



An
Bord
Pleanála

Inspector's Report

ABP-318436-23

Development	Construction of solar farm and underground cabling together with associated site works
Location	townlands of Trascaun and Clondoolusk, Portarlinton, Co. Offaly.
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	22/390
Applicant(s)	Elgin Energy Services Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Concerned Residents of Trascaun & Clondoolusk
Observer(s)	None
Date of Site Inspection	12 th April 2024
Inspector	Tomás Bradley

Contents

1.0	Introduction.....	6
2.0	Site Location and Description.....	7
2.1.	Solar Farm Site	7
2.2.	Grid Connection Site	8
3.0	Proposed Development	9
3.1.	Development Description	9
3.2.	Documents supporting the Proposed Development.....	10
4.0	Planning Authority Decision.....	12
4.1.	Planning Authority Reports	12
4.2.	Prescribed Bodies.....	12
4.2.1.	Development Applications Unit - Archaeology	12
4.2.2.	Development Applications Unit - Nature Conservation	13
4.3.	Third Party Observations	13
5.0	Planning History	14
5.1.	Subject Site.....	14
5.2.	Related Solar Farm Phase (ABP-310367-21).....	14
5.3.	Related Grid Connection (ABP-315128-22).....	14
5.4.	Upgrading of the Portlaoise-Newbridge 110 kV Overhead Line.....	14
5.4.1.	OCC Ref: 23/28	14
5.4.2.	LCC Ref 22/746	14
5.5.	Battery Storage Facility (LCC Ref: 23/60261)	15
5.6.	Bracklone 110 kV Electricity Substation (LCC Ref: 20/638).....	15
5.7.	Residential & Agricultural Developments	15
6.0	Policy Context.....	16
6.1.	Zoning Objective	16
6.2.	Specific Objectives in respect of Solar Farms.....	16

6.3.	Other relevant Policies	20
6.4.	Laois County Development Plan 2021-2027	20
7.0	The Appeal	21
7.1.	Grounds of Appeal	21
7.2.	Planning Authority Response	21
7.3.	Observations	21
7.4.	Applicant's Response	21
8.0	Assessment	27
8.1.	Grounds of Appeal	28
8.1.1.	Principle of the Development	28
8.1.2.	Scale of the Development	29
8.1.3.	Compliance with the Offaly County Development Plan	30
8.1.3.1.	CAEP-34 (Subject to Normal Planning Considerations)	30
8.1.3.2.	CAEP-35 (Use of Productive Agricultural Land)	31
8.1.3.3.	DMS-110 (Development Management Standards)	32
8.1.4.	Landscape and Visual	32
8.1.4.1.	Residential Amenity	32
8.1.4.2.	Lea Castle and adjacent features	33
8.1.5.	Biodiversity	35
8.1.5.1.	Designated Sites	35
8.1.5.2.	Flora and Fauna	35
8.1.5.3.	Ecological Peer Review	37
8.1.5.4.	Ecological Management Plan	37
8.1.6.	Residential Amenity	38
8.1.6.1.	Set Back Distances	38
8.1.6.2.	Human Health	39
8.1.6.3.	Construction Activity	39

8.1.6.4.	Operational Activity.....	39
8.1.7.	Glint and Glare.....	40
8.1.8.	Flood Risk.....	40
8.1.9.	Soil and Water	41
8.1.10.	Traffic & Transport.....	41
8.1.11.	Built Heritage	42
8.1.12.	Procedural Matters	43
8.1.12.1.	Compliance with Domestic and European Legislation.....	43
8.1.12.2.	Land Ownership.....	43
8.1.12.3.	'Project Splitting'	44
8.1.12.4.	Naming of the Proposed Development.....	45
8.1.12.5.	Availability and Timing of Information	45
8.1.12.6.	Operational Period.....	46
8.2.	Likely Effects on the Environment.....	46
8.2.1.	EIA Screening.....	46
8.2.2.	Project Types / Class of Development.....	47
8.2.2.1.	Schedule 5, Part 2, Class 3 (a) Industrial installations.....	47
8.2.2.2.	Schedule 5, Part 2, Class 10 (b) (vi) Urban Development	47
8.2.2.3.	Schedule 5, Part 2, Class 10 (dd) All private roads	48
8.2.2.4.	Projects for the Restructuring of Rural Landholdings.....	48
8.2.3.	Project Thresholds	48
8.2.4.	Schedule 7 Assessment of the Characteristics, Location and Potential Impacts	50
8.3.	Likely Significant Effects upon a European Site.....	51
8.3.1.	Screening for Appropriate Assessment.....	53
8.3.2.	Appropriate Assessment ('Stage 2')	55
8.3.2.1.	Potential Adverse Effects.....	55

8.3.2.2.	Potential In-Combination Effects	56
8.3.2.3.	Mitigation Measures.....	63
8.3.2.4.	Conclusion	63
9.0	Recommendation	65
10.0	Reasons and Considerations.....	65

1.0 Introduction

Under the provisions of Section 37 of the Planning and Development Act 2000, as amended (PDA), a third-party appellant, Concerned Residents of Treascon & Clondoolusk (the appellant) have appealed the decision of Offaly County Council (OCC) to grant planning permission subject to no. 25 conditions for a solar farm and associated works in the townlands of townlands of Trascaun and Clondoolusk, east of Portarlinton, Co. Offaly. The applicant is Elgin Energy Services Limited ('the applicant').

For information, a timeline of the planning application is set out below.

Table 1: Timeline of the Planning Application	
Planning Application lodged to OCC	5 th August 2022
Further Information Request by OCC	29 th September 2022
Further Information Response to OCC	6 th July 2023
Decision of OCC	18 th October 2023
Appeal Received	10 th November 2023
Response to Appeal by Planning Authority	11 th December 2023
Response to Appeal by Applicant	8 th December 2023

The Board should note that the planning application the subject of this appeal included significant further information and revised plans. The Board should ensure it reviews the most recent plans submitted to OCC in the response to further information dated the 6th of July 2023.

The Board should also pay particular attention to the Planning History set out in Section 5.0 below. The proposed development (approximately 25 Megawatt (MW)) subject of this appeal is part of a related project in the immediate area which includes a related solar farm (approximately 60 MW) (ABP-310367-21) and grid connection (ABP-315128-22). The related solar farm (ABP-310367-21) is the subject of legal proceedings at present.

2.0 Site Location and Description

The site of approximately 40 hectares (ha) is located in the townlands of Trascaun and Clondoolusk which is approximately 2 kilometres (km) east of the settlement of Portarlinton, Co. Offaly. It occupies lands between Barrow River to the south, which demarcates the boundary between counties Offaly and Laois and Derrylea Bog to the north, where the boundary between counties Offaly and Kildare occurs. The site is wholly contained within County Offaly.

The site is access from the L7178 Local Road (also referred to as Pine Villa Road) which runs generally east-west. There are several other minor roads off this, running generally north-south. There are several agricultural complexes located close the site, as well as single dwellings in linear form along these roads.

A key feature which bounds the south of the site is the River Barrow, which flows west to east. There are several agricultural drains running from the site toward the river. The River Barrow, at this location is part of the River Barrow and River Nore Special Area of Conservation (SAC) (Site Code: 002162). There are no specific natural heritage designations in respect to the subject site itself

In terms of built heritage, there are no specific designations in respect of the subject site. While there are no specific built heritage features on the site, it is noted that there is a cluster of features identified on the opposite side of the River Barrow in the townland of Lea, Co. Laois. This includes Lea Castle (Record Monuments and Places (RMP): LA005-006----) which is an Anglo-Norman masonry castle. Several other archaeological features are clustered around this castle. In addition, these features are identified by Laois County Council (LCC) in the Laois County Development Plan 2021-2027 (LCDP) Record of Protected Structures (RPS) and the separately in the National Inventory of Architectural Heritage (NIAH) including the castle (RPS: 403 | NIAH: N/A) itself and Lea Castle House (RPS: 403 | NIAH: 12800555).

2.1. Solar Farm Site

The main solar farm site extends south from the L7178 to the River Barrow. The site relatively flat, generally maintaining 70-72 m Ordnance Datum (OD) throughout. The lands and network of fields are surrounded by hedgerows and in certain locations

are treelined. The lands are largely in agricultural use. There are some existing agricultural tracks connecting the field network. A farm complex is located in the centre of the site. Certain residential properties would be directly bounded by the solar farm site. The Portlaoise-Newbridge 110 kV Overhead Electricity Line pass the northern portion of the site.

A section of the southern portion of the site is within the flood plain of the adjoining River Barrow. This section of the river has been considered under the Catchment Flood Risk Assessment and Management (CFRAM) Programme and there is a 'High Probability'¹ of a river flood events in the present day. There are medium and low probability scenarios also.

2.2. Grid Connection Site

The grid connection site runs along a minor local road to the north of the solar farm site for a short section before joining the L7178 and running in an easterly direction. The L7178 is generally bounded by hedgerows and a grass margin. Above ground utility services run along the south side of the road. Several single rural dwellings and agricultural complexes adjoin the road and have entrances and frontages onto it. The site eventually leaves the public road approximately 2 km east of the solar farm site. There it enters the site of a permitted solar farm (ABP-310367-21).

The grid connection site is also related to the flood plain of the adjoining River Barrow. In certain sections it has a low, medium and high probability of a river flood events in the present day, particularly where it is intended to connect to the permitted substation. A flood event (ID-2784) was noted in 2005 along the L7178. It is noted in the report for this event that the drains running into the River Barrow flood most winter and the road is liable to flood in a number of locations.

¹ Such events have approximately a 1-in-a-10 chance of occurring or being exceeded in any given year. This is also referred to as an Annual Exceedance Probability (AEP) of 10%.

3.0 Proposed Development

3.1. Development Description

The proposed development of a solar farm consisting of:

- solar PV panels mounted on steel supported structures with associated cabling and ducting; the laying of an underground cable in the public roadway for the purpose of grid connection via an off-site substation;
- 18 no. single storey inverter stations;
- 2 no. steel storage containers;
- palisade perimeter fencing 2.45m in height;
- double palisade security gates;
- permeable gravel access track;
- 20 no. on-site pole mounted CCTV cameras c. 3m in height;
- 1 no. temporary construction compound/material storage area and 1 no. temporary construction stage Moby Dick type wheel wash system (with overground settlement tank); and
- all associated ancillary development services and works

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

As noted above, the development description covers the particulars for which consent is sought but the purposes of the environmental screenings and assessment, the applicant includes information on the related solar farm (ABP-310367-21) and grid connection (ABP-315128-22) in the relevant documentation. These elements are factored into the assessment of this report below albeit permission is either existing or not sought for them.

The applicant indicated that the grid connection will be subject in due course to the relevant regularisation under the PDA in an application to the Board - no such application had been received at the time this report was finalised.

