



An
Bord
Pleanála

Inspector's Report

ABP-319704-24

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| Development | To amend the design of the approved development (planning reference: 17/1497) which comprises a solar PV energy development. Increase in operational lifetime from 25 years to 35 years. |
| Location | Lands within the townland of Johnstown North, Arklow, County Wicklow. |
| Planning Authority | Wicklow County Council |
| Planning Authority Reg. Ref. | 2360185 |
| Applicant(s) | Johnstown North Solar Ltd. |
| Type of Application | Permission. |
| Planning Authority Decision | Grant permission with conditions |
| Type of Appeal | Third Party |
| Appellant(s) | Thomás Loughlin. |
| Observer(s) | None. |
| Date of Site Inspection | 18 th December 2024. |
| Inspector | Bríd Maxwell |

1.0 Site Location and Description

- 1.1. The appeal site is located in a rural area circa 4km north of Arklow. The location comprises low lying coastal farmland on a gently rolling topography. The M11 runs to the west of the site while the R750 Arklow to Wicklow Town road runs along the coast to the east of the site. A third class road runs parallel to the M11 with another third class road running east west connecting this to the R750.
- 1.2. The appeal site has a stated area of 34.6 hectares¹ and is irregular in shape formed by 12 mid-sized fields defined by ditches and hedgerows. To the south-west of the site is a private cul de sac roadway a residual part of the former N11 which now leads to farm buildings. Ballymoyle Hill is located to the northwest. To the north of the site is an unnamed stream with open fields beyond. To the east of the site a narrow line of fields before the coast road R750. There are a number of residential dwellings nearby, 23 noted within 500m of the site the closest being three residential properties to the southwest of the appeal site and a line of dwellings fronting onto the third class road which runs parallel to the M11 to the north west.

2.0 Proposed Development

- 2.1. The application involves permission to amend the design of the approved solar PV energy development (17/1497 ABP301726.18). Proposed amendments include:
 - (1) Change in location and size of substation;
 - (2) two temporary construction compounds will be located at the site entrances
 - (3) the number of modules will decrease
 - (4) the number of pile drive poles will decrease
 - (5) the size and number of transformer stations will increase
 - (6) the total fencing area will increase

¹ It is noted that the size of the development was reduced during the course of the previous application in response to a further information request from 39ha to 34.6 hectares, and this was subsequently authorised by reference to condition 1 of permission ABP Ref 301726 (Wicklow Co Co Reference 17/1497). Hence the current redline boundary accords with the permitted site area.

- (7) the total amount of fencing posts will increase
- (8) up to 21 CCTV cameras will be installed
- (9) access tracks will be optimised and increase in width
- (10) access track length will increase
- (11) increase in operational lifetime from 25 to 35 years, at site within the townland of Johnstown North, Co Wicklow.

2.2 The application was accompanied by a number of documents including:

Volume 1 Planning and Environmental Statement

Volume 2 - Site Notice and Location Plan

- Infrastructure Drawings

Volume 3- TA1: Glint and Glare Assessment

- TA2 Noise Impact Assessment
- TA3 Construction Traffic Management Plan
- TA4 Ecological Report Write Up

2.3 The 38kV substation compound building will increase from 24m² to 131.8m². Total compound area 1.159.6m² with perimeter fencing. Access to substation is from the south. Two temporary construction compounds will be located at the solar farm entrances. Proposed panels will largely occupy the same locations as per consented layout. Modules will decrease from 57,024 to 49,653 and pile driven poles will decrease from 12,439 to 11,034. There will be 8 no transformer stations instead of permitted 7. Fencing area will increase from 27.3m to 29m². (Total posts 967 instead of 910) 21 CCTV cameras on posts 3.5m in height throughout the site with a total area of 11.9m². Internal access tracks will increase from 3.5m to 4m and will involve an average of 300mm depth of topsoil removed. Occasionally there will be requirement to use a geosynthetic reinforcement or soil stability to reduce depth. Total length will be approximately 2,050.5m (12,303.0m² in total) where original consent 1,863.4m(6,521.9m² in total).

- 2.4 In terms of background to the proposed amendment it is outlined that in light of the dynamic nature of the solar PV industry and associated grid connection technologies used, revision is devised to improve the operational footprint, accommodate a new panel type and allow for better grid optimisation. With regard to the lifespan of the development it is outlined that as a result of technological advancements and industry experience, the evidence suggests that the expected operational lifespan of modern solar PV technology would be well in excess of the predicted 25-30 years.
- 2.5 The construction timeline of the proposed development is expected to last between 6-12 months depending on weather conditions and other variables. An allowance of 1.5 years is suggested to account for any unforeseen delays. Decommissioning phase is expected to take approximately 6-12 months. (1.5 years in event of unforeseen delays.)

3.0 Planning Authority Decision

3.1. Decision

Following a request for additional information and a subsequent clarification of information request Wicklow County Council issued notification of its decision to grant permission on 16/04/2024 and eight conditions were attached including:

Condition 2 Apart from departures specifically authorised the development shall be carried out and completed in accordance with the terms and conditions of permission granted under ABP301726-18 (PR17/1497). The duration of permission shall expire with the expiration of ABP301726-18 (PR17/1497) save where the duration of permission is extended pursuant to Section 42 of the Planning and Development Act 2000 as amended.

Condition 3 Operation of permission for 35 years from date of commencement of development on site. Detailed restoration plan and timetable for implementation providing for removal of arrays to be agreed.

Condition 4 Development Contribution of €17,315 in accordance with the development contribution scheme.

Condition 5 Bond to be lodged as security for reinstatement of lands to agricultural use on cessation of use as solar farm - €50,000.

Condition 6 Prior to commencement of development pre construction bat, bird and badger surveys to be carried out.

Condition 7 Eastern entrance design to be agreed to include provision of grass crete or similar materials and planting of boundaries on either side of the access road/entrance between the existing hedgerow and the proposed security fence.

Condition 8. Revised western (main) entrance shall be installed so as to ensure adequate intervisibility between traffic entering/existing the site and other traffic using the cul de sac off the L95115.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's report considers the principle of development to be acceptable. Increase in operational lifespan is based on technical capabilities. No major amendments in terms of overall spread, scale and layout and the most significant change is in relation to the substation compound. This will be well screened from local views however removal of hedgerow may negatively impact on the visual amenity of the area. Glint and glare assessment findings are noted. Further information is required in relation to justification for the location of the substation compound in light of potential noise impact on residential amenity. With regard to the eastern entrance it is not referenced in the public notices and the need for the entrance per se and large corner raddii is questioned. Clarification required regarding boundaries to be retained and fencing details.

Following submission of additional information, the planner's report notes the finding of the noise impact assessment that the proposed development will have a negligible or low impact on noise sensitive receptors during night time periods therefore no mitigation is required. Hedgerow removal within the site is largely similar to that

previously approved. Conditions were recommended to include pre construction breeding bird survey and provision for mammal gates in fencing. Clarification required in relation to size of substation entrance and specification such as 'grass crete' or similar also as the security gate appears to intersect access road.

Following clarification of further information the Planner's report notes that verbal report from Executive Engineer roads recommended conditions in relation to the finishes at the eastern entrance to be agreed and the applicant to ensure adequate sightline intervisibility at the western entrance. Permission was recommended subject to conditions.

3.2.2. Other Technical Reports

Roads report asserts that the entrance to the substation and construction compound appears excessively wide and questions whether there is scope to utilise the entrance as granted under 17/1497. Following further information submission conditions were recommended to include construction to primarily utilise western entrance to minimise traffic on the narrow public road. Construction traffic management plan to be prepared. Given the infrequent need for HGV traffic accessing the substation pavement details should be agreed with the council. Consideration to be given to use of products like *grass crete* or similar for part of entrance pavement to accommodate HGVs. Long term entrance could be designed for smaller vans and trucks commonly used to access substation. Security fence appears to intersect the access road to the substation. Details and location of security gate to be submitted and agreed and a sufficient setback from road edge should be provided to allow vehicles to move off the road while gates are being opened or closed. Planting boundaries on either side of the access road/entrance between the existing hedgerow and the proposed security fence should be considered. If permission is granted it should be conditional that no development traffic is allowed to access or egress the site via the R750.

Environmental section report considers the amendments to be minor in the context of the previously permitted development. No objection as per previous conditions.

3.3. Prescribed Bodies

Submission from **Department of Housing Local Government and Heritage (DHLGH)** in relation to heritage. An excavation licence under Section 26 of the National Monuments Act 1930 as amended was submitted to the National Monuments Service during May 2023 and has been approved to facilitate the completion of a programme of archaeological testing within the footprint of the approved development. No archaeological testing has been carried out to date and no archaeological impact assessment report has been submitted to the authorities. Given the location, scale and extent of groundworks, the Department recommends that a detailed and field based archaeological impact assessment be completed to develop an informed archaeological strategy in advance of any site preparation and/or construction works. Such a comprehensive and field based archaeological impact assessment should be requested in accordance with Objective CPO8.3 of the Wicklow County Development Plan 2022-2028. Conditions recommended.

Transport Infrastructure Ireland TII will rely on the Planning Authority to abide by official policy in relation to development on/ affecting national roads as outlined in DoECLG and Spatial Planning and National Roads Guidelines for Planning Authorities 2012. TII will entertain no future claims in respect of impacts (noise, visual) on the proposed development if approved due to the presence of the existing road or any new road scheme currently in planning. The Authority requests that the Council has regard to the provisions of Chapter 3 of the DOECLG Spatial Planning and National Roads Guidelines in the assessment and determination of the application.

