

OFFALY COUNTY COUNCIL

DECLARATION UNDER SECTION 5 OF THE
PLANNING & DEVELOPMENT ACT 2000, AS AMENDED

REFERENCE: DEC 21/36

NAME OF APPLICANT: HTS SOURCE RENEWABLES PARTNER LTD.

ADDRESS: BLG FINANCIAL,
3rd FLOOR,
THE BOATHOUSE,
BISHOP STREET,
DUBLIN 8.

ADDRESS FOR CORRESPONDENCE: BLG FINANCIAL,
3rd FLOOR,
THE BOATHOUSE,
BISHOP STREET,
DUBLIN 8.

NATURE OF APPLICATION: Request for Declaration under Section 5 of the Planning & Development Act 2000, as amended as to whether the provision of 0.59kms of 20kv underground cable forming the grid connection between Lehinch Solar Farm PL2 16/113 to the Clara 110kv substation and associated works is or is not development and is or is not exempted development.

LOCATION OF DEVELOPMENT: Lehinch, Clara, Co Offaly.

WHEREAS a question referred to Offaly County Council on 21st December 2021 as to whether the provision of 0.59kms of 20kv underground cable forming the grid connection between Lehinch Solar Farm PL2 16/113 to the Clara 110kv substation and associated works at Lehinch, Clara, Co Offaly is or is not development and is or is not exempted development under the Planning and Development Act 2000, (as amended).

AND WHEREAS the Planning Authority, in considering this declaration request, had regard particularly to-

- (a) Section 2 of the Planning & Development Act 2000 as amended and
- (b) Sections 3 of the Planning & Development Act 2000 as amended and
- (c) Article 6 of the Planning and Development Regulations 2001 as amended and
- (d) Schedule 2, Part 1, Class 26 of the Planning and Development Regulations 2001 as amended.

AND WHEREAS Offaly County Council has concluded that –

The proposed works is development and is exempted development.

NOW THEREFORE Offaly County Council, in exercise of powers conferred on it by Section 5 (2)(a) of the Planning and Development Act 2000, as amended hereby decides that the provision of 0.59kms of 20kv underground cable forming the grid connection between Lehinch Solar Farm PL2 16/113 to the Clara 110kv substation and associated works at Lehinch, Clara, Co Offaly is development and is exempted development.

MATTERS CONSIDERED In making its decision, the Planning Authority had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.


Administrative Officer

Date 26/1/2022

Note: Any person issued with a Declaration may on payment to An Bord Pleanála, 64 Marlborough Street Dublin 2 of such fees as may be described refer a declaration for review by the board within four weeks of the issuing of the Declaration.

Planning Report Dec 21/36

Re: Section 5 Declaration

A question has arisen as to whether:

The provision of 0.59kms of 20Kv underground cable forming the grid connection between Lehinch Solar Farm PL2 16/113 to the Clara 110Kv substation and associated works at Lehinch, Clara Co Offaly is/is not development and is or is not exempted development.

Assessment

I refer to the above. I have inspected the site and noted and considered the documentation on file. I would consider the proposed changes to be development having considered Sections 3 of the Planning & Development Act 2000, as amended.

Section 2

2.— (1) In this Act, except where the context otherwise requires—
“development” has the meaning assigned to it by section 3, and “develop” shall be construed accordingly;

Section 3:

3.—(1) In this Act, “development” means, except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land.

EIA Screening

It is considered that the proposed development does not constitute a development listed in Schedule 5 of the Planning and Development Regulations 2001 as amended. Furthermore, it is not a sub-threshold development. Accordingly, an EIAR is not required.

Appropriate assessment

A screening exercise for an appropriate assessment has been carried out and it has been deemed that the development is unlikely to have significant effects on any European sites. Please see attached report.

Other than the European sites addressed in the AA no other AA is potentially within the zone of influence of the project.

Furthermore I would consider that the development is exempt due to the following exemptions in the planning regulations as amended

Article. 6. (1) Subject to article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

Schedule 2, Part 1 Class 26

The carrying out by any undertaker authorised to provide an electricity service of development consisting of the laying underground of mains, pipes, cables or other apparatus for the purposes of the undertaking.

The applicant is deemed to be an undertaker as defined by the planning act.

Recommendation:

It is recommended that the applicant be advised that the proposed development is development and is exempted development.

Declaration on Development and Exempted Development

Section 5 of the Planning and Development Act 2000 (as amended)

WHEREAS a question has arisen as to whether the:

The provision of 0.59kms of 20Kv underground cable forming the grid connection between Lehinch Solar Farm PL2 16/113 to the Clara 110Kv substation

At Lehinch, Clara Co Offaly and associated works is development and is or is not exempted development.

AND WHEREAS HTS Source Renewables Partners Ltd. has requested a declaration on the said question from Offaly County Council;

AND WHEREAS Offaly County Council, in considering this declaration request, had regard particularly to-

- (a) Section 2 of the Planning & Development Act 2000 as amended and
- (b) Sections 3 of the Planning & Development Act 2000 as amended and
- (c) Article 6 of the Planning and Development Regulations 2001 as amended and
- (d) Schedule 2, Part 1, Class 26 of the Planning and Development Regulations 2001 as amended.