3.2. Documents supporting the Proposed Development

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

- Statutory Particulars (Application Form, Public Notices (Newspaper & Site), Letters of Consent)
- Drawing Pack including Schedule of Drawings
- Appropriate Assessment (AA) Screening Report
- Natura Impact Statement (NIS)
- Planning & Environment Considerations Report (PECR)
- Construction Traffic Management Plan (CTMP)
- Decommissioning Report
- Biodiversity Management Plan
- Flood Risk Assessment (FRS)
- Traffic Management Plan
- Archaeology, Architecture and Culture Report (AACHR)
- Glint and Glare Report
- Landscape and Visual Impact Assessment
- Landscape Mitigation Plan

It is noted that following a further information request of 29th September 2022, a response was received on the 6th of July 2023. This included:

- Technical Report – Response to Request for further Information with accompanying appendices including
 - Appendix 1 - Road Safety Audit
 - Appendix 2 - Updated NIS (including updated Biodiversity Management Plan & other appendices)
 - Appendix 3 - Landscape Management Plan
 - Appendix 4 - Photomontages
 - Appendix 5 - Hedgerow Removal and Replacement Maps
 - Appendix 6 - Archaeological Impact Assessment
 - Appendix 7 - TLI Grid Connection Details and Construction Methodology
 - Appendix 8 - Figure 6 Coordinates of Culverts and Bridge Crossings Map
 - Appendix 9 - Topographical Survey

- Appendix 10 - Updated Glint and Glare Report
 - Appendix 11 - Updated Construction and Environment Management Plan
 - Appendix 12 - Terms and Conditions of RESS-3
 - Appendix 13 - Community Consultation Response
- Drawing Pack updated to reflect design changes.

4.0 Planning Authority Decision

A notification of the decision to grant planning permission was issued by OCC on the 18th of October 2023 with no 25 conditions attached.

4.1. Planning Authority Reports

The Planning Report dated 29th of September 2022 sets out the site description, planning history, pre-planning meeting, the various internal and external referrals in respect of the planning application. It lists the names and dates of the submissions made by third parties and summarises their grounds. It goes on to carry out an assessment including a substantive discussion the development plan policy, planning guidelines and international and national policy. Several topics assessed including archaeology, roads and traffic safety, public health and services, flooding, siting and design, grid connection, decommissioning and restoration, glint and glare and biodiversity. The report notes an AA is required, but that an Environmental Impact Assessment (EIA) is not.

The report concludes with a Request for Further Information in respect of twenty-one items including: compliance with certain policies of the development plan, impact to residential amenity, drainage management, decommissioning and restoration plans, operational measures related to cleaning of panels and complaints, response to a submission made by the DHLGH on nature conservation and archaeology, hedgerow removal, access arrangements, measures to manage the installation of the cable in the road, cumulative impacts of glint and glare, impacts of noise as a result of piling, the community benefit fund and response to individual submission.

A second Planning Report dated 17th of October 2023 details the response of various internal and external reports to the response to further information. No internal departments had any objections subject to a range of conditions. On the basis of this assessment the report concludes that the proposed development is acceptable subject to no. 25 conditions. This report, prepared by the Executive Planner, was co-signed by the acting Senior Executive Planner.

4.2. Prescribed Bodies

4.2.1. Development Applications Unit - Archaeology

It is recommended that an Archaeological Impact Assessment including Test Excavations be carried out as a condition of planning. The condition recommended aligns with Sample Condition C.3 as set out in the OPR Practice Notice PN03: Planning Condition (October 2022)

4.2.2. Development Applications Unit - Nature Conservation

There are two issues which the Department would like to see made conditions of any planning permission granted as follows:

- When planting new hedgerows, the Department recommends that a weed suppressant material or suitable biodegradable mulch (sheep's wool or bark mulch) must be used in all cases in accordance with Teagasc advice on hedge planting.
- The Department recommends that black polythene must not be used as it may break down and cause micro plastic pollution of the nearby SAC. Instead, again as advised by Teagasc, a compostable film should be used.
- In relation to the Biodiversity Management Plan, the Department recommends that as per the guidelines on solar farms recently produced by the NBDC', grass verges and, where possible, other areas within the solar farm, must be managed in accordance with Farming for Nature Best Practice Management Guidance on Managing Species-Rich Grasslands.

4.3. Third Party Observations

There were nine observations from third parties in respect of the planning application to OCC. All these submissions are noted. The issues raised in these submissions have largely been captured in the grounds of appeal which are detailed below in Section 7.0.

5.0 Planning History

A review of the OCC Planning Portal and the Board's case files was carried out the on the 11th of April 2023 to collate any relevant, recent (within 10 years) planning history for the site.

5.1. Subject Site

At the site there was no recent relevant planning history for the subject site, save for the planning application (Ref: 22/390) the subject of this appeal.

5.2. Related Solar Farm Phase (ABP-310367-21)

In October 2021, the Board granted planning permission with revised conditions for a solar farm to the east and north-east of the site in the townland of Trascan and Clondoolusk, Co. Offaly. The is the subject of legal proceedings at present.

5.3. Related Grid Connection (ABP-315128-22)

In October 2021, the Board determined, following a pre-application consultation, that the proposed development of a 110kV electrical substation and grid connection is Strategic Infrastructure Development. The site was in the townland of Trascan and Clondoolusk, Co. Offaly.

No related planning application has been made to date. Prior to making any decision in respect of this file, it is recommended the Board ensure no planning application has been made in the intervening period for the grid connection.

5.4. Upgrading of the Portlaoise-Newbridge 110 kV Overhead Line

5.4.1. OCC Ref: 23/28

In May 2023, OCC granted planning permission for works associated with the proposed uprate of the existing 110kV line on lands approximately 150m west of the subject appeal site in the townlands of Bishopswood and Tinacrannagh, Co. Offaly.

5.4.2. LCC Ref 22/746

In December 2023, LCC granted planning permission for works associated with the proposed uprate of the existing 110kV line on lands in Co. Laois, south-west of the subject appeal site. The application was appealed (ABP-318799-24) to the Board in February 2024.

5.5. Battery Storage Facility (LCC Ref: 23/60261)

In February 2024, LCC Ref: 23/60261 granted planning permission for a battery storage facility approximately 750m south-west of the subject appeal site in the townland of Bracklone, Co. Laois.

5.6. Bracklone 110 kV Electricity Substation (LCC Ref: 20/638)

In February 2024, LCC Ref: 20/638 granted planning permission for a 110 kV electricity substation facility approximately 800m south of the subject appeal site in the townland of Bracklone, Co. Laois.

5.7. Residential & Agricultural Developments

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

6.0 Policy Context

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

- Department of the Environment, Climate and Communications (2023) *Climate Action Plan 2023*.
- Eastern and Midlands Regional Assembly (2020) *Regional Spatial and Economic Strategy for the Eastern & Midland Region 2020 – 2032*.
- DHLGH (2019) *Project Ireland 2040: National Planning Framework*.
- Government of Ireland (2017) *Project Ireland 2040: National Planning Framework*
- Department for Communications, Energy and Natural Resources (2015) *Ireland's Transition to a Low Carbon Energy Future 2015-2030*

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

Specifically, the Offaly City and County Development Plan 2021-2027 (OCDP) came into effect 22nd of October 2021 and is the relevant plan for the subject site. Its policies are detailed below.

6.1. Zoning Objective

There is no specific zoning objective for the site. The lands related to the site are primarily rural, in agricultural use and contain some isolated development.

6.2. Specific Objectives in respect of Solar Farms

Chapter 3: Climate Action and Energy of the OCDP has a strategic aim:

To achieve a transition to an economically competitive, low carbon climate resilient and environmentally sustainable county, through reducing the need to travel, promoting sustainable settlement patterns and modes of transport, and by reducing the use of non-renewable resources, whilst recognising the role of natural capital and ecosystem services in achieving this.

Section 3.2.4 of the OCDP sets out detail in respect of Solar Energy and raises the potential for larger solar farms to be built on agricultural land and leave room for dual land use so that farm practices, such as grazing, can co-exist with the ground

mounted solar panels. Equally, it highlights impacts on local ecosystems, wildlife and the land's agricultural potential. Under the OCDP, the following site selection criteria for ground mounted arrays apply:

- low lying lands;
- accessibility/proximity to electricity networks.
- the reuse of previously developed land such as brownfield land, contaminated land or industrial land and non-productive agricultural land in preference to productive agricultural land;
- south facing aspect with either flat terrain or sloping gently; and
- land free from obstacles that may cause shading.

It is further noted in Section 3.2.7 Renewable Energy Targets, that a target of 145 MW for solar energy has been set for the plan period (see Table 3.1 of the OCDP).

The detailed policies in respect of climate action and energy are set out in Section 3.8 of the OCDP. Section Chapter 13 sets out the relevant Development Management Standards for Solar Farms and supporting infrastructure. Additionally, the policies in respect of Rural Economic Development² set out in Section 5.11 of the OCDP and especially agricultural diversification of the are also included.

The following are considered relevant:

Table 2: Relevant Policies of the OCDP	
Policy	Detail
CAEP-02	It is Council policy to require that, in all new developments, local services such as medium and low voltage electricity cables shall be undergrounded, with multiple services accommodated in shared strips underground and that access covers are shared, whenever possible.
CAEP-03	It is Council policy that proposals for new electricity distribution lines 38 kV or above along with transmission lines 110 kV or above will be considered subject to the protection of Designated and Non Designated Sites as outlined in Objectives BLO-02 to BLO-06 and landscape considerations as outlined in objectives BLO-22 Areas of High Amenity, BLO-24 Landscape and BLO 26 and BLO-27 Protection of Key Scenic Views, Prospects and Key Amenity Routes.
CAEP-05	It is Council policy to support the reinforcement and strengthening of the electricity transmission and distribution network to facilitate planned growth and transmission/ distribution of a renewable energy focused generation across the major demand centres. This includes..... Facilitate the delivery of the necessary integration of transmission network requirements to allow linkages of renewable energy proposals to the electricity transmission grid in a sustainable and timely manner;
CAEP-23	It is Council policy to require that environmental assessments should address reasonable alternatives for the location of new energy developments, and where existing infrastructural assets such as sub-stations, power lines and roads

² Chapter 5 Economic Development Strategy

	already exist within the proposed development areas, then such assets should be considered for sustainable use by the proposed development where the assets have capacity to absorb the new development.
CAEP-25	It is Council policy to encourage and facilitate the production of energy from renewable sources, such as from bioenergy, waste material, solar, hydro, geothermal and wind energy, subject to proper planning and environmental considerations.
CAEP-26	It is Council policy to encourage developers of proposed large scale renewable energy projects to carry out community consultation in accordance with best practice and to commence the consultation at the commencement of project planning.
CAEP-27	It is Council policy to ensure that whenever possible, community benefits are derived from all renewable energy development in the county such as near-neighbour benefit funds and general community benefit funds, which may take the form of contributions in kind to local projects, assets and facilities such as public amenities on the renewable energy site, measures to promote energy efficiency or a local energy discount scheme.
CAEP-34	It is Council policy to promote the development of solar energy infrastructure for on-site energy use, including solar PV, solar thermal and seasonal storage technologies subject to environmental safeguards and the protection of natural or built heritage features, biodiversity views and prospects.
CAEP-35	It is Council policy to ensure that the assessment of solar farm proposals will have regard to: <ul style="list-style-type: none"> • site selection, by focusing in the first instance on developing solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value. • where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays. Decommissioning and site rehabilitation plans will be required providing for the land to be restored to its previous use.
REDP-09	It is Council policy to facilitate the development of the rural economy through supporting sustainability and economic efficiency in agriculture and diversification into alternative on-farm and off-farm activities such as the food and drinks sector, forestry, horticulture, crafts, agri-business, fishing, aquaculture, waste management, rural tourism, renewable energy and the bio-economy, while at the same time noting the importance of maintaining and protecting the natural landscape and built heritage which are vital to rural tourism.
REDP-11	As part of Offaly County Council's recognition of the contribution that rural areas make to social and economic wellbeing, it is Council policy to support and protect existing rural economies such as (i) valuable agricultural lands to ensure sustainable food supply, (ii) the value and character of the open countryside and (iii) the diversification of rural economies to create additional jobs and maximise opportunities in emerging sectors, such as agri-business, renewable energy, tourism, and forestry enterprise.
REDP-17	It is Council policy to support the development of renewable energy in rural areas, where it is considered appropriate i.e. where it is demonstrated that such development would not result in significant environmental effects. Such development will be assessed on a case-by-case basis.
DMS-110 Solar Farms	<i>The Council will consider the following factors in assessing a planning application for a solar farm;</i> <ul style="list-style-type: none"> • <i>The reuse of previously developed land such as brownfield land, contaminated land or industrial land and non-productive agricultural land in preference to productive agricultural land;</i>