Uisce Eireann, Irish Water (UE). No objection subject to conditions including connection agreement and adherence to standards and conditions of same. All development in compliance with UE standards codes and practices. Any proposals to divert or build over existing water or wastewater services shall be submitted for written approval prior to works. Separation distance between UE assets and proposed structures, other services, trees etc in accordance with codes and practices and standard details.

3.4. Third Party Observations

Submissions from Tomás Loughlin, Johnstown Lane outlines objection to the proposed development.

- Site is designated area of outstanding natural beauty and the proposal in particular substation will have a negative visual impact on the coastal setting.
- Hedgerows on Johnstown lane (L95115) should be retained.
- Confirmation of connection details with ESB should be demonstrated.
- The right of way at Johnstown north and Johnstown south was extinguished after construction of Arklow bypass resulting in the creation of a dead end serving two private residences and one farmyard. Question legal entitlement to use right of way and impact on established landowner rights.
- Temporary construction compound 50m x 60m is excessive in scale. Second temporary construction compound not detailed and has no entrance.
- Estimations regarding traffic movements are questionable.
- Access tracks are more akin to roads and are excessive.
- Request for photomontage from the M11 (VP 11) of southwest field in the previous application but this was not submitted.
- HGV traffic movements on Johnstown Lane will have to slow down due to sharp turn and uphill advance will also result in increased noise levels impacting on residential amenity also in conjunction with M11 noise (within 40m). It would be more realistic for HGV traffic to coast in through entrance to field 10 (previously field 8).
- Noise, vibrations and flow of HGV traffic will result in significant detrimental effect on mental health and residential amenity. Emergency response units would have difficulty gaining access to residents of the cul de sac.
- Site notice erection on a private cul de sac not public road. Contravention of Article 19 1(c) of the Planning and Development Regulations.
- Note potential archaeological impact on Famine potato ridges
- Concern regarding impact on L95116 due to installation of cable ducting.

- Johnstown North Solar farm was not listed in the 2023 EirGrid and ESB grid connection auction but Ballymoney Solar farm was (located to the east of the M11 connecting to the grid in Arklow 220KV substation located in Killinskyduff Dublin Road Arklow). Would be in tax payers interest to have both Johnstown North and Ballymoney solar farms amalgamate. Need to coordinate grid connection to avoid undue impacts on roads.
- Noting applicant's reliance on screening between the M11 and the site. Motorway maintenance would result in the removal of screening and the applicant has no control over this.
- Revised entrance could result in HGV entry and exit resulting in blinding headlights resulting in dangerous obstacle to M11 southbound traffic.
- Question need for substation entrance given that ESB powerlines have run through the site for decades and ESB have access.
- Parking bays within temporary site compound. Widening of consented tracks from 3.5m to 6m will result in significant noise.
- Consented substation more inconspicuous location and will not impact on general vista.

4.0 Planning History

23/60151 Permission granted for a 38kV grid connection cable and associated infrastructure to connect the approved Johnstown North solar farm (consented under 171497) to the existing Arklow substation comprising the laying of a 3,190m underground cabling (UGC) and associated infrastructure located at Dublin Road Arklow Co Wicklow at Townlands of Killinskyduff, Templerainy, Johnstown South and Johnstown North, Arklow, Co Wicklow. Granted 23 April 2024 subject to 5 conditions.

ABP 301726-18 (17/1497) Following first and third party appeals the Board decided to grant permission on 21 February 2019 subject to 11 conditions including condition 2 that the duration of permission shall be 10 years from the date of the order. Condition 4 that the permission be for a period of 25 years from date of

commissioning. Condition 5 that the existing field boundaries be retained. Condition 6 – no artificial lighting without prior permission. CCTV fixed at angles to face the site, undergrounding of cables. Inverter /transformer stations dark green in colour. External walls of substation in neutral colour (grey or off white) roof black slate or tiles. Condition 7 security fence details including provision for movement of mammals to be submitted for written approval. Condition 8. Archaeological appraisal testing and monitoring of site works. Condition 9. Construction management plan. Condition 10. Bond to secure satisfactory reinstatement of the site. Condition 11. Financial contribution in respect of public infrastructure and facilities.

It is noted that the size of the development was reduced during the course of the previous application in response to a further information request from 39ha to 34.6 hectares, and this was subsequently authorised by reference to condition 1 of permission ABP Ref 301726 (Wicklow County Council Reference 17/1497). It is noted that the current redline boundary accords with the permitted site area.

310090-21 Onshore grid infrastructure including 220kV export cable circuits and fibre optic cables, new 220kV GIS substation at Shelton Abbey and overhead line and associated ancillary works. Approved 26/2/2022

319864 Proposed offshore wind energy development – Arklow Bank Wind Park 2. (Concurrent application before the board.)

5.0 Policy Context

5.1. National Planning Framework

The NPF is a high-level strategic plan to shape the future growth and development of the country to 2040. It is focussed on delivering 10 National Strategic Outcomes (NSOs). NSO 8 focuses on the Transition to a low carbon and climate resilient society and recognises the need to harness both onshore and off shore potential; from energy sources including solar and deliver 40% of our electricity needs from renewable sources.

It is stated in the NPF that “new energy systems and transmission grids will be necessary for a more distributed, renewables-focused energy generation system, harnessing both the considerable on-shore and off-shore potential from energy sources such as wind, wave and solar and connecting the richest sources of that energy to the major sources of demand.” Section 5.4, ‘Planning and Investment to Support Rural Job Creation’, notes that in meeting the challenge of transitioning to a low-carbon economy, the location of future national renewable energy generation will, for the most part, need to be accommodated on large tracts of land that are located in a rural setting, while also continuing to protect the integrity of the environment and respecting the needs of people who live in rural areas. It is a National Policy Objective (NPO 55) to ‘promote renewable energy use and generation at appropriate locations within the built and natural environment to meet national objectives towards achieving a low carbon economy by 2050’.

5.2 National Energy Security Framework

Published in April 2022 – provides an overarching and comprehensive response to Ireland’s Energy security needs in the context of the war in Ukraine. The framework outlines the structures in place to monitor and manage energy supplies.

The framework outlines proposals to speed up the country’s shift to increased energy efficiency and indigenous renewable energy systems.

5.3 Ireland’s National Energy and Climate Plan 2021-2030

The National Energy and Climate (NECP) Plan is an integrated document mandated by the European Union to each of its member states in order for the EU to meet its overall greenhouse gases emissions targets. The plan establishes key measures to address the dimensions of the EU Energy Union, including:

- To achieve a 34% share of renewable energy in energy consumption by 2030.
- To increase electricity generated from renewable sources to 70%.

5.4 Climate Action Plan 2024

The Climate Action Plan 2024 approved in May 2024 is the third annual update to Climate Action Plan 2019 and the second to be prepared under the Climate Action and Low Carbon Development (Amendment) Act 2021. It builds on the introduction of carbon budgets and sectoral emissions ceilings in climate action plan 2023 and sets a course for Ireland's targets to halve emissions by 2030 and reach net zero no later than 2050.

Central to achieving these goals is the strategic increase in the share of renewable electricity to 80% by 2030. This includes ambitious targets of deploying 9 gigawatt (GW) of onshore wind, 8 GW of solar power, and at least 5 GW from offshore wind projects. Key targets for the electricity sector are set out in Chapter 12. These measures are vital not only for slashing electricity sector emissions but also for enabling the broader electrification of other sectors, thus multiplying the impact on overall emissions reductions. Climate Action Plan 2024 details the significant changes necessary to enhance the electricity grid's capacity and flexibility. This will accommodate the significant upsurge in renewable energy while ensuring the system's reliability and efficiency. Additionally, managing electricity demand through innovative policies and technologies is crucial for aligning energy consumption with cleaner production.

5.5 Biodiversity Action Plan 2024 – Ireland's 4th biodiversity Action Plan sets out the national biodiversity agenda for the period 2023-2030 and aims to deliver the transformative changes required to the ways in which we value and protect nature. It seeks to continue to implement actions within the framework of five strategic objectives while addressing new and emerging issues:

Objective 1 – Adopt a whole of government, whole of society approach to biodiversity.

Objective 2 – Meet urgent conservation and restoration needs

Objective 3 - Secure Nature's contribution to people.

Objective 4 – Enhance the evidence base for action on biodiversity.

Objective 5 – Strengthen Ireland's contribution to International biodiversity initiatives.

The Wildlife (Amendment) Act 2023 introduced a new public sector duty on biodiversity. The legislation provides that every public body, as listed in the Act, is obliged to have regard to the objectives and targets in the National Biodiversity Action Plan.

5.6 Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031

RPO 4.84 RPO 4.84: Support the rural economy and initiatives in relation to diversification, agri business, rural tourism and renewable energy so as to sustain the employment opportunities in rural areas.

RPP7.35 : EMRA shall, in conjunction with local authorities in the Region, identify Strategic Energy Zones as areas suitable for larger energy generating projects, the role of community and micro energy production in urban and rural settings and the potential for renewable energy within industrial areas. The Strategic Energy Zones for the Region will ensure all environmental constraints are addressed in the analysis. A regional landscape strategy could be developed to support delivery of projects within the Strategic Energy Zones.

RPO10.20 Support and facilitate the development of enhanced electricity and gas supplies, and associated networks, to serve the existing and future needs of the Region and facilitate new transmission infrastructure projects that might be brought forward in the lifetime of this Strategy. This Includes the delivery of the necessary integration of transmission network requirements to facilitate linkages of renewable energy proposals to the electricity and gas transmission grid in a sustainable and timely manner subject to appropriate environmental assessment and the planning process.

