



Title of Report:	Planning Committee Report – LA01/2024/0988/S54
Committee Report Submitted To:	Planning Committee
Date of Meeting:	26th February 2025
For Decision or For Information	For Decision – Major Item

Linkage to Council Strategy (2021-25)	
Strategic Theme	Cohesive Leadership
Outcome	Council has agreed policies and procedures and decision making is consistent with them
Lead Officer	Principal Planning Officer

Budgetary Considerations	
Cost of Proposal	Nil
Included in Current Year Estimates	N/A
Capital/Revenue	N/A
Code	N/A
Staffing Costs	N/A

Screening Requirements	Required for new or revised Policies, Plans, Strategies or Service Delivery Proposals.		
Section 75 Screening	Screening Completed:	N/A	Date:

	EQIA Required and Completed:	N/A	Date:
Rural Needs Assessment (RNA)	Screening Completed	N/A	Date:
	RNA Required and Completed:	N/A	Date:
Data Protection Impact Assessment (DPIA)	Screening Completed:	N/A	Date:
	DPIA Required and Completed:	N/A	Date:

App No: LA01/2024/0988/S54

Ward: Macosquin

App Type: Full Planning

Address: Lands are located immediately NE at 11 Bushtown Road extending eastwards. Lands begin approximately 470m North of 38 Kilmaconnell Road approximately 240m West. Northwest of 17 Kilmaconnell Road and approximately 200m West/Southwest of 406 Ballyness Park, Castleroe.

Proposal: Section 54 variation of Condition No.2 (Time Limit on which electricity is connected to the grid & submission of decommissioning scheme) from LA01/2015/0980/F:

From:

This permission is for a limited period, expiring 30 years from the date which electricity from the solar farm is connected to the grid. Within 12 months of the permanent cessation of electricity generation at the site, or upon the expiration of this permission, whichever is sooner, all above ground structures shall be removed from the site and the land restored in accordance with a scheme to be submitted to and agreed in writing with the Planning Authority at least one year prior to the commencement of any decommissioning works.

To:

This permission is for a limited period, expiring 40 years from the date on which electricity from the solar is connected to the grid. Within 12 months of the permanent cessation of electricity generation at the site, or upon the expiration of this permission, whichever is the sooner, all above ground structures shall be removed from the site and the land restored in accordance with a decommissioning scheme to be submitted and agreed in writing with the Council. The scheme shall be submitted to the Council at least 3 months prior to the commencement of any decommissioning works.

Con Area: N/A

Valid Date: 05.09.2024

Listed Building Grade: N/A

Applicant: Elgin Energy

Agent: RPS

Executive Summary

- The site is located south of Coleraine in the open countryside.
- No letters of objection have been received in relation to this application.
- Given the nature of the proposal, no consultations were undertaken on this application.
- Planning Approval LA01/2015/0980/F was granted permission in May 2016 for a solar farm. This was subject to Condition 2 that the permission is for a limited period of 30 years after which the development had to be removed.
- This current application seeks permission to vary Condition 2 to extent the period from 30 years to 40 years.
- Planning Approval LA01/2015/0980/F expired on 31 May 2021 unless a lawful start had been made by that date. Such a lawful start has not been demonstrated.
- This proposal is unacceptable having regard to the Northern Area Plan 2016, SPPS and other material considerations. The condition cannot be changed as the original planning permission is time expired.
- Refusal is recommended.

Drawings and additional information are available to view on the Planning Portal:

<https://planningregister.planningsystemni.gov.uk/simple-search>

1.0 RECOMMENDATION

- 1.1 That the Committee has taken into consideration and agrees with the reasons for the recommendation set out in section 9 and the policies and guidance in sections 7 and 8 and resolves to **REFUSE** planning permission subject to the reason set out in section 10.

2.0 SITE LOCATION & DESCRIPTION

- 2.1 The site is located to the south of Coleraine in open countryside.
- 2.2 While the majority of the site remains undeveloped with agricultural fields and hedgerows, the access and visibility splays have been provided.

3.0 RELEVANT HISTORY

- 3.1 LA01/2025/0101/CLEUD
Lands are located immediately NE at 11 Bushtown Road extending eastwards. Lands begin approximately 470m North of 38 Kilmaconnell Road approximately 240m West/Northwest of 17 Kilmaconnell Road and approximately 200m West/Southwest of 406 Ballyness Park, Castleroe.
Confirmation of lawful commencement of planning ref:
LA01/2015/0980/F - Bushtown Solar Farm
Invalid – 12.02.2025
- 3.2 LA01/2015/0980/F
Lands are located immediately NE at 11 Bushtown Road extending eastwards. Lands begin approximately 470m North of 38 Kilmaconnell Road approximately 240m West/Northwest of 17 Kilmaconnell Road and approximately 200m West/Southwest of 406 Ballyness Park Castleroe.

