that the construction and operation of the proposed development will result in an overall increase in traffic volumes in the vicinity of the site, however, I am also cognisant that any disruption to local road users will be of limited duration given the timing of the works themselves and the anticipated four-month construction timeline. Moreover, it is my opinion that, subject to the implementation of an appropriate traffic management plan during the construction stage, the surrounding road network has sufficient capacity to accommodate the traffic volumes arising to the effect that the proposal will not pose a risk to traffic / public safety.

## **7.7. Appropriate Assessment:**

### **7.7.1. Compliance with Article 6(3) of the Habitats Directive:**

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

### **7.7.2. Background on the Application:**

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.

- 7.7.3. The applicant has submitted a screening exercise for Appropriate Assessment with the planning application which has been incorporated into Para Nos. 1.38 – 1.46 of

the Natura Impact Statement prepared by Neo Environmental and dated 20<sup>th</sup> October, 2022.

7.7.4. This screening exercise has been prepared in line with current best practice guidance and provides a description of the proposed development (by reference to Para Nos. 1.11 of the NIS) and identifies the potential for significant effects on European Sites within a possible 15km zone of influence of the development and whether the proposed development is likely to have any significant effects upon any Natura 2000 sites found to have connectivity with the proposed development. It has been informed in part by the accompanying Ecological Appraisal (with particular reference to Para Nos. 2.101 – 1.162).

7.7.5. The screening has identified 10 No. Natura 2000 sites within a 15km radius of the application site with connectivity pathways for potential impacts having been found in respect of four of those sites as follows:

- The River Shannon Callows Special Area of Conservation (Site Code: 000216):

Drainage ditches within the application site mostly convey surface water to the Moate Stream via a network of field drains. In turn, the Moate Stream converges with the Brosna River which eventually discharges into the River Shannon Callows SAC approximately 36.86km downstream of the application site. Furthermore, the potential arises for ecological connectivity between the application site and the SAC given the commuting and foraging capabilities of otter (a qualifying species of the SAC). Accordingly, there is **hydrological** and potential **ecological** connectivity between the proposed development site and the SAC.

- The Lough Ree Special Area of Conservation (Site Code: 000440):

Given the commuting and foraging capabilities of otter (a qualifying species of the SAC), the potential arises for **ecological** connectivity between the proposed development site and the SAC.

- The Middle Shannon Callows Special Protection Area (Site Code: 004096):

Drainage ditches within the application site mostly convey surface water to the Moate Stream via a network of field drains. In turn, the Moate Stream



converges with the Brosna River which eventually discharges into the Middle Shannon Callows SPA approximately 36.86km downstream of the application site. Furthermore, the SPA has been designated to protect an assemblage of waterbirds and wetland habitat and it is considered that there is the potential for these birds to utilise habitats within the application site. Accordingly, there is **hydrological** and potential **ornithological** connectivity between the proposed development site and the SPA.

- The Lough Ree Special Protection Area (Site Code: 004064):

This SPA has been designated to protect an assemblage of waterbirds and wetland habitat and it is considered that there is the potential for these birds to utilise habitats within the application site. Therefore, there is potential **ornithological** connectivity.

7.7.6. With respect to the remaining Natura 2000 sites within a 15km radius of the application site (i.e. Clara Bog SAC (which has also been designated as a Ramsar Site), Carn Park Bog SAC, Crosswood Bog SAC, Ballymore Fen SAC, Split Hills and Long Hill Esker SAC, and Ferbane Bog SAC) which have been designated for a range of habitats (none of which occur within the application site), having regard to the separation distances involved and the lack of any known hydrological or ecological connectivity, there is no route for the proposed development to have any potential negative impact on the qualifying interests of those sites.

7.7.7. Having reviewed the documentation submitted with the application, and the submissions received, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

7.7.8. **Screening for Appropriate Assessment - Test of likely significant effects:**

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

7.7.9. The proposed development is examined in relation to any possible interaction with European sites, i.e. designated Special Conservation Areas (SAC) and Special Protection Areas (SPA), to assess whether it may give rise to significant effects on any European Site.

7.7.10. **Brief description of the development:**

The applicant provides a description of the project in Para No. 1.11 of the NIS and elsewhere, with particular reference to Sections 2 & 3 of the Planning Statement received with the initial planning application and Sections 2 & 4 of the revised Planning Statement received by way of further information on 5<sup>th</sup> April, 2023. In summary, the subject proposal forms part of a wider development that encompasses the construction of a solar PV development which includes ground-mounted solar photovoltaic panels set within metal frames, new internal access tracks, underground cabling, perimeter fencing with CCTV cameras, 14 No. inverter stations, substation, temporary construction compound, and all ancillary grid infrastructure and associated works. This larger development transverses the Westmeath County and Offaly County administrative boundaries with the result that concurrent planning applications were lodged for those elements of the overall project which fall within the respective jurisdictions. The subject matter of this appeal concerns the development of a 38kV substation building, the upgrading and extension of an existing access, and a temporary construction compound. An integral part of the design of the proposed development from a flood risk management perspective is the surface water drainage strategy which provides for the implementation of a Sustainable Drainage System, the design of which will limit the rate of surface water discharge to avoid any increase in the downstream flood risk.

7.7.11. The application has been accompanied by a Planning Statement, Ecological Appraisal (including a Biodiversity Management Plan), Landscape Visual Appraisal (with an accompanying Landscape and Ecology Management Plan), Flood Risk & Drainage Impact Assessment, Construction Traffic Management Plan, Outline Construction Environmental Management Plan, Noise Impact Assessment, Glint and Glare Assessment, and an Archaeology & Architectural Heritage Impact Assessment. Additional details (including an updated Planning Statement) were received by the Planning Authority in response to a request for further information.

7.7.12. The proposed development site is located on the south-eastern fringe of Moate in Co. Westmeath, approximately 1.2km southeast of the town centre, in an area characterised by the gradual transition from the built-up environs of the town to the surrounding rural / agricultural hinterland where it occupies a position to the south of Clara Road opposite Moate Business Park and alongside the Moate All Whites GAA

Club (Páirc Uí Ógain). It comprises in part an agricultural access track which extends southwards from Clara Road (between the adjacent sports ground to the west and a detached dwelling house with outbuildings to the east) to provide access to neighbouring agricultural lands and a further dwelling house (presently under construction) before terminating at an existing farmyard. The proposed development site subsequently encompasses part of an adjoining field and circumnavigates the aforementioned farmyard before including the access track to the south of same and following its route across the M6 overbridge. The remainder of the application site comprises a narrow strip of land which extends from a field gate southwards through an agricultural field set as pasture as far as the county boundary (and the lands of a former quarry in Co. Offaly).