	<ul style="list-style-type: none"> • The proximity of the proposal to the electricity infrastructure such as substations and indicative proposals to connect to existing or proposed grid connections; • The effect of glint and glare on landscapes, traffic and aircraft safety; • The extent to which there may be additional impacts if solar arrays follow the daily movement of the sun; • The need for, and impact of, security measures such as lights and fencing; • The visual impact of a proposal on heritage assets, designated sites and key views and prospects identified in Chapter 4 of the Plan; • The potential impact on the ecological characteristics and features of the site and its sensitivity to the proposed changes arising from the construction, operation and decommissioning stages of a development. On a proposed site where a significant level of ecological impact is predicted an Ecological Management Plan may be used to mitigate against the predicted impact and/or a Natura Impact Statement if applicable; • The potential to mitigate landscape and visual impacts through appropriate siting, design and screening with native hedges; • The cumulative impact of the proposal with other ground mounted solar panels and wind turbines in the area; • An appraisal of the existing roads infrastructure and the potential impact of the proposed development, including traffic numbers and movements during the construction, operation and decommissioning phases of the proposal should be carried out. Evidence of appropriate sight lines at the entrance to the development from public roads shall also be provided; • Adequate drainage, surface water run-off and flooding mitigation. Where access tracks need to be provided, permeable tracks should be used, and localised SUDs, such as swales and infiltration trenches should be used to control any runoff. Sites should be selected and configured to avoid the need to impact on existing drainage systems and watercourses. Culverting existing watercourses/drainage ditches should be avoided unless it is demonstrated that no reasonable alternatives exist and where necessary only temporarily for the construction period. The preparation of an outline Construction Environmental Management Plan setting out key environmental management controls for all phases of the development minimising impacts on existing drainage systems and watercourses may be required. • Impact of the development on radio observatories and broadcast communications in the area. <p><i>This list is not exhaustive and the Council may consider other requirements contained in the chapter on a case by case basis with planning applications should the need arise. Where impacts are predicted to arise as a result of the development proposed, suitably detailed mitigation measures shall be proposed.</i></p>
DMS-107 Undergrounding of Services	<p><i>All services, including ESB, telephone and television cables shall be placed underground, where possible. Service buildings or structures shall be sited as unobtrusively as possible and must be screened. Proposals should demonstrate that environmental impacts including the following are minimised:</i></p> <ul style="list-style-type: none"> • <i>Habitat loss as a result of removal of field boundaries and hedgerows (right of way preparation) followed by topsoil stripping (to ensure machinery does not destroy soil structure and drainage properties);</i> • <i>Short to medium-term impacts on the landscape where, for example, hedgerows are encountered;</i> • <i>Impacts on underground and underwater archaeology;</i> • <i>Impacts on soil structure and drainage; and</i> • <i>Impacts on surface waters as a result of sedimentation.</i>

6.3. Other relevant Policies

The OCDP contains a range of policy objectives across a number of topics. This includes protection for designated as well as non-designated sites and receptors. These are all noted.

Table 3 Other Relevant Policies	
Policy	Title
CAEP-53 – CAEP-63	Flood Risk Management
BLP-01 – BLP08	Designated and Non-Designated Sites (Biodiversity)
BLP-19 - BLP-23	Waterways, Lakes and Wetland Landscapes
BLP-24 – BLP-26	Trees, Forestry and Hedgerows
BLP-34	Invasive Species
BLP-38 – BLP42	Landscape
BHP-01 - BHP-11	Protected Structures
BHP-33 - BHP-40	Archaeological Heritage
ENVP-01 - ENVP-14	Water Quality
ENVP-23	Light Pollution
ENVP-24	Human Health

6.4. Laois County Development Plan 2021-2027

It is noted that site lies in proximity to the jurisdiction of County Laois, which is on the opposite side of the River Barrow. On that basis several policies of the LCDP are examined based on the potential for impact. This in particular includes built heritage features and related landscape and visual impacts.

Table 4 Relevant Policies of the LCDP	
Policy	Policy Objectives
BNH 31 – BHN 39	Waterways and Wetlands
PS 1 – PS 10	Protected Structures
AH 1 – AH 10	Archaeological Heritage
LCA 12 – LCA15	Landscape Character Areas (Lowland Agricultural Areas)
LCA 16 – LCA22	River Corridors and Lakes Areas

7.0 The Appeal

7.1. Grounds of Appeal

There is one third party appeal in respect of this file from the 'Concerned Residents of Treascon & Clondoolusk', with a single named person referred to. The appellant has not requested an oral hearing. It requests the planning application be refused.

The appellant has submitted its original submission to OCC dated 8th of September 2022 which sets out seven discrete grounds. The appellant, in its submission to the Board has asked that particular attention be paid to Ground 3 of said submission regarding landowner consent which OCC has chosen to ignore but is a mandatory requirement of Article 22 (2) (g) the PDR.

The detailed grounds are set out in Table 5.

7.2. Planning Authority Response

A response, noting the details of the appeal, was received from the planning authority on the 8th of December 2023. The planning authority refers to the technical reports already on file and that the Board supports its decision to grant planning permission for the reasons therein.

7.3. Observations

None.

7.4. Applicant's Response

The submission is prepared by Tobin Consulting Engineers on behalf of the applicant. The applicant does not request an oral hearing. It requests the planning application be granted.

It notes the appeal is the same as the submission provided by the appellant to OCC in the first instance and the applicant asserts, therefore, that the concerns raised have already been addressed.

The response to the appeal is summarised in Table 5.

Table 5: Grounds of Appeal			
Ground	Appellant's Submission	Applicant Response	Reference to Inspector's Assessment below
Lack of Environmental Studies	The submission criticises the planning application for not adequately addressing environmental concerns, particularly regarding compliance with domestic and European legislation.	A full scope of works were considered and assessed in the submitted PECR and the updated NIS and against criteria set out under Annexes I, II and III of the EU Directive 2011/92/EU, as amended by Directive 2014/52/EU (EIA Directive) and in accordance with the EU Birds Directive (79/409/EEC) and EU Habitats Directive (92/43/EEC), as transposed into Irish law. TOBIN has complied with all relevant domestic and European Legislation and case laws with regards the environment assessment on the proposed development.	Section 8.1.12.1 Compliance with Domestic and European Legislation Section 8.2 Likely Effects on the Environment Section 8.3 Likely Significant Effects upon European Sites
	It mentions a previous report commissioned by the appellant and prepared by Dr. Patrick Moran (ecologist), which found the ecological information in support of a previous application (21/123) was insufficient. The submission emphasises the necessity of conducting proper ecological impact assessments for the proposed development. The ground concludes with an extract from said report.	The potential impact on the ecological characteristics and features of the site and its sensitivity to the proposed changes arising from the construction, operation and decommissioning have been presented in chapter 4 of the submitted PECR. Further detail is also provided in section 10 of the original Response to Further Information, the updated NIS and updated Biodiversity and Hedgerow Management Plan, which was submitted as part of the original Response to Further Information. Section 9.1.1.1 of the updated NIS also considered the potential impacts of the project cumulatively with the nearby Trasca Solar Farm.	Section 8.1.5 Biodiversity Section 8.1.5.3 Ecological Peer Review Section 8.3 Likely Significant Effects upon European Sites Section 8.1.12.1 Compliance with Domestic and European Legislation
Scale of the Proposed Development	The proposed development (40 ha.) is in addition to a previously granted planning permission (90 ha.) (currently under judicial review) in the same townland. The appellant estimates 35% of the townland will be covered by physical structures up to 3.5m high. This is unacceptable, over intensification of this type of development in one area.	In response, the main site area of the proposed development is approximately 38.45 hectares (ha), with the overall proposed development site area, including for grid connection works in the public roadway, 39.23 ha in size. With respect to the approved nearby Trasca Solar Farm (approved under appeal reference: ABP-310367-21), the total area within the red line boundary of the site is 87.98 hectares. Together the proposed development and the nearby approved Trasca Solar Farm would amount to 126.43 hectares in size, across two separate but nearby sites. Tobin's would argue that the size of the site alone, or in combination with the nearby approved Trasca Solar Farm is of average size and typical of solar farm developments across Ireland and provides a sample of permitted developments to illustrate this point in a table: It should be further noted that the proposed development was scaled	Section 8.1.2 Scale of the Development

		back from the original design through the omission of a field of solar panels	
	An Bord Pleanála refused planning permission for an 89 ha. solar farm in Killinick, Co Wexford (ABP Ref: PL26.247217) on the basis of the scale of the development and the lack of any planning guidance for such development, as well as the impact on rural character, visual amenity, residential amenity and agricultural land use patterns. The appellant is of the view that these issues apply to the proposed development	<p>The applicant sets out a case known as Element Power Ireland Ltd v An Bord Pleanála Judicial Review (2016 920JR), which saw the Board refuse planning permission for a windfarm on the grounds that it was premature pending the adoption of a national local wind energy strategy. The High Court held that the Planning Act 2000 did not provide the legislative right to allow the Board to refuse planning permission on the basis that a development was premature where no guidance existed at national, regional, or local level. A similar issue arose in Highfield Solar v An Bord Pleanála (201700272) on a site in Wexford.</p> <p>The proposed development has been designed to minimise disruption to the local rural area as much as possible. The proposed development during construction and operation will not give rise to any significant impacts with respect to noise, traffic, visual or air nuisance or pollution, as demonstrated by the submitted expert assessments included in the planning application documentation.</p> <p>In response to concerns regarding agricultural land use patterns, Sections 3 & 8 of the submitted Response to Further Information confirms that the proposed development is in compliance with policy CAEP-35, as the proposed development will allow for the dual use of land for existing agricultural uses such as sheep grazing. It is noteworthy that solar farms typically occupy between 3-5% of the land where they are sited. The area for the proposed development will also account for less than 0.03% of the total agricultural land area in County Offaly. When combined with the approved nearby Trascan Solar Farm, this increases to 0.07% overall.</p>	Section 8.1.1 Principle of the Development
Landowner Consent	There are lands in private ownership impacted by this planning application and no letters of consent has been provided by the applicant. Article 22(g) of the PDR requires that consent is provided for all affected landowners. OCC do not own the road so therefore cannot give consent. This application should be invalidated on this basis.	The application is accompanied by four letters of consent as required under the PDR. In respect of the grid connection element which occurs on the public road, the development will, in time, apply to the Commission for the Regulation of Utilities for authorisation to act as a 'statutory undertaker' for the proposed work.	Section 8.1.12.2 Land Ownership