RPO10.22 RPO 10.21: Support an Integrated Single Electricity Market (I-SEM) as a key priority for Ireland. RPO 10.22: 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 to support an island population of 8 million people, including:

- Facilitating interconnection to Europe, particularly the ‘Celtic Interconnector’ to France and further interconnection to Europe/the UK in the longer term
- Facilitating interconnection to Northern Ireland, particularly the ‘North-South Interconnector and further co-operation with relevant departments in Northern Ireland to enhance interconnection across the island in the longer term
- Facilitating transboundary networks into and through the Region and between all adjacent Regions to ensure the RSES can be delivered in a sustainable and timely manner and that capacity is available at local, regional and national scale to meet future needs
- 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
- support the safeguarding of strategic energy corridors from encroachment by other developments that could compromise the delivery of energy networks

5.7 Development Plan

The Wicklow County Development Plan 2022-2028 refers. Solar Energy Objectives are set out in Chapter 16 Energy Infrastructure and Communications including CPO16.0 To support and facilitate to the highest degree possible the development of alternative and renewable sources of energy, particularly in the generation of electricity / heating and for use as transport fuel.

CPO 16.08 To facilitate and support the development of solar generated electricity.

CPO 16.09 To positively consider all applications for the installation of building mounted PV cells at all locations, having due regard to architectural amenity and heritage.

CPO 16.10 To support the development of commercial scale ground mounted solar PV solar Farms subject to compliance with emerging best practice and available national and international guidance.

CPO 16.15 To facilitate and support the development of small scale electricity generation installations.

CPO 16.18 To support the development and expansion of the electricity transmission and distribution grid including the development of new lines, pylons and substations as required.

CPO 16.19 To facilitate planned growth and transmission/distribution of a renewable energy focused electricity generation across the main demand centres.

CPO 16.24 Proposals for the undergrounding of cables should demonstrate that environmental impacts including the following are minimised:

Habitat loss as a result of removal of field boundaries and hedgerows by topsoil stripping,

Short term to medium impacts on the landscape, where for example hedgerows are encountered;

Impacts on underground archaeology

Impacts on soil structure and drainage, and

Impacts on surface waters as a result of sedimentation.

With regard to Strategic County Outcomes SCO7 Climate Resilience and the Transition to a Low Carbon Economy “Supports the transition to a low carbon clean energy by facilitating renewable energy use and generation at appropriate locations.

CPO 17.36 Any application for permission in the AONB which may have the potential to significantly adversely impact the landscape area shall be accompanied by a Landscape / Visual Impact Assessment, which shall include, inter alia, an evaluation of visibility and prominence of the proposed development in its immediate environs and in the wider landscape, a series of photos or photomontages of the site / development from clearly identified vantage points, an evaluation of impacts on any listed views / prospects and an assessment of vegetation / land cover type in the area (with particular regard to commercial forestry plantations which may be felled thus altering character / visibility). The Assessment shall demonstrate that landscape impacts have been anticipated and avoided to a level consistent with the sensitivity of the landscape and the nature of the designation.

5.8 Natural Heritage Designations

The site is not within a designated area. The closest designated habitat is the Buckroney Brittas Dunes and Fen SAC (Site code 000729) which follows the coastline running northeast of the appeal site, at its most proximate within approximately 320m of the site boundary.

5.9 EIA Screening

5.9.1 Solar energy development is not listed as a class of development for the purposes of EIA under Part 2 of Schedule 5, within the Planning and Development Regulations 2001 (as amended). There are however two classes of development within Part 2 of Schedule 5 to the Planning and Development Regulations 2001, as amended, which may be of relevance in this instance which require consideration.

5.9.2 The Planning and Development (Amendment) (No. 2) Regulations 2023 (S.I. 383 of 2023) requires from 1st August 2023 that Projects for the restructuring of rural land holdings are screened for the purposes of Environmental Impact Assessment, as follows:

Amendment of Schedule 5, Part 2, Class 1 of the Principal Regulations is amended:

(a) By the insertion of the following before paragraph (c):

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

The proposed development will involve the removal of a limited amount of hedgerow to accommodate the entrance and access track. Such removal is associated with access requirements and does not result in the amalgamation or enlargement of existing fields. The removal of field boundaries is minimal and is significantly below the EIA threshold of 4km set out under Class 1(a) of the Planning and Development Regulations 2001, as amended. With regard to recontouring the proposal does not

involves any significant excavation or recontouring of lands for example the levelling off hills or by infilling hollows or other use or drainage works. Whilst localised levelling and foundation works will be provided for substation, inverter/transformer containers on hardstanding, such works are not significant in nature and would not constitute recontouring of the lands. (Refer to Appendix 1 Form 1 and Form 2)

5.9.3 Given that the proposed development includes the provision of access tracks the proposal has been examined having regard to Class 10(dd) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, which requires EIA for “All private roads which would exceed 2000m in length”. I note that the third party appellant has also questioned the requirement for EIA on foot of the provision of ‘roads’ as part of the proposal. I note that while the public notices and drawings drawing refer to ‘tracks’ and ‘access track’ and whereas submitted documentation occasionally use the term ‘road’ and ‘track’ interchangeably, given that the purpose of the tracks is not for the conveyance of people and vehicles per se, except as necessary in connection with the construction, maintenance and decommissioning of the development, I am satisfied that the proposed access tracks are materially different from a ‘road’ as defined under the Roads Act, 1993. Therefore, the proposed access tracks do not fall to be considered under Class 10(dd) of the Regulations and thus do not require EIA. On the basis that the proposed development does not include private roads, any requirement for EIA by reference to Class 10(dd) can be screened out at pre-screening stage as per form 1 appended to this report.

5.9.4 Having regard to the nature and scale of the development, and the absence of any significant environmental sensitivity in the vicinity of the site, as well as the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and by reference to completed forms, form 1 Pre Screening and form 2 Preliminary Examination as set out in Appendix 1 of this report, I conclude that there is no real likelihood of significant effects on the environment and EIA is not required.

6 The Appeal

6.1 Grounds of Appeal

The appeal is submitted by Armstrong Planning on behalf of Tomás Loughlin, Johnstown Lane, Johnstown South Arklow. Grounds of appeal have been summarised as follows:

- Appropriate assessment (AA) screening is inadequate under Article 6 of the habitats directive. The site is hydrologically connected to Buckroney-Brittias Dunes Fen cSAC. It has been 6.5 years since the AA screening report was prepared as part of application 301726. Noting *People Over Wind and Sweetman v Coillte* (C-323/17) EU:C:2018:244, *Dunne and Others v Offaly County Council* [2019] IEHC 328, *Kelly (Eoin) V An Bord Pleanála* (2019)(IEHC 84) and the need to move to stage two appropriate assessment with the existence of a probability of effect, in line with the precautionary principle where a risk exists if it cannot be excluded on the basis of objective information. As noted in *Sweetman v An Bord Pleanála and Another* [2020] IEHC 39 “best practice” mitigation measures cannot lawfully be taken into account during the screening stage.
- The AA screening report submitted as part of the 2017 application states that in the context of the relationship of the site to the Buckroney Brittias Dunes and Fen SAC (000729) the stream on the site “reduces the potential for a significant impact to the SAC” – this suggests that the potential for a significant impact cannot be excluded within the meaning of the people over wind case.
- The assessment of the development should have progressed to Stage 2 AA. Permission should be refused to allow for a comprehensive assessment of the proposal under Article 6 of the Habitats Directive to be undertaken by a suitably qualified professional.
- Environmental Impact Assessment (EIA) screening is inadequate given the failure to submit a revised EIA screening report or to explain why “high” environmental impacts identified in the environmental reports (glint and glare assessment) are not significant for the purposes of the EIA directive.

- Given the location within Area of Outstanding Natural Beauty (AONB) CPO 17.36 of the Development Plan requires the submission of a landscape/ visual impact assessment which has not been submitted and there has been no discussion on landscape impacts.
- Substation now proposed is almost three times larger than originally permitted and will be located between the road and the coast in views looking towards the sea.
- Removal of hedgerow will result in loss of visual amenity and residential amenity.
- Intensified access arrangements including wider access roads will inevitably result in greater visual impacts and resulting change in landscape character when viewed from more exposed portions of the application site along the western boundary.
- Application should be refused in favour of the permitted development which would have a lesser impact on the visual environment.
- Wicklow County Council Roads Department raised significant concerns about the narrowness of the L95115, the width of the entrance and the suitability for delivery of large equipment.
- Notwithstanding the location of house near the edge of the carriageway, the noise report does not address impact of construction noise on local residents. Due to the sharp turn to the right of Johnstown lane (L95115) HGVs will have to slow down and location on hill will result in increased noise level. Given location of M11 within 40metres to the west of the residence significant cumulative noise levels will result. No assessment of up to 40 HGV movements per day spread out over the course of the day during a twelve month period on the residents on this quiet and narrow road.
- No consideration of alternative to proposed new entrance such as reordering the permitted entrance to better accommodate larger vehicles.
- New eastern entrance is likely to result in significant diminution in the residential amenity of those living on the L95115 due to noise, traffic hazard.
- Application should be refused.