- 7.7.13. The wider development site (i.e. that intended to be occupied by the overall solar farm development) encompasses lands within the administrative area of Offaly County Council and primarily comprises a former quarry presently undergoing reinstatement, improved agricultural grassland used as pasture, scrubland, and an area of cutover bog.
- 7.7.14. The broader site area is bound by a combination of tree lines, hedgerows and post & wire fencing while the prevailing topography generally falls in a southerly direction.
- 7.7.15. Within the supporting Ecological Appraisal, the habitats survey (Fossitt) conducted on 5<sup>th</sup> July, 2022 identified the following 13 No. habitat types within the survey boundary for the wider solar farm development proposal:
- Buildings and Artificial Surfaces (BL3)
  - Improved Agricultural Grassland (GA1)
  - Treelines (WL2)
  - Hedgerows (WL1)
  - (Mixed) Broadleaved Woodland (WD1)
  - Immature Woodland (WDS2)
  - Scrub (WS1)
  - Drainage Ditches (FW4)
  - Spoil and Bare Ground (ED2)

- Recolonising Bare Ground (ED3)
- Active Quarries (ED4)
- Cutover Bog (PB4)
- Amenity Grassland (GA2)

7.7.16. The application site is predominantly composed of '*Improved Agricultural Grassland*' which is of low ecological value, although it has some potential for foraging birds, badger and Irish hare. The existing access track and farmyard area comprise '*Buildings and Artificial Surfaces*' and are of a low ecological value.

7.7.17. With respect to the wider development site, this also includes a significant expanse of '*Improved Agricultural Grassland*' to the southwest which is presently used as pasture. A further notable extent of the site area comprises '*Active Quarries*' which encompasses a former sand and gravel pit that is presently undergoing restoration with a view to reinstating the area to grassland. This area is considered to be of negligible ecological value. The small area of '*Cutover Bog*' mostly located outside of the eastern boundary of the application site is considered to be of low ecological value due to the high percentage of bare peat present. Those areas of '*(Mixed) Broadleaved Woodland*' and '*Immature Woodland*' present potentially provide bat roosting and bird nesting opportunities as well as foraging opportunities for many species. The '*Treelines*' also offer bat roosting, bird nesting, and foraging opportunities while providing good connectivity to the wider environs, which is of particular importance for bats, to the effect that they are of an increased ecological value locally. The '*Hedgerows*' provide bird nesting and foraging opportunities along with shelter for mammals (while also possibly acting as a wildlife corridor for other species) with the result that they are of moderate ecological value. The '*Scrub*' areas are also of moderate ecological value and afford birds nesting and foraging opportunities and shelter to mammals. The '*Amenity Grassland*' habitat is of a low species diversity while offering some potential for foraging badger and thus is of a low ecological value. The '*Drainage Ditches*' along field boundaries may serve as a wildlife corridor for certain species and could support commuting otters. The remaining areas of '*Spoil and Bare Ground*' and '*Recolonising Bare Ground*' are of low ecological value.

- 7.7.18. Although the Ecological Appraisal has acknowledged the potential suitability of the site for certain protected or notable non-volant mammal species (please refer to Table 2-9: '*Summary of Biological Records*'), none were observed during the field surveys. In specific reference to the possible presence of bats, the site is considered to be of relatively low suitability for the species by reference to the results of a search using the National Biodiversity Data Centre's 'Bat Suitability Index', although it has been accepted that the areas of existing woodland, treelines, scrub and hedgerows offer commuting pathways and foraging opportunities for bat species. No direct evidence of bats appears to have been identified during the habitats survey and the existing trees on site have been recorded as unsuitable for bat roosting.
- 7.7.19. No formal bird surveys were carried out as part of the Ecological Appraisal, however, the site offers suitable nesting and foraging habitat for many Irish bird species in the form of woodland and scrub. Depending on the length of sward or crop, improved agricultural grassland may provide nesting and feeding habitat for farmland breeding birds.
- 7.7.20. No reptiles or amphibians were identified during the survey work, although it is acknowledged that the site offers potential habitat for Common Frog and Smooth Newt in the form of drainage ditches. Similarly, no notable invertebrate species were identified on site.
- 7.7.21. No rare or protected flora species are present on site nor were any instances of invasive plant species (as listed in Part (1) of the Third Schedule of the European Communities (Birds and Natural Habitats) Regulations, 2011, as amended) recorded. The habitats on site are generally of an agricultural nature as characterised by pasture etc.
- 7.7.22. 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:
- Surface water related pollution during the construction phase as a result of sediment-laden run-off and pollutants (hydrocarbons and other contaminants) entering the Moate Stream via a network of field drains which in turn converges with the Brosna River before eventually discharging into the River

Shannon Callows SAC and the Middle Shannon Callows Special Protection Area.

- The disturbance of habitats and / or species within the River Shannon Callows SAC, the Lough Ree SAC, the Middle Shannon Callows SPA, and the Lough Ree SPA during the construction and / or operational phases of the development.

#### 7.7.23. Submissions and Observations:

All submissions and observations received from interested parties are set out in Sections 3.0 & 6.4 of this report.

#### 7.7.24. European Sites:

The development site is not located in or immediately adjacent to a European site. The closest European site is the Clara Bog Special Area of Conservation (Site Code: 000572), approximately 6.5km southeast of the site. Table 1-1 of the applicant's screening exercise (as per the NIS) considers the potential interactions of the proposed development with Natura 2000 sites. A summary of European Sites that occur within a possible zone of influence of the proposed development 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.

European Site	Qualifying Interest / Special Conservation Interest	Distance from the proposed development	Connections (source-pathway-receptor)	Considered Further in Screening
Clara Bog Special Area of Conservation (Site Code: 000572)	Semi-natural dry grassland and scrubland facies on calcareous substrates (Festuco-Brometalia) [6210]  Active raised bogs [7110]  Degraded raised bogs still capable of natural regeneration [7120]	c. 6.5km southeast of the site.	None.	No.

	Depressions on peat substrates of the Rhynchosporion [7150]  Bog Woodland [91D0]			
Carn Park Bog Special Area of Conservation (Site Code: 002336)	Active raised bogs [7110]  Degraded raised bogs still capable of natural regeneration [7120]	c. 8.4km west-northwest of the site.	None.	No.
Crosswood Bog Special Area of Conservation (Site Code: 002337)	Active raised bogs [7110]  Degraded raised bogs still capable of natural regeneration [7120]	c. 10.5km west of the site.	None.	No.
Ballymore Fen Special Area of Conservation (Site Code: 002313)	Transition mires and quaking bogs [7140]	c. 11.9km north of the site.	None.	No.
Split Hills and Long Hill Esker Special Area of Conservation (Site Code: 001831)	Semi-natural dry grassland and scrubland facies on calcareous substrates (Festuco-Brometalia) [6210]	c. 12.7km east of the site	None.	No.
River Shannon Callows Special Area of Conservation (Site Code: 000216)	Molina meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]  Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510]  Alkaline fens [7230]	c. 13.4km west-southwest of the site.	Hydrological and potential ecological connectivity.	Yes.