Compliance with the County Development Plan	<p>The proposed development does not comply with the following provisions of the OCDP –</p> <p>CAEP-34, CAEP-35, DMS-110.</p> <p>The appellants consider the planning application inadequate in this regard.</p>	<p>In response, Sections 3 and 4 of the submitted Response to Further Information, clearly demonstrate compliance with policies CAEP-34, CAEP-35, DMS 110. Offaly County Council found the applicant's response to policy CAEP-35 and DMS-110, to be satisfactory, as detailed in the Planner's final report.</p>	Section 8.1.3 Compliance with OCDP
	<p>The proposed development should be located on 'previously developed and non-agricultural land'. If it is agricultural land, it should be of poor quality.</p>	<p>With respect to Lea Castle (RPS 549, LCDP), a Landscape and Visual Impact Assessment and Archaeological, Architectural and Cultural Heritage Report have been undertaken for the proposed development, with each of the assessments concluding no impact to Lea Castle. Landscape mitigation will heavily screen the proposed development from Lea Castle. As such, it is proposed that additional screening (3-4m high hedgerow) be put in place to augment the existing field boundaries along the south side of the proposed development site. This will minimise any potential negative visual impact. As such, there are no resulting in combination effects expected to arise with the nearby approved Trascaan Solar Farm.</p> <p>With respect to the submitted ecological management plan, an updated Biodiversity and Hedgerow Management Plan was submitted to Offaly County Council under the Response to Request for Further Information. The report sets out biodiversity enhancement within the proposed development and is contained in Appendix 2 of the submitted Response to Further Information. The Biodiversity Management Plan has been designed specifically for the proposed Bishopswood Solar Farm and section 4 of the plan details proposed enhancement measures. Once implemented, will ensure the protection of the existing biodiversity within the proposed site boundary. The enhancement measures will also increase the local biodiversity of the site.</p>	Section 8.1.3.2 CAEP-35 (Use of Productive Agricultural Land)
	<p>The proposed development is in proximity to and will have a significant visual and landscape impact on the Lea Castle which is a protected structure with walkways along the River Barrow. The setting of the 12th century castle would be materially altered by the solar farm.</p>		Section 8.1.4.2 Lea Castle and adjacent features
	<p>A bespoke ecological management plan required for the subject site rather than a 'cut and paste' from the previous application. No attempt was made to factor in the additional lands into the management plan.</p>		Section 8.1.5.4. Ecological Management Plan
'Project Splitting'	<p>The applicant is attempting to negate the requirement for more in-depth studies and assessment of risks by 'splitting' the planning applications This applies to several environment topics including traffic impacts.</p>	<p>As set out under section 23 of the submitted Response to Further Information, Project splitting is a term applied to applications requiring Environmental Impact Assessment. It is determined that the proposed development including the proposed grid connection is not of a type included in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and an Environmental Impact</p>	<p>Section 8.1.12.3 'Project Splitting'</p> <p>Section 8.2.3 Project Thresholds</p>

		<p>Assessment report is therefore not required. A review of recent case law is consistent with this finding, such as the 2020 High Court ruling in Sweetman -V-An Bord Pleanála and others [2019 No. 33 J.R.] where it was concluded that solar farm infrastructure is not an EIA Project type identified in Schedule 5 of the Planning and Development Regulations 2001, as amended and as such, does not require EIA. Solar farms are not of a project type that triggers an EIA and therefore the terms of project splitting are irrelevant and cannot be applied.</p> <p>All relevant cumulative or in combination assessments have been provided in the planning application documents, which include for the Response to Further Information and the submitted Natura Impact Assessment. The cumulative impact of the proposed development has been comprehensively assessed with respect to the nearby Trascan Solar Farm and future proposed construction of a new offsite substation, both of which are located approximately 2km east of the proposed development site. A cumulative impact assessment has been carried out and submitted as part of the original application and response to Further Information Request, with respect to Biodiversity, Soils and Geology, Water, Flooding, Traffic, Air Quality, Noise, Archaeology, Glint and Glare and Landscape and Visual Impacts. No significant impacts are anticipated to arise. In addition, in combination effects have been considered under the Natura Impact Assessment, as submitted as part of this response to Further Information.</p>	
Naming of the Proposed Development	<p>There is a deliberate attempt by the applicant to disassociate this development with the townland within which it is actually located. This development lies within the townland of Trascon, however extensively referred to a 'Bishopswood Solar Farm' owing to its relationship with the previous planning application (OCC Ref 21/123). There is approximately 2 km between the first and second planning application. None of this proposed development is located within Bishopswood. This incorrect detail undermines confidence in the entire planning application</p>	<p>The name of the proposed development as the proposed "Bishopswood Solar Farm" was selected to prevent confusion with the nearby planning application, the "Trascan Solar Farm." The applicant is happy for a condition to be applied to agree an appropriate name with Offaly County Council. It should be noted that the location of the proposed development has been correctly applied in line with statutory requirements.</p> <p>This section of the appeal also raises concerns with respect to the validity of the Flood Risk Assessment submitted with the application., which stated that the development is in Bishopswood. In response, there are no issues or concerns with respect to the validity of the Flood Risk Assessment</p>	Section 8.1.12.4 Naming of the Proposed Development

		carried out where on page 1 of the same report, Figure 1-1 clearly illustrates the location, redline boundary and site layout of the proposed development (please refer to Appendix K of the submitted PECR). Furthermore, no concerns were raised by Offaly County Council in this regard.	
Set Back Distances	There are no set back distances proposed for the four houses (3 existing and 1 currently being built) which would be surrounded by this proposed development. Guidelines are currently being prepared regarding solar farms/solar panels. As with wind farms set back distances are being proposed. This needs to be taken into consideration.	In response to concerns raised by Offaly County Council regarding set back distances (RFI3), a new site layout was generated and submitted to the Council under the Response to Further Information. It is noted that this new layout was subsequently approved by the Council. The revised layout provided an additional setback from residential dwellings along the L-1006-1 Local Primary and L-10062-1 Local Tertiary Roads. The additional set backs are set out in the Landscape Mitigation Plan drawing LD.BSHPWD_RFI 1.1 (please refer to Appendix 3 of the submitted Response to Further Information). Overall, the modifications to the proposed development which involve additional setbacks from residential dwellings, and the removal of a notable area of panels will further reduce the visual impact of the proposed development from residential receptors located on the L-1006-1 Local Primary and L-10062-1 Local Tertiary Roads. These modifications were considered acceptable to OCC	Section 8.1.6.1 Set Back Distances
Other Issues Raised	The appellant raises issue with the time taken by OCC to prepare the electronic file for public viewing online. The appellant considers its submission is prejudiced as a result of this as it was left with an unreasonably short time period to prepare same.	No specific response.	Section 8.1.12.5 Availability and Timing of Information
	The appellant provides a chronological summary of key dates in this respect and cites the PDR which states files are to be available view online within 5 working days of receiving the planning application. The appellant notes that other similar sized solar farm applications did not have such delays.	No specific response.	
	As a result, the appellant made a request to OCC to utilise the provisions under Article 191 (4) of the PDR which includes convening meetings, oral submissions in respect of issues in the application.	No specific response.	

8.0 Assessment

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

- Principle of the Development
- Scale of the Development
- Compliance with the OCDP
- Landscape and Visual
- Biodiversity
- Residential Amenity
- Glint and Glare
- Flood Risk
- Soil and Water
- Traffic & Transport
- Built Heritage
- Procedural Matters

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

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

In considering the matters above, the cumulative impacts and in-combination effects of both the related solar farm phase (Ref: ABP-310367-21) and associated grid infrastructure (Ref: ABP-315128-22) has been factored into the assessment for the subject application under appeal. The PECR and NIS submitted by the applicant reflects the overall development also. It is noted that the applicant has assumed, in certain sections of the PECR, that there would be no overlap of construction between solar farm phases. However, given the legal and planning status of the related solar farm phase (Ref: ABP-310367-21) it may well be that their construction phases overlap now. The assessment has considered any cumulation of impacts in this regard.

8.1. Grounds of Appeal

8.1.1. Principle of the Development

The site is located outside zoned lands as such. Such lands have no zoning objective and are not considered in any zoning matrix. In the absence of any specific zoning objective for the site, the proposed development will be considered on a case-by-case basis having regard to the proper planning and sustainable development of the area and compliance with the relevant policies and objectives, standards and requirements as set out in this OCDP, guidelines issued in accordance with Section 28 of the PDA and guidance issued by other government bodies. In considering the acceptability of the proposed development, it is also necessary to assess the development in the context of national, regional and local planning policy.

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

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

- In the *Project Ireland 2040: National Planning Framework*, the transition to a low carbon and climate resilient society is a key strategic outcome and specifically it is National Policy Objective 55 “*to promote renewable energy use and generation at appropriate locations.....*”.
- In the *Regional Spatial Economic Strategy for the Eastern and Midland Region*, there are several policies supporting such developments including RPO 4.79/4.84 which supports the diversification of agriculture to emerging technologies and RPO10.20 which seeks to support and facilitate enhanced electricity supplies, and associated networks.

Both national and regional level policy, along with local policy in the OCDP (CAEP-25, REDP-09) as set out in Section 6.0 of this report are clear in their support for

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

The applicant raises a precedent case in Co. Wexford (ABP-247217-17) in which the Board refused planning permission on the basis of a lack of specific guidance for solar farms and a number of other matters. The appellant is right to bring this to the attention of the Board. But as the Board will be aware, events since have superseded this decision (which was annulled on foot of a court order) and subsequently granted planning permission under ABP-301321-18. The Board will note that there are several court cases recently which have provided the basis for considering a proposed development in the absence of national, regional, or local level guidance.

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

8.1.2. Scale of the Development

The appellant points to the fact that, cumulatively, 103 ha of land in the townlands in question will be covered by solar panels. This equated to approximately 35% of land in the townlands. It is said to be an over intensification of a single type of development. The applicant state that solar farms of this scale are now common throughout Ireland and provide numerous precedent examples.

While the proposed development will result in an intensification of a single type of development, this is not necessarily negative. I am of the view that the proposed development, in this instance and at this location, does not markedly affect the prevailing landscape pattern or rural character of the area. No specific evidence has been provided to indicate that there will be a negative impact as a result of the intensification, nor has any qualified evidence been supplied to indicate that this is the case elsewhere. In addition, there is already energy infrastructure within the general area. Thus, while it is acknowledged that the proposed development is a change, it is not wholly at odds with the surrounding landscape and uses and will be largely contained within existing landscape pattern.

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

8.1.3. Compliance with the Offaly County Development Plan

It is the appellant's view that the proposed development does not comply with the following policies and standards of the OCDP as set out above in Section 6.2:

- CAEP-34,
- CAEP-35, and
- DMS-110.

In the context of these policies, the appeal is particularly concerned with the

- Use of Productive Agricultural Land (See Section 8.1.3.2);
- Visual Impact on Lea Castle and adjacent features (See Section 8.1.4.2); and
- Ecological Management (See Section 8.1.5.4).

The applicant is of the view that it has provided a response to this ground of appeal twice now, through the Response to Further Information and its response to this appeal and is explicit that the proposed development is fully compliant with said provisions.

As set out above in Section 8.1.1 the Principle of Development is considered acceptable and generally consistent with the overarching strategic aim for climate action and energy in Co. Offaly as set out in the OCDP. The proposed development will assist in the achievement of a transition to an economically competitive, low carbon climate resilient and environmentally sustainable county through reducing the use of non-renewable resources.

8.1.3.1. CAEP-34 (Subject to Normal Planning Considerations)

The specific matters of environmental safeguards (several sections) and the protection of natural (Section 8.1.5, Section 8.3) or built heritage (Section 8.1.4.2, Section 8.1.11) features, biodiversity (Section 8.1.5, Section 8.3), views and prospects (Section 8.1.4) is considered throughout several sections below. It is

considered unlikely, that significant impacts would arise in respect of these topics and the proposed development is in compliance with CAEP-34 in particular.