6.2 First party response to grounds of appeal

6.2.1 The response to the appeal is submitted by Neo Environmental Ltd on behalf of the applicant and is summarised as follows:

- In response to the grounds of appeal the applicant has included a Natura Impact Statement (NIS). The NIS concludes that with the implementation of mitigation measures along with ongoing monitoring the proposed development will not have a significant effect upon any qualifying and therefore the integrity of the European sites connected with the application site.
- The proposed development of solar farm does not comprise or relate to a class of project specified in the EIAR Directive Annex I or Annex II or by the planning and development regulations 2001 as amended, Schedule 5 Part I or 2. Accordingly obligations under the EIA directives to carry out EIA or where required screening for EIA do not apply to Solar farms.
- With reference to James Kavanagh v An Bord Pleanála and others 2020 IEHC 259; Sweetman v An Bord Pleanála [2000] IEHC 39, the High Court found that solar farms do not fall within any of the other classes of projects listed in Parts 1 and 2 of Schedule 5 of the Regulations and therefore EIA is not required for solar projects.
- Both Wicklow County Council and An Bord Pleanála (301736) have determined that an EIAR is not required.
- In relation to landscape and visual appeal grounds and ecology, a landscape and environmental management plan LEMP was produced which clearly demonstrates the screening and mitigation measures to be implemented within the application site. Standard buffers have been implemented to minimise impacts on the environment.
- Having regard to the characteristics of the development and location on land which is not environmentally sensitive the development will not give rise to significant environmental effect.
- Glint and glare impacts assessed initially based on modelling which does not take account of vegetation, buildings or other features. Summary outlines that impacts are reduced to “None” via process of reviewing actual visibility. Impacts are deemed insignificant once mitigation is implemented.

- The amendments proposed are minor and are unlikely to cause significant effects on the environment. EIA screening is not necessary.
- Regarding landscape and visual impact additional viewpoint photography and photomontage is provided in Appendix C. Nine representative viewpoints from within the southern coastline area of the AONB cover a range of viewing distances, elevations and orientations from locations within the AONB.
- Visibility of the proposed development in its entirety including the substation element is extremely limited. Substation cannot be seen from within the southern coastline character area within the designated AONB.
- All 9 viewpoints highlight the level of screening within the study area, created by the field network pattern of hedgerows and tree planting.
- Amendment to the substation in terms of scale and setting will not significantly adversely affect the setting or perception of the AONB or any visual receptors within the study area.
- Regarding potential for negative impact on residential amenity arising from noise from construction traffic the entrance points designed in accordance with TII requirements Geometric Design of Junctions (April 2017). Western access point was altered during the planning process to ensure that HGVs would have a more direct route to the development and the majority of construction movements will use this access point. Western access cannot accommodate abnormal loads or vehicles such as low bed trucks which are required to bring the substation transformer to site. Delivery of large equipment also better for delivery on sealed road and not to travel long distances on internal non sealed roads within the site.
- Swept path analysis shows L95115 is wide enough to accommodate large vehicles at the eastern entrance.
- Construction phase is expected to give rise to 519 HGV deliveries over the 6 -12 month construction period. A daily maximum of approximately 20 HGV deliveries (40HGV movements) is expected. This is maximum number of movements likely to occur for only a few weeks at the beginning of the construction period and will taper away from month three onwards. Potential noise impacts from construction vehicles will be temporary and staggered through each day to limit impacts where possible.

HGVs will be onsite between 0700-1900 Mon-Fri and 08:00-16:00 Saturdays. Deliveries will be scheduled to avoid early morning peak hours.

- It is unlikely that the addition of a maximum of 40HGV movements in a day would result in any perceptible change in noise levels in the local environment. The M11 traffic will continue to be the significant noise source in the local area. Although construction and traffic noise were not analysed in detail within the noise impact assessment they were considered during the design stage.

6.3 Planning Authority Response

The Planning Authority did not respond to the grounds of appeal.

6.4 Third party Appellant's response to Applicant's response to grounds of appeal.

The response by Armstrong Planning on behalf of the appellant is summarised as follows:

- Appellant reaffirms the grounds of appeal.
- Proposal is contrary to the proper planning and sustainable development of the area.
- While acknowledging the submission of the Stage 2 AA, question compliance with relevant guidance particularly with regard to public participation in environmental decision making noting the right to access information about the environment as set out in the Aarhus convention.
- Question whether the NISS report is the final report or draft as sections appear unfinished (Page 6).
- Regarding EIA as the application proposes to increase the length of private road development on site from the permitted length of 1,863.4m to a length of 2,050.5m the application falls within Class 10(d)(d). All private roads which would exceed 2,000 metres in length" of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 as amended. A surfaced carriageway of 4m in width (where 4m width is a key threshold in Planning and Development Regulations 2001) and of

more than 2000m in length must be considered a road for the purposes of the 2000 Act. Noting the definition of road in 2000 Act as having the same meaning as in the Roads Act 1993 which includes “any street, lane footpath, square, court alley or passage,” which is a very broad definition.

- Applicant did not submit sufficient information to screen out the need for EIA where a large environmental impact had already been identified.
- Visual impact assessment is inadequate. Photomontage viewpoints do not show the relevant feature or prospect protected in the development plan. (Viewpoint 8 and 9). Without representative views it is not possible to determine whether there is potential for panoramic views to arise from these scenic routes that might take in the application site.
- Photomontages submitted with the original application show clear visibility of the proposal from a number of locations on the N11. Development Plan protects views from the N11 south of Scartenagh Cross view of sea and coast as being of special amenity or special interest (View no 23) . Previous photomontages also show visibility of the proposal from nearby local road and show open visibility across the application site in the AONB from Coillte walking trail at Ballymoyle Hill.
- Unclear as to why revised photomontages from locations from which the application site is known to be visible were not submitted so that the landscape and visual impact of changes could be properly assessed. Intensified access arrangements including significantly wider internal roads will inevitably result in greater visual impacts and a change in landscape character, particularly when viewed from the more exposed portions of the application site along the western boundary. Changes will likely be visible from higher ground overlooking the coastal area of outstanding natural beauty and Ballymoyle Hill.
- Approved proposal would have lesser impact on the visual environment.
- No new information or assessment of the likely impact of the proposed new access arrangement on the residential amenity and safety of the third party appellant and other nearby local residents. No assessment of the impact of up to forty HGV movements per day spread out over the course of the day during a twelve month period on the residents of this quiet and narrow road.
- No basis for the applicant’s assertion that the traffic noise will not result in any material change. The addition of the eastern entrance is likely to result in a

significant diminution of residential amenity of those living on the L95115 due to noise and traffic hazard.

7 Assessment

- 7.1 Having regard to national, regional and local policy with respect to renewable energy and to the site's planning history, the principle of the development which relates to alterations to a permitted solar development is acceptable. The proposed development involves a number alterations to the permitted solar farm and includes the proposal to increase the operational lifespan of the solar farm from 25 to 35 years. The key issues raised in the grounds of appeal relate to the visual impact on landscape particularly having regard to the revised location, increased size of the substation and entrance and the resultant impacts on residential amenity arising from noise, traffic disturbance/hazard and visual impact. The matter of Environmental Impact Assessment screening and Appropriate Assessment screening are also raised within the grounds of appeal. The question of glint and glare also needs to be addressed. I am satisfied that no other substantive issues arise and accordingly the issues are addressed in turn as follows:
- 7.2 With regard to the operational lifespan of the solar farm, I note that a rationale for an increased operational lifespan from 25 to the proposed 35 years has been set out within the planning report submitted with the application. It is stated that historically an operational period of 25-30 years was the norm based on expected lifespan of the infrastructure, however technological advancements and industry experience now suggests that the expected operational lifespan of modern PV technology would be well in excess of 25-30 years. I note that the matter of lifespan is not specifically referenced within the grounds of appeal and the Planning Authority decision permitted the operation of the period for 35 years. I am satisfied that the extension of the lifespan will not have any adverse environmental effects that have not been adequately assessed and appropriately mitigated.

7.3 With regard to the visual impact of the development I note the landscape and visual assessment submitted to the Board on 10/6/2024 in response to the grounds of appeal. The document details the analysis of visual impact having regard to the zone of theoretical visibility and views from 9 selected viewpoints illustrated in Appendix C Figures 1.1-1.9. It is stated that the selection of viewpoints are representative and are based on criteria including accessibility to the public, designated viewpoints, number of viewers affected, viewing direction, distance and elevation, nature of the viewing experience and view type. The findings of the study are that the visibility of the proposed development in its entirety is extremely limited. Screening by way of topographical undulations and hedgerows limit visibility. Viewpoint 5 which is 140m to the east of the site from Ennreill Bay beach shows slight visibility of the development in gaps in vegetation, however the impact is imperceptible in nature. Mitigation in terms of reinforcement of boundary hedgerows will aid integration into the landscape. I note that the appellant is critical of the absence of viewpoints from which the proposed development will be visible, particularly higher ground eg Ballymoyle Hill and intermittently along the M11. I acknowledge that greater focus on locations from which the site would be visible would be helpful, however I consider that the submitted viewpoints demonstrate that the visual impact in the local context is not significant. I note that while the site is visible from the M11 however the topography and established screening combine to ensure that only intermittent views are available.

7.4 In respect of the comparative of visual impact of the permitted versus the proposed modified development, I note the revised scale, design and location of the proposed substation building. I do not consider that the structure will be visually obtrusive. The site is located within a landscape area designated as coastal and an area of outstanding natural beauty in the County Development Plan and I note that the sensitivity of the landscape and its vulnerability has been fully considered and this was also acknowledged within the Board's previous consideration of the development of a solar energy facility on the site. I would tend to concur with the previous reporting inspector that having regard to the overall topography of the site, established vegetation, and location in relation to the M11, the site is robust in terms of its capacity and there are few clear views over it from the public road. I am

satisfied that the visual impact arising is not significant in the local or wider context and I consider that the landscape is entirely capable of accommodating the proposed development including the substation building. The strengthening of hedgerows along site boundaries will further mitigate impacts arising. I consider that the proposal will not have a significant impact on the landscape quality of the area of outstanding natural beauty or the views of special amenity value or special interest from the N11 (23 view of sea and coast) and prospect of special amenity value or special interest 33 (south of Scratanagh Cross Prospect of Ballymoyle Hill). With regard to the construction compounds to be located at the entrances I note that these are temporary and are in my view acceptable in terms of their visual impact and impact on residential amenity. The amended (widened) internal access tracks will not have a significant visual impact.