	<p>Limestone pavements [8240]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p>			
<p>Middle Shannon Callows Special Protection Area (Site Code: 004096)</p>	<p>Whooper Swan (<i>Cygnus cygnus</i>) [A038]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Corncrake (<i>Crex crex</i>) [A142]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Lapwing (<i>Vanellus vanellus</i>) [A142]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>	<p>c. 13.4km west of the site.</p>	<p>Hydrological and potential ornithological connectivity.</p>	<p>Yes.</p>
<p>Ferbane Bog Special Area of Conservation (Site Code: 000575)</p>	<p>Active raised bogs [7110]</p> <p>Degraded raised bogs still capable of natural regeneration [7120]</p> <p>Depressions on peat substrates of the Rhynchosporion [7150]</p>	<p>c. 13.5km southwest of the site</p>	<p>None.</p>	<p>No.</p>
<p>Lough Ree Special Protection Area</p>	<p>Little Grebe (<i>Tachybaptus ruficollis</i>) [A004]</p>	<p>c. 14.4km northwest of the site.</p>	<p>Potential ornithological connectivity.</p>	<p>Yes.</p>



(Site Code: 004064)	Whooper Swan ( <i>Cygnus cygnus</i> ) [A038]  Wigeon ( <i>Anas penelope</i> ) [A050]  Teal ( <i>Anas crecca</i> ) [A052]  Mallard ( <i>Anas platyrhynchos</i> ) [A053]  Shoveler ( <i>Anas clypeata</i> ) [A056]  Tufted Duck ( <i>Aythya fuligula</i> ) [A061]  Common Scoter ( <i>Melanitta nigra</i> ) [A065]  Goldeneye ( <i>Bucephala clangula</i> ) [A067]  Coot ( <i>Fulica atra</i> ) [A125]  Golden Plover ( <i>Pluvialis apricaria</i> ) [A140]  Lapwing ( <i>Vanellus vanellus</i> ) [A142]  Common Tern ( <i>Sterna hirundo</i> ) [A193]  Wetland and Waterbirds [A999]			
Lough Ree Special Area of Conservation (Site Code: 000440)	Natural eutrophic lakes with Magnopotamion or Hydrocharition – type vegetation [3150]  Semi-natural dry grassland and scrubland facies on calcareous substrates ( <i>Festuco-Brometalia</i> ) [6210]	c. 14.5km northwest of the site.	Potential Ecological connectivity.	Yes.

	Active raised bogs [7110]  Degraded raised bogs still capable of natural regeneration [7120]  Alkaline fens [7230]  Limestone pavements [8240]  Bog Woodland [91D0]  Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, <i>Alnion incanae</i> , <i>Salicion albae</i> ) [91E0]  <i>Lutra lutra</i> (Otter) [1355]			
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7.12.1. By way of further explanation, the likelihood for the proposed development to have any significant effect upon the qualifying interests of the Clara Bog SAC (which has also been designated as a Ramsar Site), Carn Park Bog SAC, Crosswood Bog SAC, Ballymore Fen SAC, Split Hills and Long Hill Esker SAC, and Ferbane Bog SAC, can be discounted having regard to the separation distances involved and the lack of any known hydrological or ecological connectivity.

7.12.2. For the purposes of completeness, I would advise the Board that I have also given consideration to Natura 2000 sites located outside of the 15km radius, however, in light of the separation distances involved and as no potential pathways for any significant impacts can be established, it can be reasonably concluded that there is no potential for those Natura 2000 sites to be impacted by the subject development.

7.12.3. **Identification of Likely Effects:**

The construction phase of the proposed development will involve earthworks and the disturbance of soil etc. which gives rise to the possibility of indirect negative impacts on downstream water quality through the accidental release of suspended solids / sediment etc. or the discharge of hydrocarbons and / or other pollutants by way of contaminated surface water runoff. In this regard, drains or watercourses can act as a hydrological conduit for contaminated surface waters between development sites

and any downstream Natura 2000 sites with any associated deterioration in water quality having a potentially negative impact on downstream aquatic habitats and / or species identified as qualifying interests / special conservation interests. Given that the proposed development site is hydrologically linked to the River Shannon Callows SAC and the Middle Shannon Callows SPA via those field drains which drain to the Moate Stream which subsequently flows into the Brosna River and onwards to the SAC & SPA approximately 36.86km downstream of the application site, the potential arises for any contaminated surface waters released during the construction phase to enter the aquatic environment thereby resulting in a deterioration in downstream water quality. Consequential negative effects are set out in Table 1-2 of the Natura Impact Statement and include a degradation of the aquatic environment and a reduction in water quality (which could detrimentally impact on qualifying species such as otter and bird species).

7.12.4. In light of the potential ecological connectivity between the application site and the River Shannon Callows SAC & Lough Ree SAC due to the possibility that otter (a species for which both the SACs have been designated) may utilise the drainage ditches within and / or bounding the application site for commuting and foraging purposes, the proposed construction works could potentially result in the loss of supporting habitat or the disturbance of this species.

7.12.5. Several of the qualifying bird species for which the Middle Shannon Callows SPA and the Lough Ree SPA have been designated have been known to utilise habitats such as those presently available on site. The loss of such habitats consequent on the proposed development could therefore potentially have an adverse impact on those bird species.

7.12.6. **Cumulative / In-combination Effects:**

It is not envisaged that the wider proposed development will give rise to any in-combination / cumulative effects.

7.12.7. **Mitigation Measures:**

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

7.12.8. **Screening Determination:**

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 Nos. 000216, 000440, 004096 & 004064 in view of the sites' Conservation Objectives and Appropriate Assessment (and submission of a NIS) is therefore required.

7.12.9. **Stage 2: Appropriate Assessment:**

The subject application has been accompanied by a '*Natura Impact Statement: Moate Solar Farm*' (dated 20<sup>th</sup> October, 2022 and prepared by Neo Environmental Ltd.) which examines and assesses potential adverse effects of the proposed development on the River Shannon Callows Special Area of Conservation; the Lough Ree Special Area of Conservation; the Middle Shannon Callows Special Protection Area; and the Lough Ree Special Protection Area.

7.12.10. The NIS has been informed by a desk-top analysis of various source material as well as a series of field surveys, including the following:

- '*Technical Appendix 2: Ecological Appraisal: Moate Solar Farm*' prepared by Neo Environmental Ltd. which includes an on-site habitat survey that details the results of walkover studies of the site with a view to assessing its ecological conditions and identifying the habitats / floral assemblages present.

7.12.11. The NIS includes a description of the project and the receiving environment and is stated to be based on standard methods and current best practice guidance, including '*Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities*' (DoEHLG, 2009) and EC (2018) '*Managing Natura 2000 sites: The provisions of Article 6 of the Habitats Directive 92/43/EEC*'. It outlines the characteristics of the relevant designated sites before subsequently setting out the potential impacts arising from the construction and operation of the development on those European Sites. Details are also provided of those mitigation measures necessary to ensure that any direct or indirect impacts on the Natura 2000 sites are abated. No likely significant cumulative or in-combination impacts are anticipated.