8.1.3.2. CAEP-35 (Use of Productive Agricultural Land)

The OCDP sees the potential for 'large solar farms' and farming practices, such as grazing, to co-exist and occur concurrently. The applicant has confirmed that this will be the case on the appeal site. While the current (or familiar) farming practice may cease, there is a strong policy support (REDP-11 and REDP-17). for the diversification of farming practices into renewable energy – it is considered that a solar farm can provide this diversification along with sheep farming and a range of biodiversity measures. This support for diversification is obviously subject to other planning and environmental considerations.

CAEP-35 provides policy direction in respect of site selection and use of greenfield lands. In terms of site selection, the applicant has explained in several documents its approach and how it aligns with the selection criteria set out in the OCDP. The lands are lowing lying with a southerly aspect and generally free from significant obstacles that may create shade. It is also adjacent to the 110 kV transmission network. Biodiversity improvements are proposed along with the solar farm and details in respect of decommissioning are also provided and considered adequate.

The only clause of CAEP-35 which it does not align with is the preference to avoid productive agricultural lands. This is set out as a 'preference' in the OCDP, which does not explicitly prohibit the use of such lands. The applicant is of the view the lands can be agriculturally productive and at the same time a operational solar farm due to the ability to graze around and under the panels. The applicant points to the fact that the proposed development accounts for 0.03% (0.07% cumulatively with the related solar farm) of agricultural lands in Co. Offaly, which is minimal in a regional context. It is also noted that the solar farm is in effect temporary and the lands could revert to beef, dairy or tillage use in future if desired.

The displacement of the current agricultural practices on lands that make up the site is accepted – the production of beef, dairy or tillage will cease as it currently cannot be farmed concurrently with the solar farm. However, other livestock such as sheep can be farmed alongside the solar farm. The landowners are entitled to diversify their incomes and work the land in the most resourceful way possible subject to relevant

consents and licences. A farm income is not always assured given the market for products such as milk and beef. The displacement of food production, namely beef and milk and indeed tillage were it viable, will be negligible in the national context.

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

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

It is considered unlikely, that significant impacts would arise in respect of agricultural uses and the proposed development is in compliance with CAEP-35 in particular.

8.1.3.3. DMS-110 (Development Management Standards)

In respect of the relevant development management standard (DMS-110), the Board should be satisfied that the following factors set out in table below are assessed.

Table 6: Development Management Standards for Solar Farms	
Provisions	Relevant Assessment Section
<i>Preferences to Productive Agricultural Land</i>	See Section 8.1.3.2
<i>Proximity to Electricity Infrastructure</i>	110 kV Overhead Line adjacent, tie in subject of separate SID application
<i>Impact of Glint and Glare</i>	See Section 8.1.7
<i>Impact of, Security Measures (Lights and Fencing)</i>	Several sections as relevant
<i>Impacts on Landscape and Visual</i>	See Section 8.1.4
<i>Impact on the Ecological Characteristics</i>	See Section 8.1.5, Section 8.3
<i>Adequate drainage and flooding mitigation</i>	See Section 8.1.8 and 8.1.9
<i>Impact existing roads infrastructure</i>	See Section 8.1.10
<i>Impact on Telecommunications</i>	No impact (interference) expected
<i>Cumulative Impact</i>	Several sections as relevant

I am satisfied that the proposed development is in compliance with development management standards (DMS-110) for solar farms.

8.1.4. Landscape and Visual

8.1.4.1. Residential Amenity

It is accepted the proposed development will be a novel intervention in the landscape and there are potential impacts in respect of residential amenity predominantly related to landscape or visual impact. However, in the context of residential amenity, it is considered that the proposed development will be reasonably screened with existing treelines and hedgerows as well as supplemental planting – such planting will provide screening and privacy to the residential dwellings which may not have been available previously.

8.1.4.2. Lea Castle and adjacent features

The appellant raises concern regarding the potential landscape and visual impact on Lea Castle which is recorded as a national monument and protected structure. They are of the view that its setting would be materially altered as a result of the proposed development. It is noted that there are other built heritage features adjacent to the castle also. A general criticism of the solar farms is they in effect ‘industrialise’ high quality agricultural land. In addition, owing to their nature and scale, they significantly impact the character of the area and indeed wider views to and from any area.

The applicant has considered the impact on Lea Castle in several reports including the LVIA (including Photomontages with reference to Viewpoint 7) and AACHR. The applicant is of the view that the overall significance of the impact as a result of the proposed development will be ‘slight’ and all significant impacts can be mitigated successfully with existing and proposed hedgerows. On the basis of the Zone of Theoretical Visibility (ZTV) there may be full, partial and intermittent views of the proposed development at Lea Castle and adjacent features.

The area of Lea Castle is considered ‘Low Sensitivity’ in the LCDP Landscape Character Assessment. In such areas there is the capacity to generally accommodate a wide range of uses without significant adverse effects on the appearance or character of the area. The landscape designation is similar in the OCDP. In addition, there are no listed views or prospects in the vicinity. There is no other designation save for the RMP and RPS.

While the proposed development will be a significant intervention in the landscape and there will be an impact from the proposed development from Lea Castle, the solar farm will not become a prominent feature on the skyline and will be visually

contained between existing field boundaries. The impacts will not be significant owing to the existing screening, and in addition, the applicant is proposing additional planting of hedgerows to further screen these views.

The landscape at the location of the castle has the capacity to absorb the proposed development in the context of the wider rural area which is already intensively used for agriculture. While the appellants are right to be concerned about the landscape and visual impact on Lea Castle, the impact is not considered significant and solar farms are likely to become increasingly read as part of the rural fabric and diverse agricultural sector, which is well supported by policy. It is also noted that the solar farm is in effect temporary and the lands could revert to current farming practices in future, if desired. Overall, it is considered the visibility of the proposed development is unlikely to draw attention to itself and even if noticed, is unlikely to detract from the visual character of the setting at Lea Castle and adjacent built heritage features.

It is noted the appellant also makes reference to a related walkways along the River Barrow. While it is not clear whether this is a formal walkway or otherwise it is noted there is provisions in the OCDP and LCDP for the provision of a blue-way along the River Barrow. Regardless it is considered the assessment above applies also and there would be no significant impacts in terms of landscape and visual to same.

While there may be potential for the River Barrow to expand its tourism potential and offering at this location near Lea Castle, it is not considered the solar farm would inhibit its development given its location and relationship to the built heritage site and surrounding landscape.

On this basis and having visited the site and its surrounding area, the conclusion of the LVIA is considered reasonable which is qualified with both computer-generated ZTV mapping and an assessment of viewshed reference points with photomontages from certain locations as well as the AACHR. It concluded that the proposed development will not give rise to any significant landscape and visual impacts in particular on the character and visual setting of Lea Castle, adjacent built heritage features and any existing or potential walkway along the River Barrow. The cable and associated infrastructure in the public roadway is underground and will not give rise to any significant impact either. In this instance, it is considered that the proposed development is consistent with the relevant landscape, visual and built heritage objectives of the OCDP.

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

8.1.5. Biodiversity

This section concerns general biodiversity and in particular the potential for impacts on habitats and species which are not qualifying interests of European sites. Matters relating to European Sites will be considered below in Section 8.3. Similarly, issues related to soil and water will be addressed in the subsequent Section 8.1.9 to avoid repetition and duplication. However, it is acknowledged that these topics interact.

8.1.5.1. Designated Sites

The site itself does not have any specific natural heritage designations although the River Barrow, which is an SAC (Site Code: 002162), is directly adjacent. The area may be used by mammals, birds and other species. There is no Natural Heritage Area of relevance in this instance due to lack of any source-pathway-receptor.

8.1.5.2. Flora and Fauna

The use of the site by any species is limited in any case given the existing use for agriculture. As a result of the agricultural use the majority of the site is improved agricultural grassland or public roadway. Overall, the site is not considered to be environmentally sensitive and has capacity to absorb the proposed development subject to standard and best practice construction and operation measures.

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

Temporary construction phase impacts including noise, dust and traffic impacts may also arise and disturb hedgerows and trees. In terms of biodiversity, the proposed development will result in some disruption of existing habitats on site and disturbance/displacement of species using the site. This includes species such as

otters, bats and badgers. There is also potential to impact the streams crossing the site, although there are no instream works proposed.

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

There were no rare or notable plant species recorded on the site during survey. It is noted by the applicant that invasive species were not identified on site. I note that a stand of Japanese Knotweed was recorded in the Trasca Solar Farm Phase. Given that there is likely to be some interaction and crossover of either construction or operation activities, the agreement of an Invasive Species Management Plan should be agreed with the planning authority by way of condition.

From the survey work undertaken it was identified that certain trees were recorded as having moderate bat roost potential but that the hedgerows and treelines offer suitable foraging and commuting habitat for bats. In total in the region of 237 m³. of hedgerow are to be removed. Any tree pruning or lopping shall be undertaken in accordance with best practice in terms of being brought to the ground in a supported fashion and left in-situ for 24 hours. For the remaining hedgerows buffer zones are proposed to be maintained. In addition, existing hedgerow and treelines are to be augmented and to the preponderance of comparable habitat in the vicinity, the development will not result in an adverse impact on bats.

³ Clarified in submission received by OCC on the 6th of July 2023 under Response to Further Information Item 9

While conscious that some sections of hedgerow will be removed, primarily to provide access, it is not considered to be significant and on the basis of the mitigation measures the proposed development will not have an adverse impact on badgers, bats and otter.

The construction of the clear span bridge has the potential for significant impacts. But it is cross a minor drainage ditch in this instance and does not, in any case, involve instream construction works and there will be no direct impacts to the watercourses subject to standard and best practice construction measures. The potential for indirect impacts from runoff of pollutants and sediment is comprehensively mitigated.

On balance I consider that adequate detail has been provided on the biodiversity of the site and it has been prepared in accordance with the methodology as set out in relevant guidelines. I am satisfied that it is of sufficient scope and detail to assess the overall ecological impact of the proposal. Given the location of the site in an area characterised by largely by improved agricultural lands and public roadway and the detailed mitigation measures to be incorporated including a Biodiversity Management Plan. I consider that the impacts on the ecology of the site and the wider area would be acceptable.

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

8.1.5.3. Ecological Peer Review

It is noted that the appeal is accompanied by a peer review of the ecological information pertaining the related solar farm (ABP-310367-21) wherein it concludes that there are deficiencies and shortcomings in the desktop and field studies and the assessments undertaken. This was refuted in the context of that separate appeal on the related solar farm (ABP-310367-21). While the third party assessment is noted, I would caution the Board that it primarily relates to that related solar farm (ABP-310367-21). I therefore consider the report extraneous to the appeal at hand. I have reviewed it and the wider macro concerns raised within it have been factored into this assessment.

8.1.5.4. Ecological Management Plan

The appellant seeks a bespoke ecological management plan for the subject site rather than a 'cut and paste' from the previous application. It is considered that no attempt was made to factor in the additional lands into the management plan. developments on the ecology.

The applicant points to the fact that an updated Biodiversity and Hedgerow Management Plan was submitted to OCC under the Response to Request for Further Information. The report sets out biodiversity enhancement within the proposed development and is contained in Appendix 2 of the submitted Response to Further Information. The Biodiversity Management Plan has been designed specifically for the proposed Bishopswood Solar Farm and Section 4 of the plan details proposed enhancement measures. Once implemented, will ensure the protection of the existing biodiversity within the proposed site boundary. The enhancement measures will also increase the local biodiversity of the site.