- 7.5 With regard to the impacts on established residential amenity, in terms of traffic noise disturbance particularly that arising from the location of the proposed new entrance adjacent to the substation, I note that it is intended that the western entrance will facilitate most construction equipment however larger pieces of equipment (abnormal loads) will access the site by way of the proposed substation (eastern) access point. This eastern access point will also be required for the operational period providing ESB with direct access from the public road. Negligible trip generation in the operational phase is anticipated (approximately 10-16 light goods vehicles per year). The western access point was revised in response to the request for additional information to enable more direct access to the site and to facilitate larger loads. With regard to the construction phase an expected 519 HGV deliveries will be made over the 6-12 month construction period. A daily maximum of approximately 20 HGV deliveries is expected. Potential impacts in terms of noise will be staggered and temporary and I am satisfied that the level of traffic arising will not give rise to significant negative impacts on residential amenity to warrant refusal. Mitigation measures set out within the construction traffic management plan include management of delivery booking system, pre and post construction condition survey and repair of any damage to public roads attributed to the development, scheduling of traffic movements, warning signage, wheel wash and other dust mitigation. I am

satisfied that the access points, detailed design and layout are in accordance with TII standards and will not give rise to traffic hazard.

- 7.6 With regard to operational noise as set out in the revised noise impact assessment submitted in response to the Council's request for additional information the main noise source associated with the proposed development will be the eight transformers and substation transformer. It is noted that the substation is 250m distant from the nearest noise sensitive receptor. The noise impact assessment carried out, took into account low frequency noise and tonal noise. It found that negligible or low impact noise will arise during night time periods and no mitigation is required. The levels at each receptor are below night noise guideline value of 40dB set out in World Health Organisation (WHO) guidelines. Assessment of predicted octave band effects of the operational stage against noise rating curves for outdoor amenity concluded that the noise levels at all receptors are below the target NR30 noise rating curve. I conclude that the proposed amended development will not give rise to significant negative impact on visual or residential amenity and is in accordance with the proper planning and sustainable development of the area.
- 7.7 Regarding glint and glare I note the Glint and Glare Assessment submitted with the application. Geometric analysis within 1km study area, found that solar reflections are possible at 11 out of 23 individual residential receptors. Initial impacts were deemed slight at one and low at ten. Review of actual visibility found impact low at one receptor and none at the remaining receptors. Once mitigation measures are considered all impacts are reduced to none. Regarding road receptors 29 of the 32 road receptors assessed within the 1km study area found potential; high impact at 23 low at five and none at four receptors. Review of actual visibility found glint and glare remain high for one receptor and reduced to low at one and none at remaining receptors. Mitigation measures will reduce impacts to none. No impact on aviation assets is predicted. I note that the submission from TII indicated no objection to the proposed development referencing the Planning Authority's general obligations under planning guidelines on transport. I conclude that subject to the provision of appropriate landscaping glint and glare will not be a significant road safety issue.

7.8 Having regard to the foregoing I consider that the proposed amendments to the permitted solar farm development are acceptable and in accordance with the proper planning and sustainable development of the area and will make a positive contribution to regional renewable energy policy objectives in accordance with the provisions of the Wicklow County Development Plan 2022-2028.

8.0 Appropriate Assessment

8.1 Appropriate Assessment - Screening

Compliance with Article 6(3) of the Habitats Directive

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

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

8.2 Background to the application

8.2.1 I note that the previous application (301726 / 171497) included an appropriate assessment screening report incorporated as part of the Planning and Environmental Report. It noted that the Buckronev Brittas Dunes and Fen SAC Site Code 000729 which is hydrologically connected to the appeal site. It was noted that the designated features of interest close to the site are various dune habitat types. The stream running along the northern part of the appeal site is separated from the closest dune

by a house and approximately 100m of beach. The link to the SAC was considered to be weak as the stream is not within the footprint of the development and as the stream runs along the southern boundary of the SAC only for a short distance of c15m before entering Georges Channel. The site was screened out from the need to carry out a Stage II appropriate Assessment on the basis that relevant habitats close to this point do not have the potential to be impacted upon by sedimentation or other run-off from the site. The potential for spread of invasive species was also considered. I note that the reporting inspector concurred with the screening report and conclusion that there were no likely impacts on any designated sites. In combination impacts were also ruled out.

8.2.2 I note that within the grounds of appeal the appellant argued that reliance on the original appropriate assessment screening process as part of governing permission 17/1497 ABO301726 was inadequate. It was noted that 6.5 years has passed since the original AA screening document was prepared. Reference was also made to case law in the intervening period and definitive findings in respect of the correct application of screening test for appropriate assessment, specifically that mitigation measures cannot be taken into account at screening stage of an appropriate assessment. (People over Wind and Sweetman v Coillte (C-323/17 EI: C:2018:244), Dunne and others v Offaly County Council [2019] IEHC 328, Kelly v An Bord Pleanála (2019)[IEHC 84]. The appellant emphasised the need, in line with the precautionary principle, that where the existence of a probability of effect is shown it requires the move from stage one screening to stage two appropriate assessment.

8.2.3 The applicant, in response to the grounds of appeal, submitted a Natura Impact Statement compiled by Neo Environmental entitled Natura Impact Statement Johnstown North Solar Farm Amendment Appeal Rebuttal, and dated 7/6/2024. The Stage 1 Appropriate Assessment Screening is incorporated as part of the Natura Impact Statement (Paras 1.39-1.48 of the NIS). I also note the Appropriate Assessment Screening report for Johnstown North Solar Farm, Co Wicklow by Fehily Timoney and Company dated December 2019 which was submitted as part of previous application (301726 17/1497).

8.2.4 The screening exercise has been prepared in line with current best practice guidance. A description of the proposed development is provided at Paras 1.11-1.14 of the NIS. The identification of potential for significant effects on European Sites within a possible 15km zone of influence of the development and whether the proposed development is likely to have any significant effects on any Natura 2000 sites found to have connectivity with the proposed development. The screening report noted five SACs and no SPAS within 15km of the proposed development site. The applicant's screening report concluded that the application site has a hydrological connection to Buckroney Brittas Dunes and Fen SAC, therefore this SAC is brought forward to Stage 2 of the AA process. As the Magherabeg Dunes SAC, Kilpatrick Sandhills SAC, Deputy's Pass Nature Reserve SAC, and Vale of Clara (Rathdrum Wood) SAC designated sites have no hydrological, or ecological connectivity to the application site no pathway exists for potential effects. These European sites have been scoped out from requiring further assessment.

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

8.3 Screening for Appropriate Assessment – Test of likely significant effects.

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

8.4 Brief Description of the development.

8.4.1 The applicant provides a description of the development in Paragraphs 1.11-1.14 of the NIS and elsewhere eg: The Planning and Environmental Statement submitted with the application.

In summary the development comprises modifications to the permitted development of a solar PV energy development (17/1497 ABP301726). The proposed amendments include.

- (1) Change in location and size of substation (24m² to 131.8m²);
- (2) two temporary construction compounds will be located at the site entrances (Total compound area 1.159.6m² with perimeter fencing).
- (3) the number of modules will decrease (57,024 to 49,653)
- (4) the number of pile drive poles will decrease (12,439 to 11,034).
- (5) the size and number of transformer stations will increase (8 instead of 7)
- (6) the total fencing area will increase from 27.3m² to 29m².
- (7) the total amount of fencing posts will increase (967 instead of 910)
- (8) up to 21 CCTV cameras will be installed on posts 3.5m in height
- (9) access tracks will be optimised and increase in width from 3.5m – 4m.
- (10) access track length will increase Total length will be approximately 2,050.5m (12,303.0m² in total) where original consent 1,863.4m(6,521.9m² in total).
- (11) increase in operational lifetime from 25 to 35 years.

8.4.2 The Planning application is accompanied by a number of documents setting out the manner of development construction including a planning and environmental statement and construction traffic management plan. I note that the governing application ABP301726-18 171497 was accompanied by an outline construction and environmental management plan which set out key environmental management issues association with the construction operation and decommissioning of a Solar photovoltaic scheme. Pollution prevention, waste management and environmental monitoring methods which represent best practice measures will be adhered to

during the construction stage and are set out at 1.50 and 1.51 of the NIS. An integral part of the proposed development design involves methods for controlling the movement of surface water within the site. Movement of surface water will be managed by a sustainable drainage system (SuDS) following best practices guidelines. Ciria (2007). The proposed drainage strategy proposes the construction of silt traps within the site. Location of silt traps have been chosen to intercept flows from the main areas of impermeable development where overland flow is directed to the most sensitive receptors. Swales or similar will be utilised to collect run off from access tracks. Regular monitoring of the water environment is proposed throughout the construction stage.

8.4.3 The development site is described at 1.15 of the NIS and within the Appropriate Assessment Screening report submitted with the governing application (301726-18 17/1497). Located within the townland of Johnstown North approximately 4.1km north of the centre of Arklow and 2.5km from the most easterly environs of the town. The site is bound to the north west by the N11 motorway. To the southeast the site is bordered by three agricultural fields and beyond these the R750 regional road. Topography of the site is undulating ranging from 10m to 30m OD. Access is via L95115 from the south. The site comprising agricultural fields in arable crop cultivation and pasture. Hedgerows on site are of varying character and quality. The site is well drained in general with drainage ditches serving most field boundaries directing surface runoff to the existing natural streams. The site does not lie within any designated nature conservation site.