7.12.12. The NIS thus concludes as follows:

*'It has been concluded that there is hydrological and potential ecological connectivity between the Proposed Development Site and River Shannon Callows SAC and potential ecological connectivity between the Application Site and Lough Ree SAC. Including hydrological and potential ornithological connectivity between the Proposed Development Site and the Middle Shannon Callows SPA and potential ornithological connectivity between the Proposed Development Site and Lough Ree SPA. With the implementation of integral design measures, mitigation and best practice construction methods, there will be no significant effects for all Natura 2000 designated sites within the zone of influence (ZOI). The main qualifying features of these sites have been outlined and assessed in full in this report.*

*As no connectivity (pathway for impacts) exists between the Proposed Development Site and the remaining Natura 2000 designated sites within the study area, these have been 'scoped out' from further assessment.*

*To minimise potential impacts on Natura 2000 designated sites, design measures have been incorporated into the Proposed Development as part of the iterative design process. These include 2m buffers from all drainage ditches.*

*Standard best practice pollution prevention measures for the construction stage have also been outlined and considered as part of the impact assessment stage.*

*Recommended survey work as part of the relevant mitigation measures has been provided within this report (Table 1-12).*

*With the implementation of these measures, along with ongoing monitoring to ensure compliance, it is considered that the Proposed Development will not have a significant effect upon any qualifying features, and therefore the integrity, of the Natura 2000 sites connected with the Proposed Development Site.*

*It is therefore considered that the next stage (Stage 3; Assessment of Alternatives) of the Appropriate Assessment is not required'.*

7.12.13. Having reviewed the documentation available to me, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the European sites listed above, alone, or in combination with other plans and projects.

7.12.14. **Appropriate Assessment of Implications of Proposed Development:**

The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites 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.

7.12.15. I have relied on the following guidance as part of this assessment:

- Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service (2009).
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC.
- Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

7.12.16. **European Sites:**

The relevant European sites subject to Stage 2 Appropriate Assessment are as follows:

- The River Shannon Callows Special Area of Conservation (Site Code: 000216)
- The Lough Ree Special Area of Conservation (Site Code: 000440)
- The Middle Shannon Callows Special Protection Area (Site Code: 004096)
- The Lough Ree Special Protection Area (Site Code: 004064)

7.12.17. A description of the sites and their Conservation and Qualifying Interests/Special Conservation Interests is set out in the 'Impact Assessment' of the NIS as well as the screening assessment set out above. I have also examined the Natura 2000 data forms where relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

7.12.18. The main aspects of the proposed development that could adversely affect the conservation objectives of European sites include:

- Surface water related pollution during the construction phase as a result of sediment-laden run-off and pollutants (hydrocarbons and other contaminants) entering the Moate Stream via a network of field drains which in turn converges with the Brosna River before eventually discharging into the River Shannon Callows SAC and the Middle Shannon Callows Special Protection Area.
- Habitat disturbance and / or species disturbance within the River Shannon Callows SAC, the Lough Ree SAC, the Middle Shannon Callows SPA, and the Lough Ree SPA during the construction and / or operational phases of the development.

7.12.19. **Evaluation of Likely Effects:**

*The River Shannon Callows Special Area of Conservation:*

7.12.20. Details of this site and its qualifying interests are set out in Table 1-1 (and Para Nos. 1.59 - 1.78) of the NIS with the pertinent conservation objectives aiming to maintain or restore the favourable conservation condition of the Annex I habitat(s) and / or Annex II species for which the site has been selected.

7.12.21. Given the location of the application site outside of the SAC, the proposed development will not directly impact on the Natura 2000 site through the loss or fragmentation of those habitats listed as qualifying interests. Furthermore, in light of the physical separation and the level of dilution offered by the significantly greater downstream hydrological separation distance between the application site and the SAC, in addition to the implementation of the proposed design and best practice measures, it is considered that there is no significant risk of hydrological contamination attributable to the proposed development impacting on those Annex 1 habitats for which the SAC has been designated.

- 7.12.22. With respect to otter as the remaining qualifying feature of the SAC, this is a highly mobile species capable of commuting large distances and holding territories of up to 40km<sup>2</sup>. The species has the potential to commute through terrestrial habitats found on site, including the drainage ditches and grassland. Although no evidence of otter activity was recorded during the walkover surveys, as the existing drainage ditches within and / or bounding the site offer suitable habitat for commuting or foraging otter, the potential presence of the species on site cannot be dismissed.
- 7.12.23. The construction phase of the proposed development will include some earthworks and the disturbance of soil etc. which gives rise to the possibility of negative impacts on water quality within aquatic habitats on or bounding the site through the accidental release of suspended solids / sediment etc. or the discharge of hydrocarbons and / or other pollutants by way of contaminated surface water runoff. Any such reduction in water quality could also potentially result in the loss of habitat for otters.
- 7.12.24. Table 1-2 of the NIS details common water pollutants and their effect on the aquatic environment with activities such as landworks involving topsoil removal and excavation generating silt and bentonite (very fine silt) which can adversely affect the aquatic environment such as through a reduction in water quality, the clogging of fish gills, the covering of aquatic plants, and detrimental impacts on aquatic invertebrates which in turn can lead to a reduction in prey for species (including otter) and a degradation of habitat. In addition, the release of cementitious materials or concrete wash water from construction activities (such as the piling for the solar panels) can give rise to changes in water chemistry that are toxic to fish and other wildlife thereby impacting directly on aquatic species (including otter) or indirectly through loss of prey resources. Similarly, the discharge of hydrocarbons and / or other pollutants can adversely affect the aquatic environment through its toxicity level, the consequential reduction in water quality, the removal of dissolved oxygen, and the suffocation of aquatic life.
- 7.12.25. Further construction impacts that could potentially adversely affect otter include the direct loss of habitat, the fragmentation of habitats and the broader disturbance arising during construction activities.



- 7.12.26. Paras. 1.70 – 1.78 of the NIS summarise the integral design, best practice and mitigation measures to be employed as part of the proposed development in order to ensure that any direct or indirect impacts on the River Shannon Callows Special Area of Conservation are abated. These are elaborated further in Table 1-12 and Para Nos. 1.124 – 1.153 of the document.
- 7.12.27. At the outset, the case has been put forward that the proposed development incorporates several integral design measures that are intended to mitigate the potential for any deterioration of water quality in local watercourses attributable to construction related pollution. In this respect, it has been submitted that no works will occur within a 2m protection buffer to be provided from field drains.
- 7.12.28. The proposed development also incorporates a Sustainable Drainage System (SuDS) in order to minimise the effects from pollution. In this regard, the ‘Flood Risk and Drainage Impact Assessment’ (Technical Appendix 4) included with the application details the surface water drainage strategy for the proposed development which seeks to provide a sustainable and integrated surface water management scheme for the entire site that will ensure there is no increase in downstream flood risk by managing discharges from the development to the local water environment in a controlled manner. Additional drainage measures include the retention & reinstatement of the grass cover adjacent to and under the solar panels in order to maximise bio-retention, the use of swales (with check dams as required) or similar to collect runoff from the access tracks with discharge to ground through percolation, and the provision of percolation areas / soakaways to accommodate runoff from the inverters and substation. The SuDS features are to be implemented during the construction phase of the project (with swales to be planted with vegetation to protect against soil erosion) and maintained throughout the lifespan of the development.
- 7.12.29. Further mitigation measures for the protection of watercourses are to be implemented during the construction phase, the majority of which are considered to represent best practice. These are set out in the NIS, the accompanying ‘Ecological Appraisal’, and the ‘Outline Construction Environmental Management Plan’, and will include, inter alia, the following:

- Best practice pollution prevention measures to ensure that contaminants do not enter the aquatic environment.
- The storage of plant and equipment on dedicated hardstanding within the construction compound to minimise the risk of pollution caused by any leakages. Drip trays will also be used where appropriate.
- Plant and equipment to be regularly checked to ensure their correct operation and to verify no leakages.
- All plant and equipment to utilise biodegradable hydraulic oil.
- The provision of appropriate spill kits.
- Refuelling and maintenance of vehicles and plant to occur in designated areas of hardstanding.
- Diesel fuel to be stored in a bunded diesel bowser within a fenced-off area of the construction compound.
- All fuels, oils and hydrocarbons to be suitably stored.
- Wastewater from the welfare facilities for construction staff to be discharged to a sealed containment system and disposed of by a licensed waste contractor.