Construction and operation of a solar farm with a total generating capacity of 25MW. Development comprises photovoltaic panels, mounting frames, 1 No. substation, 20 No. inverter stations, 12 No. CCTV cameras (3 meters high) and ancillary construction works including perimeter fencing (2.4 meters high), new road access, internal service tracks and 1 no. temp.construction compound.
Approval – 31.05.2016

4.0 THE APPLICATION

- 4.1 This is a section 54 application to vary the wording of Condition 2 (Time Limit on which electricity is connected to the grid & submission of decommissioning scheme) of Approved Application LA01/2015/0980/F:-

From:

This permission is for a limited period, expiring 30 years from the date which electricity from the solar farm is connected to the grid. Within 12 months of the permanent cessation of electricity generation at the site, or upon the expiration of this permission, whichever is sooner, all above ground structures shall be removed from the site and the land restored in accordance with a scheme to be submitted to and agreed in writing with the Planning Authority at least one year prior to the commencement of any decommissioning works.

To:

This permission is for a limited period, expiring 40 years from the date on which electricity from the solar is connected to the grid. Within 12 months of the permanent cessation of electricity generation at the site, or upon the expiration of this permission, whichever is the sooner, all above ground structures shall be removed from the site and the land restored in accordance with a decommissioning scheme to be submitted and agreed in writing with the Council. The scheme shall be submitted to the Council at least 3 months prior to the commencement of any decommissioning works.

Habitat Regulations Assessment

- 4.2 The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed under planning application LA01/2015/0980/F in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). It was concluded that the proposal would not be likely to have a significant effect on the features of any European site. As this application relates to the duration the development can subsist, it is considered that the proposal will not result in any adverse impact on any European designated site.

Design & Access Statement

- 4.3 As per The Planning (General Development Procedure) Order (Northern Ireland) 2015, Section 6 4(a) a Design and Access Statement is not required as the condition to which the variation is sought does not relate to design and access issues. Accordingly, a Design and Access Statement was not required to accompany the application.

Environmental Impact Assessment

- 4.4 A screening determination under The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2017 was completed on 17 February 2025. This determined that the proposed development did not require submission of an Environment Statement.

5.0 PUBLICITY & CONSULTATIONS

5.1 External:

No letters of representation have been received in relation to this application.

5.2 Internal:

None.

- 5.3 Regulation 2(1)(b) of the DM Regulations has the effect that any change to or extension of an existing major development is to be treated as major where the change or extension itself meets or exceeds the relevant threshold or criterion in the corresponding entry in Column 2 of the Thresholds Table.
- 5.4 Application LA01/2015/0980/F was classified as major as it exceeded the thresholds outlined in the table within the Schedule. However, where an application is submitted for a change or extension to 'Major Development' the proposal is not subject to Pre-Application Community Consultation.

6.0 MATERIAL CONSIDERATIONS

- 6.1 Section 45(1) of the Planning Act (Northern Ireland) 2011 requires that all applications must have regard to the local plan, so far as material to the application, and all other material considerations. Section 6(4) states that in making any determination where regard is to be had to the local development plan, the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 6.2 The development plan is:
- Northern Area Plan 2016
- 6.3 The Regional Development Strategy (RDS) is a material consideration.
- 6.4 The Strategic Planning Policy Statement for Northern Ireland (SPPS) is a material consideration. As set out in the SPPS, until such times as a new local plan strategy is adopted, councils will apply specified retained operational policies.
- 6.5 Due weight should be given to the relevant policies in the development plan.
- 6.6 All material considerations and any policy conflicts are identified in the "Considerations and Assessment" section of the report.

7.0 RELEVANT POLICIES & GUIDANCE

The Northern Area Plan 2016

Strategic Planning Policy Statement (SPPS)
PPS 18 Renewable Energy

8.0 CONSIDERATIONS & ASSESSMENT

Principle of Development

- 8.1 Planning permission was granted subject to Condition 1 which requires that development must be begun within 5 years i.e. by 31 May 2021. The relevant legislation to assess a variation of condition application is Section 54 of the Planning Act (Northern Ireland) 2011. Section 54(4) states that this section does not apply where the application is made after the previous planning permission has become time expired without the development having been begun.
- 8.2 It has not been demonstrated that the development has begun lawfully. The Planning Department contacted the Agent on 02 October 2024 to advise the appropriate mechanism to demonstrate a lawful start is submission of a Proposed Certificate of Lawful Use or Development (CLUD) application. On 28 January 2025 such a CLUD application (Ref: LA01/2025/0101/CLEUD) was submitted. However, this was made invalid on 12 February 2025 due principally to a significant application fee shortfall. Initial consideration of the evidence submitted with the CLUD application did not demonstrate compliance with Condition 8 which clearly prohibited development ahead of the provision of badger fencing. Any development undertaken not in compliance with the terms of a negative condition renders that development unlawful.

9.0 CONCLUSION

- 9.1 The purpose of the new proposal is to vary the wording of a condition to extend the operational life of the approved solar farm. However, planning legislation does not allow consideration of such a variation of condition application where the previous planning permission has become time-expired, as is the case in this instance. As it has not been demonstrated that the previous planning permission was commenced lawfully, the principle of the proposal cannot be considered further. Refusal is recommended.

10.0 REFUSAL REASON

1. The proposal cannot be subject to the provisions of Section 54 of the Planning Act (Northern Ireland) 2011 in that the previous planning permission has become time-expired and it has not been demonstrated that the development begun lawfully.

Site Location Map