8.4.4 The southern tip of Buckroney Brittas Dunes and Fen SAC is located 320m from the north eastern corner of the site. The Enerreilly (EPA name ENEREILLY) stream flows along part of the north western boundary of the site and continues north east before veering eastwards to join the Redcross River (EPA REDCROSS 10) c 1.5km downstream of the proposed development site boundary. The Redcross then flows through Buckroney Brittas Dunes and Fen SAC and enters St George's Channel. The Johnstown North stream is mapped as flowing in a southerly direction along the western edge and through the southwestern corner of the site before continuing

southwards and then veering eastward to enter St George's channel c1.5km downstream of the site. An unnamed stream flows along part of the northern boundary and enters and enters St George's Channel c 200m downstream of the northeastern corner of the site via an outfall at Enereilly beach. The unnamed stream is mapped as flowing along the southern boundary of Buckroney Brittas Dunes and Fen SAC.

- 8.4.5 I note the additional detail provided within the ecological walkover survey report included with the application and compiled by Neo Environmental dated 27/7/2023.

It notes that the footprint of the proposed substation area consists of improved agricultural grassland with species including but not limited to sweet vernal grass, ryegrass, soft rush, meadow buttercup, creeping buttercup, dock, horsetail and dandelion. The habitat is considered of low importance for ecology. In relation to hedgerow and treelines proposed for removal and drainage ditches species present included sycamore, goat willow, oak, hawthorn, ash, herb robert, bush vetch, hogweed, horse parsley, harts tongue, fern, blackthorn and sticky weed bramble and elm, willow and gorse. Tree species range from young to mature. While no nests were located goldfinch, chiffchaff, chaffinch and blackbird (all green listed species of least concern) were observed or heard around or within the treeline area. No evidence of badger was observed.

- 8.4.6 Taking account of the characteristics of the proposed development in terms of the location and scale of works, the following issues are considered for examination in terms of the implications for likely significant effects on European sites:

Surface water related pollution during the construction / decommissioning phase as a result of sediment-laden run-off and pollutants (hydrocarbons and other contaminants) entering the Ennereilly stream along the western boundary and first order stream flowing west to east from the north east corner of the site which discharge to the Buckroney Brittas Dunes and Fen SAC.

8.5 Submissions and Observations

8.5.1 Submissions and observations have been set out in Sections 3.3, 3.4 and 6.1 above and with regard to the submitted NIS at 6.4. The third party appellant in reference to the delayed submission of the NIS questions compliance with Aarhus convention, in terms of the availability of information and the ability of the public to comment on same. In this regard I note that following the submission of the NIS as part of the first party response to the appeal, the Board issued a statutory notice requiring the applicant under Section 142(4) of the Planning and Development Act 2000 as amended to publish revised public notices advising of the submission of the Natura Statement and inviting submissions from interested parties in respect of same. The applicant responded to this notice including the copy of the advertisement published in the Wicklow People on the 28th August 2025 and noted the erection of the additional public notices on that date and to be maintained for a period of 5 weeks. I note that no further submissions were received in response to these public notices. I observe that members of the public / interested parties were given the opportunity to engage with the information and participate in the application in line with statutory requirements.

8.6 European Sites

8.6.1 The development site is not located in or immediately adjacent to a European site. The closest European site is Buckroney Brittas Dunes and Fen SAC which lies within 320m to the north east of the site. A summary of European sites that occur within a possible zone of influence of the proposed development is presented in table 1 below. Where a possible connection between the development and the European site has been identified, these sites are examined in more detail.

Table 1: Summary Table of European Sites within a possible Zone of influence of the proposed development

| European Site | Qualifying Interest / Special Conservation Interest | Distance from the proposed development | Connections (source - pathway - receptor) | Considered Further in Screening |
|---|---|--|--|---|
| Buckroney-Brittas Dunes and Fen SAC Site Code 000729 | Annual vegetation of drift lines [1210] Perennial vegetation of stony banks [1220] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Atlantic decalcified fixed dunes (<i>Calluno-Ulicetea</i>) [2150] Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) [2170] Humid dune slacks [2190] Alkaline fens [7230] | 320m NE | Surface water pathway identified via run off during construction / operation decommissioning and potential impact on groundwater | Yes – Screened in on a precautionary basis. |
| Magherarabeg Dunes SAC Site Code 00729 | Annual vegetation of drift lines [1210] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220] | 9.92km N | None | No |
| Kilpatrick Sandhills SAC Site Code 001742 | Annual Vegetation of drift lines [1210] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with | 10.37km SS | None | No |

| | | | | |
|--|---|------------|------|----|
| | herbaceous vegetation (grey dunes) [2130] Atlantic decalcified fixed dunes (Calluno-Ulicetea) [2150] | | | |
| Deputy's Pass Nature Reserve SAC Site Code 000717 | Old Sessile Oak Woods with Ilex and Blechnum in the British Isles [91AO] | 12.6kmNW | None | No |
| Vale of Clara Rathdrum Wood SAC Site Code 000733 | Old Sessile Oak Woods with Ilex and Blechnum in the British Isles [91AO] | 13.71km NW | None | No |

8.6.2 I note that consideration has been given also to Natura 2000 sites beyond 15km of the site, however in light of the separation distance involved and as no pathways for significant impacts can be established, it can be reasonably concluded that there is no potential for those Natura 2000 sites to be impacted by the subject development.

8.7 Identification of likely effects

8.7.1 The construction phase of the development will involve earthworks and soil disturbance and movement which gives rise to the possibility of indirect negative impacts on downstream water quality through the accidental release of suspended solids, sediment etc or the discharge of hydrocarbon and other pollutants by way of contaminated surface water runoff. In this regard drains or watercourses can act as a hydrological conduit for contaminated surface water between development sites and downstream Natura 2000 sites with associated deterioration in water quality having a potentially negative impact on downstream aquatic habitats and or species identified as qualifying interests or special conservation interests. Given that the site is hydrologically connected to the Buckroney Brittas Funes and Fen SAC the potential arises for any contaminated surface waters released during the construction phase to enter the aquatic environment thereby resulting in a deterioration in downstream water quality. Consequential effects of common water pollutants on the aquatic environment are set out in Table 1-2 of the NIS which includes degradation of water quality, changes to chemical balance, reduction in prey for species degradation of

habitat. The decommissioning phase gives rise to similar potential effects but will be lesser in extent.

8.8 Mitigation measures

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

8.9 Screening Conclusion

8.9.1 The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act, 2000, as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on European Site No. 00729 Buckroney-Brittas Dunes and Fen SAC in view of the site's Conservation Objectives and Appropriate Assessment (and submission of a NIS) is therefore required.

8.10 Stage 2 Appropriate Assessment

8.10.1 The Natura Impact Statement, Johnstown North Solar Farm Amendment /Appeal Rebuttal dated 07/06/2024 by Neo Environmental examines and assesses the potential for adverse effect of the proposed development on the Buckroney Brittas Dune and Fen SAC. The NIS is informed by desktop study and ecological walkover study. I have also had regard to the Appropriate Assessment Screening Report compiled by Fehily Timoney and Company dated December 2017 attached to the governing application ABP301726 17/1497.

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

8.11 Appropriate Assessment of Implications of Proposed Development:

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

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

- Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service (2009).
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC.
- Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018). 7.12.16. European Sites:

8.12 **European Sites**

8.12.1 The relevant European site subject to Stage 2 Appropriate Assessment is The Buckroney Brittas Dunes and Fen SAC (Site Code 000729). A description of the site and its Conservation and Qualifying Interests/Special Conservation Interests is set out in the 'Impact Assessment' of the NIS as well as the screening assessment set out above. I have also examined the Natura 2000 data forms where relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website (www.npws.ie).

Aspects of the proposed development

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

The construction phase of the development will involve earthworks and soil disturbance and movement which gives rise to the possibility of indirect negative impacts on downstream water quality through the accidental release of suspended

solids, sediment etc or the discharge of hydrocarbon and other pollutants by way of contaminated surface water runoff. In this regard drains or watercourses can act as a hydrological conduit for contaminated surface water between development sites and downstream Natura 2000 sites with associated deterioration in water quality having a potentially negative impact on downstream aquatic habitats and or species identified as qualifying interests or special conservation interests. Given that the site is hydrologically connected to the Buckroney Brittas Dunes and Fen SAC the potential arises for any contaminated surface waters released during the construction phase to enter the aquatic environment thereby resulting in a deterioration in downstream water quality. Consequential effects of common water pollutants on the aquatic environment are set out in Table 1-2 of the NIS which includes degradation of water quality, changes to chemical balance, reduction in prey for species degradation of habitat. The decommissioning phase gives rise to similar potential effects but these are lesser in extent.

7.12.3 Evaluation of Likely Effects

Buckroney-Brittas Dunes and Fen SAC is a complex of coastal habitats located about 10 km south of Wicklow town. It comprises two main sand dune systems, Brittas Bay and Buckroney Dunes, connected on the coast by the rocky headland of Mizen Head. The dunes have cut off the outflow of a small river at Mizen Head and a fen, Buckroney Fen, has developed. A further small sand dune system occurs south of Pennycomequick Bridge.

The site is important as an extensive sand dune/fen system with well developed plant communities.