7.12.30. Operations and activities that have the potential to impact on the water environment are also to be subject to regular monitoring throughout the construction phase to ensure compliance with planning conditions and environmental regulations. Such monitoring would normally be included as best practice and does not imply any uncertainty regarding adverse effects or the effectiveness of any mitigation measure.

7.12.31. With respect to the potential loss or fragmentation of habitat suitable for otter, there will be no significant loss of core otter habitat as the proposed design includes for a 2m buffer from all field drains. Moreover, the loss of habitats under the development footprint will be relatively low and primarily consist of agricultural grassland and quarried areas which are of low value to otter.

7.12.32. The implementation of the accompanying Biodiversity Management Plan will also serve to enhance the habitats on site post-construction.

7.12.33. Although no evidence of otter was recorded during the habitat survey, it is accepted that the drainage ditches on site offer potential commuting and foraging habitat for this species. Therefore, while the survey findings would support the conclusion that the proposed development will not lead to the disturbance of otter, given that the species is present in the wider area and is also highly mobile, the mitigation measures proposed are intended to ensure that if the baseline were to differ at the time of construction, no significant effect to otter would occur. Accordingly, it is proposed to undertake a pre-commencement survey of the site for otter prior to construction in order to confirm the presence / absence of otter holts and / or resting places within close proximity of the application site. If holts / resting places are found to be present, additional measures will be required to prevent significant impacts for otter.

7.12.34. Other good practice measures include the securing / covering of excavations to avoid any accidental trapping and the provision of escape routes as required. Mammal gates within the perimeter security fencing will also accommodate the movement of otters through the site.

7.12.35. With the implementation of the integral design measures, best practice pollution prevention measures, and the remainder of the proposed mitigation measures, it has been submitted that the proposed development will not result in any significant adverse effects for any of the qualifying interests of the SAC.

7.12.36. *The Lough Ree Special Area of Conservation:*

Details of this site and its qualifying interests are set out in Table 1-1 of the NIS with the pertinent conservation objectives aiming to maintain or restore the favourable conservation condition of the habitats and species for which the site has been selected.

7.12.37. Given the location of the application site outside of the SAC, the proposed development will not directly impact on any Natura 2000 site through the loss or fragmentation of habitats listed as qualifying interests. However, by applying the source-pathway-receptor model of risk assessment, there is potential ecological connectivity with the application site given the commuting and foraging capabilities of otter (a qualifying species of the SAC).

7.12.38. In this regard, and in the interest of conciseness, I would reiterate the implementation of the integral design measures and other mitigation previously referenced as regards avoiding any significant adverse impacts on otter.

7.12.39. *The Middle Shannon Callows Special Protection Area:*

Details of this site and its qualifying interests are set out in Table 1-1 of the NIS with the pertinent conservation objectives aiming to maintain or restore the favourable conservation condition of the habitats and the bird species for which the site has been selected.

7.12.40. Given the location of the application site outside of the SPA, the proposed development will not directly impact on any Natura 2000 site through the loss or fragmentation of habitats listed as qualifying interests. Furthermore, in light of the physical separation and the level of dilution offered by the significantly greater downstream hydrological separation distance between the application site and the SPA, in addition to the implementation of the proposed design and best practice measures, it is considered that there is no significant risk of hydrological contamination attributable to the proposed development impacting on those downstream habitats for which the SPA has been designated. In this regard, and in the interests of avoiding unnecessary repetition, cognisance should be taken of the similarities shared with the preceding analysis as regards the River Shannon Callows Special Area of Conservation (i.e. how water pollutants can affect the aquatic environment and downstream qualifying interests and that the implementation of the integral design measures, best practice pollution prevention measures, and further mitigation measures will ensure that any contamination of waters will be negligible thereby avoiding any significant adverse effects).

7.12.41. There is a potential ornithological connection to the application site given that the SPA has been designated for certain bird species which could potentially utilise habitats such as grassland available within the site boundary.

7.12.42. In relation to the Whooper Swan, Golden Plover and Lapwing, it is considered unlikely that these species would avail of the grassland habitats within the application site as their core foraging range is less than 5km whereas the SPA is located in excess of 12km from the development site. Moreover, the availability of more suitable habitat closer to the SPA would obviate the need to commute to the

development site. Accordingly, it is considered unlikely that these species would utilise habitats on site and thus the loss of same as a result of the proposed development would be unlikely to give rise to significant adverse effects on those species.

- 7.12.43. The ideal habitat for Wigeon is wetland habitat surrounded by spare forest, woodland and especially agricultural land. Considering that the application site is not immediately surrounding the wetland habitat of the SPA and as the SPA itself offers more suitable and richer feeding grounds, it is considered unlikely that this species would utilise habitats on site and thus the loss of same as a result of the proposed development would be unlikely to give rise to significant adverse effects.
- 7.12.44. Corncrake are known to frequent grassland habitats managed for the production of hay, however, the improved agricultural grassland on site is used as pasture for the grazing of cattle with the result that the average height of vegetation is low and not conducive to use by corncrake.
- 7.12.45. Black-Tiled Godwit primarily reside around wetland habitats and it is unlikely that the species would use the terrain available within the development site.
- 7.12.46. Although Black-Headed Gull are known to forage in domestic waste and fields of crop, there is no food waste or crop associated with the application site and thus it can be concluded that there is no potential for the species to scavenge within the site boundary.
- 7.12.47. In addition to the foregoing, given the availability of other suitable habitat in the wider landscape, it has been submitted that the potential for noise disturbance of qualifying species associated with the SPA during the construction and post-construction phases will not be significant.
- 7.12.48. The SPA has also been designated for wetland habitat as a resource for regularly occurring migratory waterbirds, however, as there is no connectivity with the application site, no potential for significant adverse effects on this qualifying habitat arises.