It is noted that the certain content and language in documents for Bishopstown Solar Farm and Treason Solar Farm are similar and share common measures for ecological management. There may well be an element of 'cut and paste' as the appellant put it. But in truth, I would be more concerned if the two ecological management plans did not share similarities and were completely divergent from one and other. Given the geographic proximity of the other solar farms phase and the shared constraints and environmental receptors such as the River Barrow, it is entirely reasonable that they would be similar.

The Ecological Management Plans submitted by the applicant are sufficiently detailed in respect of the site and considered acceptable.

8.1.6. Residential Amenity

There are several properties which adjoin or are adjacent to the proposed development. The appellant is of the view that there is insufficient guidance in respect of set-back distances and the proposed development will impact on the amenity of their landholding. The applicant has pointed out in its PECR that there has been extensive mitigation through the design of the proposed development and set back distances proposed are sufficient to ensure no impact arises to residential amenity.

8.1.6.1. Set Back Distances

It is accepted that there is no guidance in respect of setback distances but in the absence of same direction can be derived from the prevailing development plan for the area which provides sufficient basis for an assessment. In this instance there is sufficient potential to mitigate landscape and visual impacts through appropriate siting, design and screening with hedges in spite of the fact the closest solar panel to a residential dwelling is located at a distance of approximately 30 m. It is also noted that the inverter stations, which are noise generating, will be located at a 100m distance from the nearest residential dwelling. This is considered reasonable given the solar farm and generally do not give rise to significant pollution during the operation phase. The cable and associated infrastructure in the public roadway is underground and will not give rise to any significant impact either – any construction phase impacts at dwellings along the roadway noted but will be temporary.

8.1.6.2. Human Health

There is no significant risk to human health. During the construction and operation phases risk to human health arising from pollution and nuisances listed above would be controlled as part of the standard and best practice construction and operation measures. In respect of Electro-Magnetic Fields (EMF), the applicant has designed, the proposed development in accordance with recommendations made by national and international agencies including the International Commission for Non-Ionizing Radiation Protection (ICNIRP).

8.1.6.3. Construction Activity

During the construction phase there will be routine construction related pollution and nuisance generated including noise (pile driving), light, dust and traffic related impacts with the potential to cause nuisance and impact on the amenities of adjoining dwellings. These impacts will be temporary and short-term and would be controlled as part of the standard and best practice construction measures as well as specific mitigation measures set out in the PECR.

8.1.6.4. Operational Activity

During the operational phase there will be some pollution and nuisance associated with the maintenance of the solar farm owing mainly to noise (inverter stations), light, traffic. It is noted that the inverter stations are located among the panels and the closest residential dwelling will be 100 m away. The operational phase may see

small numbers of people using the site as well as remote operation of CCTV and lighting for security purposes. These impacts will be controlled as part of the standard and best practice operation measures. In addition, a condition limiting noise output is recommended to ensure compliance with established standards for rural areas.

8.1.7. Glint and Glare

An updated Glint and Glare Assessment is set out in Appendix 10 of the Response to Further Information which concluded that there will not be any significant nuisance effects from glint and glare at dwellings within the study area, nor is there likely to be any hazardous glint and glare effects upon either road or aviation receptors resulting from the proposed development. However, it is noted that there is currently no regulation or guidance as to acceptable levels of glint and glare effects at receptors in Ireland. While this issue has not specifically been raised by the appellant, I have considered the related documents submitted by the applicant and the methodology they applied and consider it a reasonable approach.

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

8.1.8. Flood Risk

A Flood Risk Assessment (FRA), which is prepared by Tobin, is set out in Section 7.0 of the PECR and in more detail in an accompanying report the planning application. It is noted that it was not updated through the response to further information. This is considered reasonable as the site characteristics does not change as a result of the clarification and change in the response to further information.

The FRA, submitted by the applicant, concluded that the risk of flooding to the proposed development is minimal, and that the development will not increase the risk of flooding elsewhere. The assessment focused particularly on the River Barrow which is liable to fluvial flooding and pluvial flooding as there are several small areas within the site.

Notwithstanding the assessment, the flood risk to the actual development has been largely mitigated by avoidance with the solar panels enjoying a reasonable set back from the banks of the River Barrow. Additionally, the applicant is satisfied that the solar panels are flood resilient given they are mounted and raised above the ground.

As such the applicant consider them 'water compatible'. The inverters, which are highly vulnerable to flooding, are not located in proximity to the watercourses and in any event the ground levels are sufficiently above the predicted flood extents. The access tracks and underground cable infrastructure may find themselves in flooded in an extreme flooding event, but it is agreed that these are not highly vulnerable infrastructure and can be managed in such an event. Any pluvial flooding or ponding can be managed through SuDS principles.

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

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

8.1.9. Soil and Water

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

There are potential impacts through disturbance of the site and an increased risk of pollution events to soil and water. It is noted that the River Barrow is in close proximity to the site. The construction phase of the site will involve management of discharges and emissions to ensure they do not cause pollution or deterioration in the status of surface water or groundwater bodies. These impacts will be temporary and short-term and would be controlled as part of best practice construction measures outlined in the CEMP, the comprehensive monitoring arrangements which are undertaken by the applicant which will be in agreement with OCC. There is no likelihood of impacts to geological heritage sites.

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

8.1.10. Traffic & Transport

The proposed development does not generate significant traffic volumes and access during the operational phase will be negligible. Any construction measures required

are addressed in an updated CEMP in Appendix 11 of the Response to Further Information, which includes the framework for construction stage traffic management. It is considered that the cumulative impacts arising from solar farm phases and grid infrastructure can be reasonably mitigated through good practice. Regardless, these impacts will be temporary and short-term and would be controlled as part of standard and best practice construction measures included in the CEMP. The CEMP should be finalised prior to the commencement of the proposed development. A condition ensuring same is attached.

The proposed access location will be located onto the local road network. Having reviewed the relevant drawings, it is considered the access arrangement designs can achieve the sight line visibility requirements as set out in DMS-97 (Safe Sight Distances required for access onto National, Regional and Local Roads) of the OCDP. To achieve this a small amount hedgerow removal is required. There is very limited operational access required for maintenance only. A condition is attached to agree the final access details, prior to commencement of development. The access and sight lines are considered acceptable.

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

8.1.11. Built Heritage

In terms of built heritage and archaeology, there are no specific designations in respect of the subject site. While there are no Recorded Monuments on the site, it is noted that there is a feature identified on mapping that require consideration. This is intensively worked agricultural land and it is unlikely that the proposed development would directly impact any feature of archaeological significance. The submission of DHLGH recommended further field surveys given the assessment is largely desk based. However, the consideration given to archaeology in the application particulars is considered appropriate. This is due to the nature and characteristics of the proposed development and the fact there is limited foundation works required. This being said, it is considered that a condition related to archaeological monitoring is attached to any grant of permission.

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

8.1.12. Procedural Matters

8.1.12.1. Compliance with Domestic and European Legislation

The appeal criticises the planning application for not adequately addressing environmental concerns, particularly regarding compliance with domestic and European legislation.

While this criticism is levelled at the applicant, I am satisfied from the Board's perspective it has adequate information before it in order to comply with the relevant legislative provisions and discharge its statutory function as competent authority.

The submitted PECR and the NIS as amended by the Response to Further Information are complete and robust and include adequate information. This is particularly the case in respect of EU Directive 2011/92/EU, as amended by Directive 2014/52/EU (EIA Directive) and the EU Birds Directive (79/409/EEC) and EU Habitats Directive (92/43/EEC), as transposed into Irish law.

The documentation prepared by Tobin Consulting Engineers is in line with current best practice guidance and allows for a complete examination and identification of any potential significant effects of the development, alone, or in cumulation with other plans and projects. I am satisfied that authors of each report or chapter therein have suitable professional competencies, qualifications and experience to prepare such documentation in their respective fields.

The appellant appended a report commissioned by the appellant and prepared by Dr. Patrick Moran (ecologist) in respect of the related solar farm (ABP-310367-21) and found information was insufficient. The appellant emphasises the necessity of conducting proper ecological impact assessments for the proposed development. This is noted and the appellant in exercise their right of appeal has now ensured a *de novo* ecological impact assessments will occur by the Board. The details of same are set out throughout this Inspector's Report.

8.1.12.2. Land Ownership

The appeal raises issues of landownerships and the requisite consent required under the PDR. The applicant has included several letters of consent in respect of the solar farm site; however, the appellant notes no letters of consent are provided in respect of the grid connection site along the public road.

While this concern is noted, it does not hinder the assessment of the proposed development as it is presented. While all land title, burden and conveyancing issues may need to be resolved. The applicant will be aware that a person shall not be entitled solely by reason of a permission under the PDA to carry out any development and may need to resolve any other legal issues arising with the land and attain any other such agreements, licences or consents required. The applicant, in its response to the appeal, appears to be acutely aware of this

8.1.12.3. 'Project Splitting'

The proposed development is part of a wider project in the area including a related solar farm and grid connection which will connect the proposed development to the existing Portlaoise to Newbridge 110kV Overhead Line (ABP-304101-19). A planning application for same is required to be made directly to the Board. At the time of writing this report the application has not been made to the Board.

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

The planning application, including the PECR and NIS, have been explicit and circumspect to present and assess the overall project. The cumulative impacts and in-combination effects of both the related solar farm (ABP-310367-21) and grid connection (ABP-315128-22) has been factored into the assessment for the subject application under appeal.

The appellant may be of the view the O'Grianna judgement in respect of the assessment of the grid connection is relevant. However, issues in this respect arise where there is a requirement for EIA. It is therefore a matter for the applicant to present and apply for planning permission as they see fit. It is considered that, again, the applicant has been explicit and circumspect to assess the overall project including grid connection in their PECR and NIS and the assessment in this report does likewise.

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

8.1.12.4. Naming of the Proposed Development

The appellant is of the view that there is a deliberate attempt by the applicant to mislead by dissociating the proposed development from the related solar farm phase (ABP-310367-21) by naming it 'Bishopswood Solar Farm'. The proposed development does not occur in the townland of Bishopswood. For clarity, the following table sets out the projects and related townlands.

Table 7: Names of Related Projects		
Name	Plan. Ref.	Townlands
Bishopstown Solar Farm (current appeal)	ABP-318436-23 OCC Ref: 12/390	Trascan, Clondoolusk
Trascan Solar Farm	ABP-310367-21 OCC Ref: 21/123	Trascan, Clondoolusk

It is noted that the application site is bounded by the townland of Bishopswood but does not strictly occur within it. The applicant has said it used Bishopswood so as not to give rise to the confusion with the other application, which is still subject to legal proceedings.

While the appellant believes this has had to contrary effect, I am satisfied that the applicant's intentions were well meaning and it was not intended to mislead. The name of the project is not entirely withdrawn from the townland and, ultimately, its name is irrelevant to the substance of the planning application which is robust and complete. The public notices would have indicated the relevant townlands for the public's benefit and it is noted that the application attracted a reasonable number of submissions to it.

I do not agree with the appellant that the naming of the proposed development undermines confidence in the entire application.

8.1.12.5. Availability and Timing of Information

The appellant raises concern regarding the availability of documentation and information during the assessment of the application by the planning authority and its compliance with the relevant provisions of the PDR. While these are noted, the issue of whether they are relevant is largely immaterial to the Board and is a procedural matter between the appellant and OCC.