The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive:

[1210] Annual Vegetation of Drift Lines

[1220] Perennial Vegetation of Stony Banks

[1410] Mediterranean Salt Meadows

[2110] Embryonic Shifting Dunes

[2120] Marram Dunes (White Dunes)

[2130] Fixed Dunes (Grey Dunes)*

[2150] Decalcified Dune Heath*

[2170] Dunes with Creeping Willow

[2190] Humid Dune Slacks

[7230] Alkaline Fens

Mediterranean salt meadows are sensitive to changes in water quality and as such changes to water quality caused by pollution have the potential to result in damage to these communities. There is the potential therefore in the absence of mitigation for adverse impacts to arise in relation to this qualifying interests. None of the other qualifying interests for which the SAC is designated are present at the section of the site along which the stream which provides hydrological connection from the site to the SAC runs. The high dilution factor provided by the sea, through which any contaminants reaching the designated habitats within the SAC site would need to travel means that potential impacts would be reduced to imperceptible levels. There is no meaningful connection therefore between these habitats and the development works.

Mitigation measures

Mitigation measures in relation to water quality comprising design, best practice and mitigation measures are set out at 1.71 – 1.101 of the NIS. These include implementation of a 5m buffer from field drains and a 10m buffer of all electrical infrastructure from natural watercourses. Best practice pollution prevention measures will include storage of equipment and plant on dedicated hardstandings within the construction compounds to minimise risk of pollution caused by leakages. Regular checking of plant, use of biodegradable hydraulic oil, spill kits, bunded fuel storage, designated refuelling areas, chemical storage, licensed wastewater disposal from temporary site facilities and use of toolbox talks and site induction will also be implemented. Noise and vibration mitigation and dust and debris control prevention and minimisation will also feature. Emergency spill or pollution response measures are also included. Sustainable Urban Drainage Systems (SUDS) will be installed as part of the site preliminary works. Operational stage measures will include shallow swales at the substation compound leading to stilling pond, clean water diversion

and silt control measures. Additional attenuation measures will be implemented to attenuate surface water flow from the construction compounds.

I note that in accordance with condition 9 of governing permission (301728-18 17/1497) the construction of the development will be managed in accordance with a construction and environmental management plan to be agreed in writing prior to the commencement of development.

In combination effects.

It is not envisaged that the wider proposed development will give rise to any in combination /cumulative effects. Existing and proposed plans and projects proximate to the site are set out in Section 1.102-1.132 of the NIS. These include the National Planning Framework 2040, Regional Spatial and Economic Strategy for the Eastern Region, Wicklow County Development Plan 2022-2028 and a number of permitted and proposed projects in the wider area including residential schemes and Solar PV, grid infrastructure and other energy related developments within 5km of the development. I also note proposed offshore wind energy development - Arklow Bank Wind Park 2 which was submitted to the board since the current appeal. (Ref ABP319864). I am satisfied that cumulative effects on the SAC, in the context of existing and permitted development in the surrounding area and other existing and proposed development in the vicinity of the site, are not likely to arise.

The Integrity Test.

I have considered the NIS along with other information submitted with the application and have had regard to the mitigation measures outlined. Potential for impacts to arise in relation to the leakage of oils, diesels or other such contaminants from construction vehicles has been dealt with in the pollution prevention mitigation measures outlined in Section 1.73 of the NIS. Regular inspection of all plant and equipment, storage of diesel fuel in bunded areas and refuelling and maintenance in designated hardstanding areas over 50m distant to watercourse. Regarding potential impacts arising from sedimentation, best practice construction methodology will be employed during the construction phase and have been incorporated into the CEMP to ensure that water quality in the stream is not impacted.

Mitigation measures outlined are standard in nature and are known to be effective. I am satisfied that the mitigation measures outlined in relation to sedimentation and hydrocarbon contamination of soils and waters are acceptable and will prevent impact on the designated site.

Table 2 summarises the appropriate assessment and site integrity test. The conservation objectives for the European site have been examined and assessed with regard to the identified potential significant effect and all aspects of the project, alone and in combination with other plans and projects. Mitigation measures proposed to avoid and reduce impacts to a non-significant level have been assessed, and clear and definitive conclusions reached in terms of adverse effects on the integrity of the European site.

Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of the Buckroney-Brittis Dunnes and Fen SAC in view of the conservation objectives of this site. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

| Table 2 Appropriate Assessment AA Summary Matrix Buckroney-Brittas Dunes and Fen Sac. | | | | | |
|--|---|---|--|--|--|
| <p>Summary of key issues that could give rise to adverse effects</p> <p>Water quality impact due to pollutants or soil/sediment run off during construction/operation/ decommissioning stage.</p> <p>Conservation Objectives NPWS 27 March 2017 Version 1. National Parks and Wildlife Service, Department of Housing, Local Government and Heritage. https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000729.pdf</p> | | | | | |
| Qualifying interest feature | Conservation objectives targets and attributes | Potential adverse effects | Mitigation measures | In combination effects | Can adverse effects on integrity be excluded? |
| 1210 Annual vegetation of drift lines | To maintain the favourable conservation condition of Annual vegetation of drift lines in Buckroney-Brittas Dunes and Fen SAC. | Unlikely - Habitat not located in vicinity. Dilution factor provided by the sea, through which any contaminants reaching the designated habitats would need to travel means potential impacts would be reduced to imperceptible levels. | Best practice construction methodology as set out at 1.73 of the NIS and within the CEMP. Including detailed measures to mitigate impacts to water quality | No likely significant in combination effects | Yes |
| 1220 Perennial vegetation of stony banks | To restore the favourable conservation condition | Unlikely - Habitat not located in vicinity. Dilution factor provided by the sea, through which any contaminants reaching the designated habitats would need to travel means potential impacts would be reduced to imperceptible levels. | Best practice construction methodology as set out at 1.73 of the NIS and within the CEMP. Including detailed measures to mitigate impacts to water quality | No likely significant in combination effects | Yes |
| 1410 Mediterranean salt meadows (Juncetalia maritimi) | To maintain the favourable conservation condition | Unlikely Habitat not located in vicinity. Dilution factor provided by the sea, through which any contaminants reaching the designated habitats would need to travel means potential impacts would be reduced to imperceptible levels. | Best practice construction methodology as set out at 1.73 of the NIS and within the CEMP. Including detailed measures to mitigate impacts to water quality | No likely significant in combination effects | Yes |

| | | | | | |
|--|---|---|--|--|-----|
| 2110 Embryonic shifting dunes | To restore the favourable conservation condition | Unlikely Habitat not located in vicinity. Dilution factor provided by the sea, through which any contaminants reaching the designated habitats would need to travel means potential impacts would be reduced to imperceptible levels. | Best practice construction methodology as set out at 1.73 of the NIS and within the CEMP. Including detailed measures to mitigate impacts to water quality | No likely significant in combination effects | Yes |
| 2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) | To restore the favourable conservation condition | Unlikely Habitat not located in vicinity. Dilution factor provided by the sea, through which any contaminants reaching the designated habitats would need to travel means potential impacts would be reduced to imperceptible levels. | Best practice construction methodology as set out at 1.73 of the NIS and within the CEMP. Including detailed measures to mitigate impacts to water quality | No likely significant in combination effects | Yes |
| 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes) | To maintain the favourable conservation condition | Unlikely Habitat not located in vicinity. Dilution factor provided by the sea, through which any contaminants reaching the designated habitats would need to travel means potential impacts would be reduced to imperceptible levels. | Best practice construction methodology as set out at 1.73 of the NIS and within the CEMP. Including detailed measures to mitigate impacts to water quality | No likely significant in combination effects | Yes |
| 2150 Atlantic decalcified fixed dunes (<i>Calluno-Ulicetea</i>) | To restore the favourable conservation condition | Unlikely Habitat not located in vicinity. Dilution factor provided by the sea, through which any contaminants reaching the designated habitats would need to travel means potential impacts would be reduced to imperceptible levels. | Best practice construction methodology as set out at 1.73 of the NIS and within the CEMP. Including detailed measures to mitigate impacts to water quality | No likely significant in combination effects | Yes |
| 2170 Dunes with <i>Salix repens</i> ssp. <i>argentea</i> (<i>Salicion arenariae</i>) | To maintain the favourable conservation condition | Unlikely Habitat not located in vicinity. Dilution factor provided by the sea, through which any contaminants reaching the designated habitats would need to travel means potential impacts would be reduced to imperceptible levels. | Best practice construction methodology as set out at 1.73 of the NIS and within the CEMP. Including detailed measures to mitigate impacts to water quality | No likely significant in combination effects | Yes |

| | | | | | |
|--|---|---|--|--|---|
| 2190 Humid dune slacks | To restore the favourable conservation condition | Unlikely Habitat not located in vicinity. Dilution factor provided by the sea, through which any contaminants reaching the designated habitats would need to travel means potential impacts would be reduced to imperceptible levels. | Best practice construction methodology as set out at 1.73 of the NIS and within the CEMP. Including detailed measures to mitigate impacts to water quality | No likely significant in combination effects | Yes |
| 7230 Alkaline fens | To maintain the favourable conservation condition | No pathway of effect Alkaline fen habitat distribution is not located in the vicinity of the site | N/A | No likely significant in combination effects | Yes- Habitat not within zone of influence |
| Overall conclusion: Integrity test Following the implementation of mitigation, the construction, operation and decommissioning of this proposed development will not adversely affect the integrity of this European site. | | | | | |

8.12.4 Appropriate Assessment Conclusion

The proposed development involving amended design of the approved development (Planning Reference 17/1497 ABP301726) has been considered in light of the requirements of Sections 177U and 177V of the Planning and development Act 2000 as amended.

Having carried out screening for appropriate assessment of the project, it was concluded on a precautionary basis that it may have a significant effect on the Buckroney Brittas Dunes and Fen SAC. Consequently an Appropriate Assessment was required of the implications of the project on the qualifying features of that site in light of its conservation objectives.