7.12.49. *The Lough Ree Special Protection Area:*

Details of this site and its qualifying interests are set out in Table 1-1 of the NIS with the pertinent conservation objective aiming to maintain or restore the favourable

conservation condition of the habitats and the bird species for which the site has been selected

- 7.12.50. Having regard to the proximity of the application site to the SPA, consideration has been given in the NIS to the potential for ornithological connectivity between the two areas.
- 7.12.51. With respect to those species with a potential ornithological connection to the application site, for the purposes of conciseness, the Board is reviewed to the preceding assessment carried out for the Middle Shannon Callows Special Protection Area as regards those 'overlapping' species (i.e. Whooper Swan, Golden Plover and Lapwing), the conclusions of which can also be applied in this instance.
- 7.12.52. Given the context of the application site and the previously identified preferences of Wigeon, it is unlikely that the species would utilise habitats on site and thus the loss of same as a result of the proposed development would be unlikely to give rise to significant adverse effects.
- 7.12.53. Both Teal and Shoveler primarily reside around wetland habitats and, therefore, considering the significant separation distance from the SPA and absence of any wetland habitats within the application site itself, it is unlikely that these species would utilise the development area. However, it is accepted that some of these species have been known to frequent grassland habitat and thus could be displaced by the proposed development. In this regard, cognisance should be taken of the availability of similar habitats both in the immediate surrounds of the application site and the wider area which could be used by any displaced birds. Notably, no evidence of these qualifying species was recorded on site during the habitat survey. Therefore, on balance, the potential for significant adverse impact on either of these species is considered unlikely.
- 7.12.54. In relation to the remaining qualifying interests, the habitats on site would not be conducive to use by these waterbirds and thus any loss of same would be unlikely to significantly impact on those species.
- 7.12.55. Furthermore, in light of the level of other suitable habitat in the wider landscape, the potential for noise disturbance of qualifying species associated with the SPA during the construction and post-construction phases is not expected to be significant.

7.12.56. **Proposed Mitigation Measures:**

On balance, I would accept that the implementation of best practice and adherence to the mitigation measures set out in the NIS will serve to avoid any impacts on down-gradient water quality as well as the disturbance of habitats and / or species of qualifying interest thereby ensuring that there are no significant adverse effects on protected sites or species within Natura 2000 sites.

7.12.57. **Cumulative and In-Combination Effects:**

Cumulative / in-combination effects have been considered in the submitted NIS with regard to the National Planning Framework, the Regional Spatial and Economic Strategy for the Eastern and Midland Region, the Westmeath County Development Plan, and surrounding developments. No likely significant cumulative / in-combination effects on any Natura 2000 sites are expected as a result of the proposed development.

7.12.58. For the purposes of clarity, the NIS submitted with the subject application has been prepared in respect of the overall solar farm development which includes ground-mounted solar photovoltaic panels set within metal frames, new internal access tracks, underground cabling, perimeter fencing with CCTV cameras, 14 No. inverter stations, substation, temporary construction compound, and all ancillary grid infrastructure and associated works. However, it should be noted that neither the subject application nor the development approved under Offaly County Council PA Ref. No. 23/5 include for the installation of any electricity cabling between the solar array and the proposed 38kV substation or an onwards connection to the national grid.

7.12.59. The Board is further advised that indicative grid connection details were provided by way of further information in respect of Offaly County Council PA Ref. No. 23/5 (in reference to Drg Nos. 700-MOATE-002: '*Indicative Cable Route Plan*': Sheets 1 – 3 which showed a potential cabling route between the solar array and the proposed 38kV substation and Drg. No. NEO01070/50I/A: Figure 1: '*Indicative Cable Route*' which detailed a possible grid connection between the proposed 38kV substation and the existing substation at the junction of Ballycumber Road / Clara Road). An indicative grid connection between the proposed 38kV substation and the existing substation was also supplied as part of the subject application.

7.12.60. In response to a request for further information issued by the Planning Authority in respect of the subject application, the applicant has also stated the following:

*'The final design for the cable from the proposed Solar Farm to the Substation has not yet been finalised as an approved planning application is required before planning can be started for a grid connection. The cable specification will be decided closer to the energisation date and will likely depend on availability at that point in time. It will however have to adhere to the most up to date ETCI National Rules for Electrical Installations'.*

7.12.61. Notwithstanding that the final design for the proposed electricity cabling / grid has yet to be determined and that neither the subject application nor the development approved under Offaly County Council PA Ref. No. 23/5 include for the installation of cabling between the solar array, the proposed 38kV substation and the national grid, consideration has been given to the potential for any cumulative / in-combination effects attributable to these works in the assessment of the subject application. In this regard, it is of relevance to note that the Stage 2 Appropriate Assessment carried out by Offaly County Council in respect of PA Ref. No. 23/5 accounted for the indicative electricity cabling and grid connection routes shown as part of that application and concluded that said works (as part of the wider solar farm development) would be unlikely to result in any significant adverse effects on the qualifying interests of any Natura 2000 site. The subject application has been accompanied by identical details of an indicative grid connection between the proposed 38kV substation and the existing substation at the junction of Ballycumber Road / Clara Road (Drg. No. NEO01070/50I/A: Figure 1: '*Indicative Cable Route*') and it is notable that the routing of this cabling (primarily along an existing access track) avoids existing drainage ditches (by reference to the Figure 2: '*Habitat Map*') thereby minimising the likelihood of any hydrological pathway between the works and any Natura 2000 site. Similarly, the indicative cable routing shown between the solar array and the proposed 38kV substation as part of Offaly County Council PA Ref. No. 23/5 avoids the crossing of existing drainage ditches. Given the mitigation measures proposed as part of the wider solar development, it is my opinion that the subject proposal, when taken in conjunction with the development approved under PA Ref. No. 23/5 and the works associated with the indicative electricity cabling



works shown therein, would not be likely to give rise to any in-combination / cumulative impacts.

- 7.12.62. Therefore, having considered the planning history of the surrounding area (including Offaly County Council PA Ref. No. 23/5), I am satisfied that the proposed development, subject to suitable mitigation, would not be likely to give rise to any in-combination / cumulative impacts with other plans or projects which would adversely affect the integrity of any Natura 2000 site and would not undermine or conflict with the Conservation Objectives applicable to same.

7.12.63. **Integrity Test:**

Following the Appropriate Assessment and the consideration of mitigation measures, I can ascertain with confidence that the project would not adversely affect the integrity of the River Shannon Callows Special Area of Conservation (Site Code: 000216), the Lough Ree Special Area of Conservation (Site Code: 000440), the Middle Shannon Callows Special Protection Area (Site Code: 004096), and the Lough Ree Special Protection Area (Site Code: 004064) in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

7.12.64. **Appropriate Assessment Conclusion:**

The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act, 2000, as amended.

- 7.12.65. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on four European Sites, the River Shannon Callows Special Area of Conservation, the Lough Ree Special Area of Conservation, the Middle Shannon Callows Special Protection, and the Lough Ree Special Protection Area. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of these European sites in light of their conservation objectives.

- 7.12.66. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of the River Shannon Callows Special Area of

Conservation, the Lough Ree Special Area of Conservation, the Middle Shannon Callows Special Protection Area, and the Lough Ree Special Protection Area, or any other European site, in view of the sites' Conservation Objectives.

7.12.67. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives of the aforementioned designated sites.
- Detailed assessment of in-combination effects with other plans and projects including historical projects, current proposals, and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the River Shannon Callows Special Area of Conservation.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Lough Ree Special Area of Conservation.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Middle Shannon Callows Special Protection Area.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Lough Ree Special Protection Area.