OCC's statutory powers in respect of the planning application has ceased. Those who made observations, including the appellant, would have had the opportunity to

exercise their right of third party appeal and would have enjoyed an appropriate period of four weeks to expand upon their submission in an appeal. It is noted the submission of the appellant is largely the same as that submitted to OCC in the first instance and has not been expanded on in any detail despite the additional four week period available to it.

8.1.12.6. Operational Period

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

Notwithstanding the validity of this submission, consideration must be had to the wider project and the operation period given planning permission at the related solar farm phase (Ref: ABP-310367-21). In this instance, a thirty-five year operational period was permitted to enable the planning authority to review the operation of the solar farm, having regard to the circumstances then prevailing. To ensure appropriate coordination and orderly development of the wider project, which will share a grid connection, an operational period of thirty-five years would seem applicable in this instance. This would bring both phases into temporal alignment.

An operational period of thirty-five years is considered appropriate and it is recommended the Board attached a condition for same.

8.2. Likely Effects on the Environment

8.2.1. EIA Screening

In the PECR Section 3.4, the proposed development was screened for EIA, where it was concluded that the proposed development is not of a type included in Schedule 5 of the PDR and an EIA is not required.

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

- Assessment of project type/class of development under Schedule 5 of the PDR, relevant to the proposed development.
- Assessment of relevant thresholds under Part 2 of Schedule 5 of the PDR.

- Assessment of proposed development including its likely effects on the environment as set out above in Section 8.1.

8.2.2. Project Types / Class of Development

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

This judgement concerns itself largely with the following provisions:

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

The PECR is dated August 2022 and since then, S.I. 383 of 2023 *Planning and Development (Amendment) (No. 2) Regulations 2023* has been introduced which, amends Part 2 of Schedule 5 of the PDR, by inserting 'Projects for the restructuring of rural landholdings'. This now requires consideration.

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

It is not considered that this class of development is applicable. While the proposed development of a solar farm does generate electricity, there is no concomitant generation of heat and steam.

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

It is not considered that this class of development is applicable. The proposed development is not on zoned lands, as such, in the OCDP. It is located on agricultural lands and outside of the designated settlements. The site is not located in an urban environment.

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

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

8.2.2.4. Projects for the Restructuring of Rural Landholdings

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

8.2.3. Project Thresholds

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

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

The proposed development will include the removal of 237 m of field boundary⁴. While it is intended to replace any hedgerows removed following construction works, it is, regardless, well below the 4 km threshold. Such removal is associated with access and cable laying requirements and does not result in the amalgamation or enlargement of existing fields. It is also considered that significant effects on biodiversity are not likely as a result of such works.

There is no 'recontouring' included as part of the proposed development. While there may be localised earthworks or drainage works, it is not considered that this would

⁴ Clarified in submission received by OCC on the 6th of July 2023 under Response to Further Information Item 9

amount to 'recontouring'. In practice the ground levels across this this area do not vary significantly and no significant excavation will be required. Overall, the topography of the lands will not be impacted as the panels can be installed to existing topography, without excavation or alteration of levels. Access tracks, clear span bridges, inverter and transformer stations will require some localised levelling and foundation works, however, such works are not significant in nature and would not constitute 'recontouring' of the lands.

In respect of the last clause, it is not considered that the proposed development is a project for the restructuring of rural land holdings, undertaken as part of a wider proposed development, where the area of lands to be restructured by removal of field boundaries is above 50 hectares. The overall site is 40 ha in total, there is no restructuring occurring – any removal does not result in the amalgamation or enlargement of existing fields.

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

The appellant raises the issue that the solar farm is larger than that identified and the applicant are effectively splitting several projects that make up the wider project, including the related solar farm (ABP-310367-21) and grid connection (ABP-315128-22). The appellants a right to query this given there is a functional interdependence between projects. However, when entire project is considered wholly it is not considered that any specific threshold for any class of development is exceeded.

The appellant also considers that the structure of the planning permissions for the wider project is obscuring the wider impacts. However, the planning application, including the PECR and NIS, have been explicit and circumspect to present and assess the overall project. The cumulative impacts and in-combination effects of both the related solar farm (ABP-310367-21) and grid connection (ABP-315128-22) has been factored into the assessment for the subject application under appeal. On the basis that EIA is not required for the project as a whole, it is at the discretion of the applicant in seeking the execute a planning strategy to present these to the planning system as required – while not always desirable, it is often inevitable for companies undertaking large projects.

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

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

The applicant has included a significant volume of information, in its PECR and NIS as amended by the Response to Further Information, in relation to the proposed development and the likely significant effects on the environment. This is coupled with the assessment carried out in Section 8.1 above and 8.3 below in this report as well as the various technical experts who made submissions to the OCC planning file and who have considered the impacts of the proposed development acceptable subject to a range of conditions.

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

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

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

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

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

Having regard to the nature and scale of the proposed development, it is expected that the impacts will be on-going, long term and will generally only be reversible if the constructed elements of the scheme are removed. Such removal or at least reassessment of the solar farm's continuance will be part of the terms of permission. The construction phase impacts, will be of relative short duration and limited frequency.

On this basis and when considering:

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

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

8.3. Likely Significant Effects upon a European Site

The applicant has submitted an updated NIS which is dated June 2023 as part of the Response to Further Information. The update to the initial NIS dated August 2022 was required in order to respond adequately to the submission of the Department of Culture Heritage and the Gaeltacht.

The documentation is in line with current best practice guidance and allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites. The documentation was prepared by Tobin Consulting Engineers and the qualifications and experience of the main author of the report is suitable and relevant.

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

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

The application documentation includes information required in respect of the methodology applied, a description of the existing sites and 'Stage 1' and 'Stage 2' assessments. The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB are considered fully in this section. The areas addressed in this assessment includes the following:

- Screening for AA,
- NIS,
- AA of implications of the proposed development on the integrity each European site.

This assessment has had regard to relevant guidance including:

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

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

- The proposed development will not be located within a European site; however, the River Barrow and River Nore SAC (Site Code: 002162) is immediately adjacent to the site at the southern boundary. The proposed development will be set back 13 m from the river.
- Some key features transecting the site include a number of unnamed drainage ditches along field boundaries. There was an absence of any visible flow in these ditches during the site visit. These eventually flow into the River Barrow. A 5m ecological buffer is proposed to field boundaries.

- Much of the site to the south is within the flood plain of the adjoining River Barrow. There is a 'High Probability' of a river flood events in the present day. There are medium and low probability scenarios also.
- At water quality stations for the River Barrow at this location, the river has a Q-Value of 'poor' to 'moderate' depending on the station.
- No Annex I habitats, Annex I or II bird species or protected flora were identified during field surveys. A targeted otter survey along the river Barrow found no evidence of the species including holds.

8.3.1. Screening for Appropriate Assessment

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

The proposed development is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on any European sites.

The AA Screening Report considers European sites within a 15 km range with consideration of those outside this range also depending on the potential for a source-pathway-receptor. This Zone of Influence was established based on the extent at which potential impacts may be carried via identified pathways (i.e., hydrological connection, ornithological behaviours). Having regard to the nature of the proposed development, the nature of the receiving environment and the source-pathway-receptor model. It is considered that this is a reasonable Zone of Influence in this instance.

Several of these sites are screened out by the applicant from the outset given there are no or very limited potential impact pathways or ecological connectivity to the proposed development. consider this approach to screening acceptable. Where there is no potential for meaningful biological or relevant hydrological connectivity to these sites it is considered that the potential for impacts to arise from the construction, operation and decommissioning phase of the proposed development is unlikely.

There are only two sites which are within 15 km of the proposed development or have an potential impact pathway, this includes: River Barrow and River Nore SAC

(Site Code: 002162) which is adjacent and Mountmellick SAC (Side Code: 002141) which is 8.1km west. In the case of Mountmellick SAC, I am satisfied there is no source pathway receptor link and therefore no potential for likely significant effects.

It is noted that the S+

Slieve Bloom SPA (Site Code: 004160) is located approximately 20 km to the south-west. The site is outside the foraging range of the qualifying interest Hen Harrier. Neither the species nor habitat associated with the species were identified during the surveys conducted on the site. On the basis of the foregoing the potential for significant impacts on the species can be screened out.

Having regard to:

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

There is potential for indirect effects on the River Barrow and River Nore SAC (Site Code: 002162) and its qualifying interests during the construction, operation and decommissioning phase as the proposed development as it is located upstream of it.

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

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

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

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

8.3.2. Appropriate Assessment ('Stage 2')

8.3.2.1. Potential Adverse Effects

The proposed development is not directly connected with or necessary to the management of the River Barrow and River Nore SAC (Site Code: 002162) or any other European sites in the surrounding area. However, as the proposed development is located upstream of and hydrologically connected to the European site, this raises the potential for indirect effects on it and its qualifying interests during the construction, operation and decommissioning phase.

A full catalogue of this site and its qualifying interests are set out in Table 6-1 of the NIS. Habitats and species for which direct or indirect impacts were identified for assessment of adverse effects are examined in view of their conservation objectives, including detailed targets and attributes. I have examined and evaluated this scientific analysis. I have also examined the Natura 2000 data forms as relevant and the conservation objectives supporting documents for these sites, available through the NPWS website (www.npws.ie). I am satisfied that in-combination effects have also been considered and adequately assessed in the NIS.

In summary, the potential likely significant impacts that could arise during the construction, operational and decommissioning phases of the proposed development and result in adverse effects on the European site's qualifying interests, habitats and species are:

- the release of pollutants, including contaminants (e.g. cement, fuel, fluids), siltation/sediments to surface water with resultant impacts to water quality.
- changes to the water environment with the potential to impact on species of nearby SAC's (flow rates, volume, quality) arising from construction works.
- the loss of or damage to habitats, including breeding resting, foraging places, used by qualifying interest species (this also considers loss through noise, dust and light impacts).
- the loss displacement or disturbance of species as a result of the proposed development.
- the dispersal of invasive species with resultant impacts on qualifying interest habitats and species in particular downstream bank destabilisation.

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

It should be noted that there will be no direct impact to the majority of the qualifying interests as they are not present on site or its immediate vicinity or lie a significant distance downstream of the proposed development. Due to mixing in the riverine environment, any potential water quality and habitat deterioration effects arising as a result off the proposed development are likely to be undetectable at the point at which they interact with these habitats which form qualifying interests for the SAC.

8.3.2.2. Potential In-Combination Effects

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

I do not consider that there are any specific in-combination effects that arise from other plans or projects. The NIS considered the combined impacts of the overall development proposal on the site including the proposed substation which is to be subject of a separate application to An Bord Pleanála. I consider that any potential for in-combination effects on water quality in the River Barrow is negligible.

Furthermore, other projects within the area which can influence water quality via rivers and other surface water features are also subject to AA.

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

The conclusion that with the implementation of mitigation measures, the in-Combination effect of the proposed development will not be significant is considered

reasonable. It can therefore be concluded that there would be no in-combination effects on the European sites or their qualifying interests.