Following an appropriate assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of European Site 000729 Buckroney Brittas Dunes and Fen SAC, or any other European site in view of the site's conservation objectives.

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

The conclusion is based on :

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of the Buckroney-Brittas Dunes and Fen SAC,
- Detailed assessment of the in-combination effects with other plans and projects including historical projects, current proposals and future plans,
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Buckroney-Brittas Dunes and Fen SAC ,
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Buckroney-Brittas Dunes and Fen SAC.

9. Recommendation

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

Reasons and Considerations

Having regard to:

- the national and regional policy objectives in relation to renewable energy,
- the provisions of the Wicklow County Development Plan 2022 – 2028,
- the nature, scale, extent and layout of the proposed development,
- the documentation submitted with the application and appeal, including the Planning and Environmental Statement, Decommissioning Statement, Glint and Glare Assessment, Noise Impact Assessment, Construction Traffic Management

Plan, Ecological Walkover Survey, Outline Construction Environmental Management Plan, Landscape Visual Appraisal, Natura Impact Statement.

- the mitigation measures proposed for the construction, operation and decommissioning of the proposed development,
- the topography of the area,
- the existing hedging and screening on the site, and
- the planning history and pattern of development in the area,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with national and regional renewable energy policy objectives, would not conflict with the provisions of the operative Wicklow County Development Plan, 2022 – 2028, would not seriously injure the amenities of property in the vicinity, would not be likely to have significant effects on the landscape character, the environment or the ecology of the area, would be acceptable in terms of traffic safety and convenience, and would make a positive contribution to Ireland's renewable energy requirements. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 12th day of December 2023 and the 25th day of March 2024, and as submitted to the Board on 10th day of June 2024 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such

details in writing with the planning authority prior to commencement of the development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Apart from any departures specifically authorised by this permission the development shall be carried out and completed in accordance with the terms and conditions of the permission granted under ABP301726 (17/1497) and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. (a) The permission shall be for a period of 35 years from the date of first commissioning of the solar array. All structures array and related ancillary structures shall then be removed and the site reinstated unless, prior to the end of that period, planning permission shall have been granted for their retention for a further period.
- (b) Prior to the commencement of development, a detailed site restoration plan providing for the removal of the solar arrays and all ancillary structures and a timescale for its implementation, shall be submitted to and agreed in writing with the planning authority.
- (c) On full or partial decommissioning, or if the solar farm ceases operation for a period of more than one year, the solar farm, the solar arrays and all ancillary structures shall be dismantled and removed permanently from the site. The site shall be restored in accordance with the agreed Site Restoration Pla and

all decommissioned structures shall be removed from the site 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 landscape restoration upon cessation of the project.

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

Reason: To protect the integrity of European Sites.

5. Trees to be removed on site shall be felled in late summer or autumn. Any disturbance to bats, badger setts, birds shall be in a manner to be agreed in writing with the planning authority on the advice of a suitably qualified ecologist and based on pre-construction bat bird and badger surveys.

Reason: In the interest of nature conservation.

6. Prior to the commencement of development, revised proposals for the eastern (substation) entrance, incorporating the provision of 'grass crete' or similar material and planting of boundaries between existing hedgerow and proposed

security fence shall be submitted to and agreed in writing with the Planning Authority.

Reason. In the interest of visual amenity.

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

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

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

Bríd Maxwell
Planning Inspector
28th January 2025

Form 1

EIA Pre-Screening

| | | | |
|--|---|---|---|
| An Bord Pleanála Case Reference | ABP.319704.24 | | |
| Proposed Development Summary | To amend the design of the approved development (Planning Reference 17/1497 ABP.301726) which comprises a solar P.V. energy development. Increase in the operational lifetime from 25 years – 35 years. | | |
| Development Address | Lands within the townland of Johnstown North, Arklow, Co Wicklow. | | |
| 1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings) | | Yes | ✓ |
| | | No | |
| 2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)? | | | |
| Yes | ✓ | Class 1. Agriculture, Silviculture and Aquaculture: (a) Restructuring of rural land holdings: i) is the amount of field boundary to be removed greater than 4km. | Proceed to Q3. |
| No | ✓ | Class 10 of Part 2 of Schedule 5. Infrastructure projects: (dd) All private roads which would exceed 2000m in length. The application includes the construction of internal access tracks of a total length of approximately 2,050.5m in length. Notably these are referred to in statutory notices as 'access tracks.' I note drawings also refer to 'track' and 'access track' whereas reports occasionally use the term 'road' and 'track' interchangeably. Given that the purpose of the tracks is not for the conveyance of people and vehicles per se, except as necessary in connection with the construction, maintenance and decommissioning of the development, and in keeping with previous Board decisions on this matter, I am satisfied that the proposed access tracks are materially different from a 'road' as defined under the Roads Act, 1993. | No EIAR or preliminary examination required |

| | | | |
|--|---|--|---|
| | | Therefore, the proposed access tracks do not fall to be considered under Class 10(dd) of the Regulations and thus do not require EIA. | |
| 3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class? | | | |
| Yes | | | EIA Mandatory EIAR required |
| No | ✓ | | Proceed to Q4 |
| 4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]? | | | |
| Yes | ✓ | Class 1 of Part 2 of Schedule 5, (a) Projects for the restructuring of rural land holdings, 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. | Preliminary examination required (Form 2) |

| | | |
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| 5. Has Schedule 7A information been submitted? | | |
| No | ✓ | Screening determination remains as above (Q1 to Q4) |
| Yes | | Screening Determination required |

Inspector: _____ Date: _____

| | |
|---|--|
| An Bord Pleanála Case Reference | ABP- 3019704-24 |
| Proposed Development Summary | To amend the design of the approved development (Planning Reference 17/1497 ABP.301726) which comprises a Solar P.V energy development. Increase in the operational lifetime from 25 years – 35 years. |
| Development Address | Lands within the townland of Johnstown North, Arklow, Co Wicklow. |
| <p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p> | |
| Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health). | <p>The development relates to a modification of a permitted solar PV development. The proposed solar development has an overall site area of 34.6 hectares contained within one overall landholding. The site was formerly in agricultural use.</p> <p>There have been a number of existing permitted and proposed renewable energy developments in the area. A renewable energy development as proposed is not exceptional in the context of the existing environment.</p> <p>The proposal will not result in significant emissions or pollutants to the environment. It is anticipated that limited waste will be produced during the construction process and the majority of earthworks will be backfilled or used for levelling within the site. There is likely to be general construction material waste which will be taken from site and disposed of in line with applicable requirements. No waste will be stored on site during construction. There is no waste produced during the operation phase. The construction process for the Solar Farm is c. 6-12 months, with only management and intermittent maintenance of the site required during the operation phase of the project.</p> |

| | |
|---|---|
| <p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p> | <p>The site comprises a series of agricultural fields enclosed by hedgerows used for pasture and arable crops. The surrounding area is primarily agricultural pastureland on gently rolling topography along the Wicklow coast circa 4km north of Arklow Town. The site is currently subject to a level of disturbance from current agricultural activities.</p> <p>The site is not located within or immediately adjacent to any designated habitats. There are five Natura 2000 sites within 15km however only one Buckroney Brittas Dunes and Fen SAC is hydrologically linked.</p> <p>A Natura Impact Statement NIS was submitted in response to the grounds of appeal which concludes that with the implementation of mitigation measures, along with ongoing monitoring to ensure compliance, it is considered that the proposed development will not have a significant effect upon any qualifying features, and therefore the integrity of the European sites connected with the application site.</p> <p>The site or area in immediate the vicinity does not have any features of particular sensitivity. While the proposal will involve hedgerow removal this is limited. The retention and reinforcement of hedgerows is provided for within the application.</p> |
| <p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p> | <p>The short term disturbance attributable to the proposed development will not be significant on ecological features subject to best practice and recommended mitigation.</p> <p>There are no adjoining protected structures. The governing permission ABP301726 provides for archaeological assessment, monitoring and recording.</p> <p>The proposed development does not have the potential to significantly affect other environmental sensitivities in the area.</p> |

| | |
|---|--|
| <p>Part 2, Class 1. Agriculture, Silviculture and Aquaculture: (a) Restructuring of rural land holdings:</p> <p>i) is the amount of field boundary to be removed greater than 4km,</p> <p>ii) the amount of re-contouring to take place above 5 hectares,</p> <p>iii) is the area of lands to be restructured by removal of field boundaries above 50 hectares.</p> | <p>The extent of hedgerow removal is not significant. The governing permission included removal of circa 282m of hedgerow. As part of the current application it is proposed to remove 38.6m of hedgerow at the substation entrance and c5m between fields 2&3, c5m between fields 5&6 and c5m between fields 4&9 for access tracks. This is significantly below the threshold of 4km for EIA reinserted by the 2023 amending regulations and also below the screening threshold set out in the 2011 (Agricultural) Regulations. Such removal is associated with access requirements and does not result in the amalgamation or enlargement of existing fields. Significant effects on biodiversity are not likely as a result of such works.</p> <p>The development does not involve significant excavation or recontouring of the lands by levelling off hills or infilling of hollows or other use or drainage works. Localised levelling for inverter and transformer cabinets on areas of hardstanding are not significant and do not constitute recontouring of lands.</p> <p>The development involves the removal of a minor amount of boundary hedging and does not involve notable restructuring.</p> |
| <p>Conclusion</p> | |
| <p>There is no real likelihood of significant effects on the environment.</p> <p>EIA is not required.</p> | |

Inspector: _____ **Date:** _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)