## **8.0 Recommendation**

8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below:

## **9.0 Reasons and Considerations**

9.1. Having regard to:

- the national and regional policy objectives in relation to renewable energy,
- the provisions of the Westmeath County Development Plan 2021 – 2027,
- the nature, scale, extent and layout of the proposed development,

- the documentation submitted with the application and appeal, including the Natura Impact Statement, Planning Statement, Ecological Appraisal, Construction Traffic Management Plan, Outline Construction Environmental Management Plan, Glint and Glare Assessment, Landscape Visual Appraisal, Flood Risk and Drainage Impact Assessment, Noise Impact Assessment, and Archaeology & Architectural Heritage Impact Assessment,
- the mitigation measures proposed for the construction and operation of the proposed development,
- the topography of the area,
- the existing hedging and screening on the site, and
- the planning history and pattern of development in the area,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with national and regional renewable energy policy objectives, would not conflict with the provisions of the operative Westmeath County Development Plan, 2021 – 2027, would not seriously injure the amenities of property in the vicinity, would not be likely to have significant effects on the environment or the ecology of the area, would be acceptable in terms of traffic safety and convenience, and would make a positive contribution to Ireland's renewable energy requirements. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 5<sup>th</sup> day of April, 2023 and the 16<sup>th</sup> day of August, 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 the development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. 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.

3. The mitigation measures contained in the submitted Natura Impact Statement shall be implemented in full.

**Reason:** To protect the integrity of European Sites.

4. All of the environmental, construction and ecological mitigation measures, as set out in the Planning Statement, Ecological Appraisal (including the Biodiversity Management Plan), Landscape Visual Appraisal (including the Landscape and Ecology Management Plan), Flood Risk & Drainage Impact Assessment, Construction Traffic Management Plan, Outline Construction Environmental Management Plan, Noise Impact Assessment, Glint and Glare Assessment, Archaeology & Architectural Heritage Impact Assessment, and other particulars submitted with the application, shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this Order.

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

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services and shall otherwise comply with the submitted Flood Risk & Drainage Impact Assessment. A drainage management plan shall be developed for the construction and the operational phases of the development to include details of the proposed access routes and drains and is to be submitted to the planning authority for approval prior to commencement of development.

**Reason:** In the interests of environmental protection flood prevention and public health.

6. An underground sealed wastewater holding tank shall be installed on site with effluent to be removed to a licensed wastewater treatment facility for treatment and disposal at regular intervals. Details of the holding tank shall be submitted for the agreement of the planning authority prior to the commencement of development.

**Reason:** In the interests of environmental protection and public health.

7. The undertaker shall comply with the following requirements:
  - a) No additional artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.
  - b) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or roads.
  - c) Cables within the site shall be located underground.
  - d) All fencing, gates and exposed metalwork shall be dark green in colour. The roofs of the buildings within the substation compound shall be dark grey or black and the external walls shall be finished in neutral colours such as grey or off-white.

**Reason:** in the interest of clarity and of visual and residential amenity.

8. The construction of the development shall be managed in accordance with a finalised Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
  - a) location of the site and materials compound(s);
  - b) location of areas for construction site offices and staff facilities;
  - c) details of site security fencing and hoardings;
  - d) details of on-site car parking facilities for site workers during the course of construction;
  - e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;

- f) measures to obviate queuing of construction traffic on the adjoining road network;
- g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- i) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained; such bunds shall be roofed to exclude rainwater;
- j) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- k) details of on-site re-fuelling arrangements, including use of drip trays; (l) details of how it is proposed to manage excavated soil;
- l) 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.
- m) Hours of construction.

The finalised Construction and Environmental Management Plan shall also take account of the mitigation measures outlined within the NIS.

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

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

9.

- a) Construction activity shall be managed in accordance with a construction noise and vibration management plan, which shall be agreed in writing with the planning authority prior to the commencement of development. This plan should be subject to periodic review and shall specify the

construction practice, including measures for the suppression and mitigation of on-site noise and vibration.

- b) The plan shall be developed having regard to, and all construction activity shall be undertaken in accordance with, best practise guidelines, including BS 5228-1:2009+A1:2014, parts 1 & 2.
- c) The mitigation measures described in the Noise Impact Assessment shall be implemented in full.
- d) Prior to the commencement of development, a plan for the phased development of the site shall be submitted to and agreed in writing with the planning authority which shall seek to maximise separation from site boundaries at commencement of works and move progressively across the site.

**Reason:** In order to protect the amenities of the area.

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

**Reason:** In the interest of traffic safety.

11. 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.

12. Prior to commencement of development, the undertaker shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion of the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development.

**Reason:** To ensure the satisfactory completion of the development.

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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Robert Speer  
Senior Planning Inspector

30<sup>th</sup> October, 2024



**Appendix 1 - Form 1**  
**EIA Pre-Screening**  
**[EIAR not submitted]**

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-318352-23		
<b>Proposed Development</b> <b>Summary</b>	Solar PV development with access tracks, temporary construction compound, substation and all ancillary grid infrastructure and associated works. The solar farm would be operational for 40 years. The proposed site area transverses the Westmeath County and Offaly County administrative boundaries resulting in a breakdown of areas as follows: 1.8 hectares of the total site area including the access track, temporary construction compound and substation, is located in Culleenagower, Moate, Co. Westmeath and the remaining 21.6 hectares for the associated Solar Farm is located at Lurgan, Moate, Co. Offaly (subject to a concurrent planning application since determined by Offaly County Council).		
<b>Development Address</b>	Culleenagower, Moate, Co. Westmeath.		
<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>	✓
		<b>No</b>	No further action required
<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>	✓		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</b> (if relevant)
<b>No</b>	✓	Class 10 of Part 2 of Schedule 5: Infrastructure Projects:	The proposed development includes for the upgrading and extension of an existing access track along with the provision of new access tracks. These are
			<b>Conclusion</b>
			No EIAR or Preliminary Examination required

		(dd) All private roads which would exceed 2000m in length.	referred to 'access tracks' in the statutory notices as well as in the accompanying 'Planning Statement' and on the submitted drawings. Given that the purpose of these tracks is not for the conveyance of people and vehicles, per se, except as necessary in connection with the construction, operation, maintenance and decommissioning of the development, and in keeping with previous Board decisions, I am satisfied that the proposed access tracks are materially different from a 'road' as defined under the Roads Act, 1993. Therefore, the proposed access tracks do not fall to be considered under Class 10(dd) of the Regulations and thus do not require EIA.	
Yes	✓	<p>Class 1. Agriculture, Silviculture and Aquaculture:</p> <p>(a) Restructuring of rural land holdings:</p> <p>i) is the amount of field boundary to be removed greater than 4km,</p> <p>ii) the amount of re-contouring to take place above 5 hectares,</p>	<p>The extent of field boundary proposed for removal is sub-threshold although it is significantly below the threshold of 4km for EIA reinserted by the 2023 amending regulations. Such removal is associated with access requirements and does not result in the amalgamation or enlargement of existing fields. Significant effects on biodiversity are not likely as a result of such works.</p> <p>The development does not involve any significant excavation or the recontouring of the lands by, for example, the levelling off of hills or by the infilling of hollows (by removing or shifting earth or rocks), or other use or drainage</p>	Proceed to Q.4