AND WHEREAS Offaly County Council has concluded that –

The proposed works is development and is exempted development.

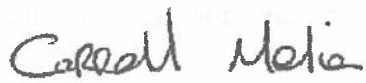
NOW THEREFORE Offaly County Council, in exercise of the powers conferred on it by Section 5 (2) hereby decides that the

The provision of 0.59kms of 20Kv underground cable forming the grid connection between Lehinch Solar Farm PL2 16/113 to the Clara 110Kv substation

at Lehinch, Clara Co Offaly and associated works is development and is exempted development.



Ed Kelly
Executive Planner
25/1/2022



Carroll Melia
A/Senior Executive Planner
25th January 2022

APPROPRIATE ASSESSMENT SCREENING REPORT FOR PLANNING APPLICATIONS



Screening is used to determine if an AA is necessary by examining:

- If the plan / project is directly connected with / necessary to the management of the s European site.
- If the effects will be significant on a European site in view of its conservation objectives, either alone / in combination with other plans / projects.

Planning Application Ref. No.: : DEC

21/36

(A) DESCRIPTION OF PROJECT AND LOCAL SITE:	
Proposed development:	The provision of 0.59kms of 20Kv underground cable forming the grid connection between Lehinch Solar Farm PL2 16/113 to the Clara 110Kv substation
Site location:	Lehinch, Clara Co Offaly
Identification of nearby <i>European</i> Site(s):	2000 site(s): SAC 000572– Clara Bog SAC
Distance to <i>European</i> Site(s):	1.8 kms
The characteristics of existing, proposed or other approved plans / projects which may cause interactive / cumulative impacts with the project being assessed and which may affect the <i>European</i> site:	None
Is the application accompanied by an EIAR?	No: <input checked="" type="checkbox"/>
(B) IDENTIFICATION OF THE RELEVANT NATURA 2000 SITE(S):	
The reasons for the designation of the Natura 2000 site(s):	Clara Bog has long been regarded as one of the most important lowland raised bogs in the country, being the largest remaining example of the true Midland sub-type. The ecology supports breeding Merlin (1-2 pairs), a scarce species in Ireland and one that is listed on Annex I of the EU Birds Directive
The conservation objectives / qualifying interests of the site and the factors that contributes to the conservation value of the site: (which are taken from the <i>European</i> site synopses and, if applicable, a Conservation Management Plan; all available on www.npws.ie) (ATTACH INFO.)	

PLEASE SEE

<https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000572.pdf>

https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000572.pdf

(C) NPWS ADVICE:

Advice received from NPWS over phone:	None received
Summary of advice received from NPWS in written form (ATTACH SAME):	None received

(D) ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS:

*(The purpose of this is to identify if the effect(s) identified could be significant – if **uncertain** assume the effect(s) are significant).*

If the answer is 'yes' to any of the questions below, then the effect is significant.
(Please justify your answer. 'Yes' / 'No' alone is insufficient)

Would there be...	Not likely due to the location and type of development
... any impact on an Annex 1 habitat? (Annex 1 habitats are listed in Appendix 1 of AA Guidance).	The site is sufficient distance from the <i>European</i> site.
... a reduction in habitat area on a <i>European</i> site?	There will be no reduction in the habitat area. The site is sufficient distance from the <i>European</i> site.
... direct / indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the <i>European</i> site?	Not likely due to the location and type of development The site is sufficient distance from the <i>European</i> site.
... serious / ongoing disturbance to species / habitats for which the <i>European</i> site is selected (e.g. because of increased noise, illumination and human activity)?	Not likely due to the location and type of development The site is sufficient distance from the <i>European</i> site.
... direct / indirect damage to the size, characteristics or reproductive ability of populations on the <i>European</i> site?	None likely due to the location and type of development The site is sufficient distance from the <i>European</i> site.
Would the project interfere with mitigation measures put in place for other plans / projects. [Look at <i>in-combination effects</i> with completed, approved but not completed, and proposed plans / projects. Look at projects / plans within and adjacent to <i>European</i> sites	No other plans known of in the vicinity of the site. The site is sufficient distance from the <i>European</i> site.

and identify them]. Simply stating that there		
(E) SCREENING CONCLUSION:		
Screening can result in:		
1.	<i>AA is not required because the project is directly connected with / necessary to the nature conservation management of the site.</i>	
2.	<i>No potential for significant effects / AA is not required.</i>	
3.	<i>Significant effects are certain, likely or uncertain. (In this situation seek a Natura Impact Statement from the applicant, or reject the project. Reject if too potentially damaging / inappropriate.</i>	
Therefore, does the project fall into category 1, 2 or 3 above?		Category 2
Justify why it falls into relevant category above:		There would be no likely significant impact on the European site from the proposed development.
Name:	Ed Kelly	
Position:	Exec. Planner	Date: 25/1/2022