Table 8: Summary of Appropriate Assessment on the River Barrow and River Nore SAC (Site Code: 002162)					
Conservation Objectives https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO002162.pdf					
Conservation Objective	Targets and Attributes	Potential Adverse Effects	Mitigation Meas. (incl. monitoring)	In-Combination Effects	Can adverse effects on integrity be excluded?
<ul style="list-style-type: none"> • Estuaries (M) • Reefs (M) • Mudflats and sandflats not covered by seawater at low tide (M) • Salicornia and other annuals colonising mud and sand (M) • Atlantic salt meadows (Glaucopuccinellietalia maritima) (R) • Mediterranean salt meadows (Juncetalia maritimi) (R) • Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels (M) • Old sessile oak woods with Ilex and Blechnum in the British Isles (R) • Vertigo moulinsiana (Desmoulin's Whorl Snail) (M) • Alosa fallax (Twaite Shad) (R) • Trichomanes speciosum (Killarney Fern) (R) 	<p>These qualifying interest species and habitats are outside of the range of any possible impact of the PRD and are not considered further in the assessment. This was informed by reference to the distribution as detailed in best available scientific information from NPWS</p>	N/A	N/A	N/A	<p>Yes</p> <p>Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these qualifying interests in view of their conservation objectives.</p> <p>All occur outside of any possible range of influence of the proposed development.</p>
<ul style="list-style-type: none"> • Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachion vegetation (M) • Petrifying springs with tufa formation (Cratoneurion) (M) • Margaritifera durrovensis (Nore Pearl Mussel) (R) 	<p>These qualifying interests and species are in a separate catchment to the River Barrow and no pathways exist. This was informed by reference to the distribution as detailed in best</p>	N/A	N/A	N/A	<p>Yes</p> <p>Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these qualifying interests in view of their conservation objectives.</p>

	available scientific information from NPWS				All occur outside of any possible range of influence of the proposed development.
<ul style="list-style-type: none"> European dry heaths (M) 	<p>The qualifying interest is not a freshwater habitat, and no pathways exist.</p> <p>This was informed by reference to the distribution as detailed in best available scientific information from NPWS.</p>	N/A	N/A	N/A	<p>Yes</p> <p>Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these qualifying interests in view of their conservation objectives.</p> <p>It occurs outside of any possible range of influence of the of the proposed development.</p>
<ul style="list-style-type: none"> Margaritifera (Freshwater Pearl Mussel) 	<p>Populations exist within separate sub-catchments of the River Barrow and no pathways exist.</p> <p>This was informed by reference to the best available scientific information from NPWS.</p>	N/A	N/A	N/A	<p>Yes</p> <p>Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on these qualifying interests in view of their conservation objectives.</p> <p>It occurs outside of any possible range of influence of the proposed development.</p>
<ul style="list-style-type: none"> Austropotamobius pallipes (White-clawed Crayfish) (R) (M) 	<p>This species is located upstream of the proposed development. No pathway exists.</p> <p>This was informed by reference to the distribution as detailed in best available scientific</p>	N/A	N/A	N/A	<p>Yes</p> <p>Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on this qualifying interest in view of its conservation objectives.</p>

	information from NPWS.				It occurs outside of any possible range of influence of the proposed development.
<ul style="list-style-type: none"> Petromyzon marinus (Sea Lamprey) (R) 	75% of mainstream length of rivers accessible from estuary, minimum 3 no. age/size groups present, juvenile density, no decline in extent and distribution of spawning site, number of positive sites in 3 rd order channels.	<p>No direct Impacts. Indirect Impact</p> <p><u>Construction and Decommissioning Phases</u></p> <p>Potential for decrease in water quality due to ingress of construction related pollutants.</p> <p>Spread of Invasive Species</p> <p><u>Operational Phase</u></p> <p>Potential for accidental spillage and release of pollutants</p>	<p>No direct discharges to watercourses.</p> <p>Silt fences to be installed.</p> <p>Ecological Clerk of Works to monitor compliance with mitigation measures and conditions.</p> <p>Preconstruction and construction phases water quality monitoring</p> <p>Best practice measures in soil/subsoil stripping, stockpiling of materials, fuel storage, incident spillage plan.</p> <p>Invasive Species Management Plan</p>	None	<p>Yes</p> <p>Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on this species in view of the conservation objectives.</p>
<ul style="list-style-type: none"> Lampetra planeri (Brook Lamprey) (R) Lampetra fluviatilis (River Lamprey) (R) 	Access to all watercourses down to 1 st order streams, no decline in extent and distribution of spawning beds, minimum 3 no. age/size groups present, mean catchment juvenile density				
<ul style="list-style-type: none"> Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) (R) 	No decline in distribution, structure or composition and area stable or increasing. Maintenance of diversity and extent of community types.				
<ul style="list-style-type: none"> Salmo salar (Salmon) (R) 	100% channel down to 2 nd order accessible from				

	estuary, maintain or exceed fry mean catchment wide abundance threshold, no significant decline in out-migrating smolt abundance, water quality to be at least Q4 and no decline in number and distribution of spawning redds.				
<ul style="list-style-type: none"> • Otter (R) 	No significant decline in distribution or extent of terrestrial or freshwater habitat. No significant decline in couching or holt sites. No significant decline in fish biomass available, no significant increase in barriers to connectivity.	<p>No direct Impacts</p> <p>Indirect Impacts</p> <p><u>Construction Phase</u></p> <p>Disturbance</p> <p>Potential for decrease in water quality due to ingress of construction related pollutants, temporary disturbance of otter if commuting in area affected.</p> <p><u>Operational Phase</u></p> <p>Obstruction if commuting in area affected</p>	<p><u>Construction Phase</u></p> <p>Best practice pollution prevention methods set out in Construction Environmental Management Plan.</p> <p>Buffer zones to drainage ditches.</p> <p>Use of silt curtains during construction</p> <p>Ecological Clerk of Works to monitor compliance with mitigation measures and conditions.</p> <p>Preconstruction and construction</p>	None	<p>Yes</p> <p>Adverse effects on site integrity can be excluded as there is no doubt as to absence of effects on this species in view of the conservation objectives</p>

			phases water quality monitoring <u>Operational Phase</u> Perimeter fencing to erected above ground level to allow mammal passage.		
Overall conclusion: Integrity test Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of River Barrow and River Nore SAC (Site Code: 002162) in view of the site's conservation objectives. No reasonable scientific doubt remains as to the absence of such effects. Note: monitoring is included as best practice and does not imply any uncertainty regarding adverse effects or the effectiveness of any mitigation measures.					
Note To maintain (M) or Restore (R) the favourable conservation condition of the following:					

8.3.2.3. Mitigation Measures

Mitigation Measures identified in the NIS

The mitigation measures proposed in the NIS (Section 8) to address the potential adverse effects of the construction, operation and decommissioning phase include:

- Appointment of an ECoW
- Water Quality Effects in particular the Management of Sediments
- Management of Construction Pollutants
- Management of Invasive Species and Pathogens
- Management of Disturbance

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

Additional Mitigation Measures

The NIS has considered biosecurity extensively and while implied in Section 8.4, it is not explicitly stated that a pre-construction survey will occur for invasive species. It is recommended this mitigation measure is implemented and should be conditions to any grant of permission.

Conclusion on Mitigation

There are no bespoke or extraordinary mitigations measures of note proposed. The impacts at construction phase will generally be temporary and short-term and would be controlled as part of the standard and best practice construction measures as specified in mitigation measures set out. I am satisfied the mitigation and monitoring measures set out which will effectively reduce the significance of potential impacts.

8.3.2.4. Conclusion

Having regard to the foregoing and taking account of the scale and nature of the proposed development and on the basis of the information on the file, it can be reasonably concluded on the basis of best scientific knowledge, therefore, that the proposed development, individually or in combination with other plans and projects, will not adversely affect the integrity of the River Barrow and River Nore SAC (Site

Code: 002162) in view of the sites' Conservation Objectives, subject to the implementation of the mitigation measures and any recommended conditions.

9.0 Recommendation

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

10.0 Reasons and Considerations

Having regard to the following:

- the nature and scale of the proposed development,
- the consideration of main grounds of appeal in relation to the proposed development set out in Section 8.1 of this report,
- the likely significant effects on the environment arising from the proposed development set out in Section 8.2 of this report,
- the likely significant effects on European sites arising from the proposed development set out in Section 8.3 of this report, including
 - the location of the proposed development and the separation distance from the Natura 2000 sites,
 - the hydrological connection between the site and the European site via an adjacent watercourse,
- the likely consequences for the proper planning and sustainable development in the area arising from the proposed development and the relevant provisions of the Offaly County Development Plan 2021-2027 and objectives and the results of the Strategic Environmental Assessment and Appropriate Assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC),
- the planning application particulars submitted by the applicant including the response to submissions on the appeal,
- the submissions made by prescribed bodies and reports of the local authority in respect of the proposed development,
- the report and recommendation of the Inspector.

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential 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 not give rise to increased risk of flooding of the site or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

Appropriate Assessment: Stage 1:

The Board considered the Natura Impact Statement and all the other relevant submissions and carried out both an Appropriate Assessment Screening exercise and an Appropriate Assessment in relation to the potential effects of the proposed development on designated European Sites. The Board agreed with and adopted the screening assessment carried out and conclusions reached in the Inspector's Report that the River Barrow and River Nore SAC (Site Code: 002162) is the only European site in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an Appropriate Assessment of the implications of the proposed development for the aforementioned European site in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the Appropriate Assessment, the Board considered, in particular, the following:

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

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the site's Conservation Objectives.

Conditions

Plans and Particulars

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

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

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

3.
 - a) The permission shall be for a period of 35 years from the date of the commissioning of the solar array. The solar array and related ancillary structures shall then be removed unless, prior to the end of the period, planning permission shall have been granted for their retention for a further period.
 - b) Prior to commencement of development, a detailed restoration plan, including a timescale for its implementation, providing for the removal of the solar arrays, including all foundations, anchors, CCTV cameras, fencing and site access to a specific timescale, shall be submitted to, and agreed in writing with, the planning authority.
 - c) On full or partial decommissioning of the solar farm, or if the solar farm ceases operation for a period of more than one year, the solar arrays, including foundations/anchors, and all associated equipment, shall be dismantled and removed permanently from the site. The site shall be restored

in accordance with this plan and all decommissioned structures shall be removed within three months of decommissioning.

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

Grid Connection

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

Reason: In the interest of clarity.

Environmental

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

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

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

Reason: In the interest of environmental protection.

Ecological

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

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

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

Reason: In the interest of wildlife protection.

9. Before construction commences on site, details of the structures of the security fence showing provision for the movement of mammals at regular intervals along the perimeter of the site shall be submitted for prior approval to the Planning Authority. This shall be facilitated through the provision of mammal access gates designed generally in accordance with standard guidelines for provision of mammal access (NRA 2008).

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

10. The Landscape Mitigation Plan and Biodiversity Management Plan for the proposed development, in accordance with that submitted, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. It shall comply with the requirements of the written submission of the Department of Housing, Local Government and Heritage (Development Application Units). The site shall be managed in accordance with the agreed plans. These plans shall cover a period of at least five years and shall include details of the arrangements for its implementation.

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

Residential Amenity, Public Health & Safety

11. a) No additional artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.
- b) b) CCTV cameras shall be fixed and angled to face into the site and shall not be directed towards adjoining property or the road.
- c) Cables within the site shall be located underground.
- d) The inverter stations shall be dark green in colour. The external walls of the storage containers shall be finished in a neutral colour such as light grey or off-white.

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

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

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

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

- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and
- k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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

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

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

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

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

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

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

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

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

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

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

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

Archaeology

17. The developer shall engage a suitably qualified archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/ site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record and/or monitoring may be required. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority. The planning authority and the National Monuments Service shall be furnished with a

final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation of places, caves, sites, features or other objects of archaeological interest.

Financial

18. Prior to commencement of development, the developer shall lodge with the Waterford City and County Council a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site on cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure satisfactory reinstatement of the site

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

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Professional Declaration

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

Tomás Bradley,
Senior Planning Inspector
16th April 2024