		<p>iii) is the area of lands to be restructured by removal of field boundaries above 50 hectares.</p>	<p>works. Although the proposed substation building etc. will be sited on areas of hardstanding which will require some localised levelling and foundation works, such works are not significant in nature and would not constitute recontouring of the lands.</p> <p>The development does not involve any restructuring through the removal of field boundaries above 50 hectares.</p>	
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4. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix 2 - Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-318352-23	
<b>Proposed Development Summary</b>	Solar PV development with access tracks, temporary construction compound, substation and all ancillary grid infrastructure and associated works. The solar farm would be operational for 40 years. The proposed site area transverses the Westmeath County and Offaly County administrative boundaries resulting in a breakdown of areas as follows: 1.8 hectares of the total site area including the access track, temporary construction compound and substation, is located in Culleenagower, Moate, Co. Westmeath and the remaining 21.6 hectares for the associated Solar Farm is located at Lurgan, Moate, Co. Offaly (subject to a concurrent planning application since determined by Offaly County Council).	
<b>Development Address</b>	Culleenagower, Moate, Co. Westmeath.	
<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> <p><b>In addition, the Planning and Development Regulations (Amendment) (No. 2) Regulations, 2023 (S.I. 383 of 2023) require from 1<sup>st</sup> August, 2023 that projects for the restructuring of rural land holdings are screened for the purposes of Environmental Impact Assessment as follows:</b></p> <p><b>Amendment of Schedule 5, Part 2, Class 1 of the Principal Regulations is amended:</b></p> <p><b>(a) By the insertion of the following before paragraph (c):</b></p> <p><b>(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.</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>The subject proposal forms part of a larger solar farm development that extends over a total site area of 23.4 No. hectares and transverses the Westmeath County and Offaly County administrative boundaries. The subject application site has a stated site area of 1.8 hectares. While the site area is notable, the provision of solar farm developments in rural landscapes is well established and increasingly commonplace in terms of rural diversification as evidenced by nearby examples. Furthermore, the site surrounds are already characterised by the gradual transition from the built-up environs of Moate town to the surrounding rural / agricultural hinterland along with further interventions including the M6 Motorway.</p> <p>The application site comprises in part an existing agricultural access track, a section of an adjoining field set as grassland that circumnavigates an adjoining farmyard, and a narrow strip of land which extends from a field gate through another agricultural field. The broader site area is bound by a combination of tree lines, hedgerows and post &amp; wire fencing while the prevailing topography generally falls in a southerly direction towards the county boundary and the proposed solar farm</p> <p>The surrounding area beyond the limits of Moate town is primarily agricultural and dominated by an undulating rural landscape, although it also includes a former sand and gravel pit along with the M6 Motorway. Many of the fields in the area are enclosed by mature hedgerow and tree lines. Although the proposed development will extend across much of the site area, the extent of hedgerow boundary removal is minimal and not exceptional in the context of this rural area. The development will also be screened in part through the retention and reinforcement of existing boundary hedgerows with further mitigation provided by additional landscaping.</p>	<p>No.</p>
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<p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>In reference to the wider solar farm development, the solar photovoltaic panels will be set within galvanised metal framework racks anchored to ground by shallow piles avoiding the need for concrete works. The cells will be in an elevated position to allow for airflow around the modules to avoid overheating; to provide safe clearance for sheep to graze beneath the panels; and to encourage vegetation growth below the panels. While some comparatively minor excavations will be required for construction of the subject works (i.e. the upgrading and extension of the access track, the provision of the temporary construction compound, and the construction of the substation), these will be limited in extent.</p> <p>There will be limited waste generated during the construction and decommissioning phases and this will be segregated, stored and disposed of appropriately. Best practice measures will be put in place during the construction and decommissioning phases.</p> <p>The drainage strategy set out in the Drainage Impact Assessment details the SuDS measures to be implemented on site, the design of which will limit surface water discharge from the proposed development to that of the pre-development greenfield site.</p> <p>Construction, operation and decommissioning of the development will not result in any significant emissions to the environment.</p>	<p>No.</p>
<p><b>Size of the Development</b> Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>The scale of the proposed development is not considered exceptional in the broader context of surrounding development given its proximity to the built-up area of Moate, a former sand and gravel pit, and the M6 Motorway. The proposal is not exceptional when compared to other substation and solar energy developments.</p>	<p>No.</p>

<p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>None. The solar farm element of the wider development, which is not of itself subject to EIA, has already been subjected to an assessment by Offaly County Council in respect of potential effects on residential amenity, landscape and visual impacts, biodiversity, cultural heritage etc. during which it was concluded that the proposed solar farm would not of itself, or cumulatively with the subject works, have a significant effect on the environment.</p> <p>The proposed restructuring of the rural holding of itself or cumulatively with the wider development of the solar farm or any other permitted or proposed development in the area would not therefore have any significant cumulative effects on the environment.</p>	<p>No.</p>
<p><b>Location of the Development</b> 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>The proposed development is not located on, in or adjoining any ecologically sensitive site or location. Adherence to best practice construction and pollution prevention measures will avoid any wider impacts.</p> <p>There are potential indirect hydrological and ecological connections to the River Shannon Callows SAC (Site Code: 00000216); ecological connections to the Lough Reer SAC (Site Code: 000440); hydrological and ornithological connections to the Middle Shannon Callows SPA (Site Code: 004096); and ornithological connectivity to the Lough Ree SPA (Site Code: 004064). Following an Appropriate Assessment, it has been concluded that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of any of these European sites, in view of their Conservation Objectives.</p>	<p>No.</p>

<p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The Ecological Appraisal has determined that the short-term disturbance attributable to the proposed development will not be significant on ecological features if best practice and recommended mitigation are implemented.</p> <p>There are no adjoining protected structures. An Archaeology and Architectural Heritage Impact Assessment adequately addresses issues in this regard. Boundary removal will not significantly impact on cultural heritage.</p> <p>The proposed development does not have the potential to significantly affect other significant environmental sensitivities in the area.</p>	
<p><b>Part 2, Class 1.</b>  <b>Agriculture, Silviculture and Aquaculture:</b>  <b>(a) Restructuring of rural land holdings:</b></p> <p>i) is the amount of field boundary to be removed greater than 4km,</p> <p>ii) the amount of re-contouring to take place above 5 hectares,</p>	<p>The extent of hedgerow removal is not significant and generally amounts to less than c. 30m as required for internal site access. This is significantly below the threshold of 4km for EIA reinserted by the 2023 amending regulations and is also below the screening threshold set out in the 2011 (Agricultural) Regulations. Such removal is associated with access requirements and does not result in the amalgamation or enlargement of existing fields. Significant effects on biodiversity are not likely as a result of such works.</p> <p>The development does not involve any significant excavation or the recontouring of the lands by, for example, the levelling off of hills or by the infilling of hollows (by removing or shifting earth or rocks), or other use or drainage works. Although the proposed substation and temporary construction compound will be sited on areas of hardstanding which will require some localised levelling and foundation works, such works are not significant in</p>	<p>No.</p>



<p><b>iii) is the area of lands to be restructured by removal of field boundaries above 50 hectares.</b></p>	<p>nature and would not constitute recontouring of the lands.</p> <p>The development does not involve any restructuring through the removal of field boundaries above 50 hectares. The subject site only extends 1.8 hectares while the wider solar farm development encompasses 23.4 hectares. The development only involves the removal of a minor amount of boundary hedging and does not involve any notable restructuring.</p>	
<p style="text-align: center;"><b>Conclusion</b></p>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>		

