



Board Direction

Ref: 07.243094

The submissions on this file and the Inspector's report were considered at a further Board meeting held on 15th December 2015.

The Board decided that it would not be necessary to refer the file for an addendum report from Inspectorate on foot of the Applicant's response to the S. 132 notice issued by the Board on 25th May 2015 and subsequent responses.

The Board decided to grant permission in accordance with the following reasons, considerations and conditions.

REASONS AND CONSIDERATIONS

In coming to its decision, the Board had regard to the following:

- (a) national policy relating to the development of sustainable energy sources,
- (b) the provisions of the "Wind Farm Planning Guidelines", issued by the Department of the Environment, Heritage and Local Government (2006),
- (c) the policies of the planning authority as set out in the Galway County Development Plan 2015 - 2021, which include the site of the proposed development within a designated strategic area for wind farm development (Map WE5A refers),
- (d) the character of the landscape and the topography surrounding the site,
- (e) the characteristics of the site and of the general vicinity,

- (f) the pattern of existing and permitted development in the area, including other windfarms,
- (g) the distances from the proposed development to dwellings or other sensitive receptors,
- (h) the range of mitigation measures set out in the documentation received, including the Environmental Impact Statement (received by the Board on 31st March 2014) , revised Environmental Impact Statement (received by the Board on 24th August 2015/1st September 2015), Natura Impact Statement (received by the Board on 31st March 2014) and revised Natura Impact Statement (received by the Board on 24th August 2015/1st September 2015),
- (i) the planning history of the site and surrounding area,
- (j) the submissions and observations made in connection with the planning application and the appeal, and the report of the Inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development would accord with the National and County policies in respect of wind energy, would not have significant negative effects on the community in the vicinity, would not give rise to pollution, would not result in detrimental visual or landscape impacts, would not seriously injure the amenities of the area or of property in the vicinity of the site, would not be injurious to the cultural or archaeological heritage of the area, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse planning permission, the Board considered all of the documentation on file including the submission from the Applicant received by the Board on 24th August 2015/1st day of September, 2015, in response to the S. 132 Notice issued by the Board on 25th May 2015. Having considered this documentation including the Environmental Impact Statement (received by the Board on 31st March 2014) and the revised and updated Environmental Impact Statement (received by the Board on 24th August 2015/1st September 2015) the Natura Impact Statement (received by the Board on 31st March 2014) and the revised and updated Natura Impact Statement (received by the Board on 24th August 2015/1st September 2015), the Board completed an Environmental Impact Assessment and Appropriate Assessment as documented below. The Board considered that the concerns that had been expressed by the Inspector in respect of the disturbance, barrier effects to movement and collision risk arising from the construction and operation of

the wind farm on birds of Special Conservation Interest known to traverse the site, notably the Golden Plover had been satisfactorily addressed by the Applicant.

Appropriate Assessment

The Board considered that the information before it, including the Natura Impact Statement and revised Natura Impact Statement was adequate to allow for the carrying out of an appropriate assessment. The Board completed an appropriate assessment.

Screening:

In carrying out this assessment, the Board considered the nature of the proposed development together with the characteristics and conservation objectives for the ten Natura 2000 sites located within 15km of the proposed development, namely

- *Connemara Bog Complex SAC (002134);*
- *Ross Lake and Woods SAC (001312);*
- *Gortnadarragh Limestone Pavement SAC (001271);*
- *Connemara Bog Complex SPA (004181);*
- *Lough Corrib SAC (000297);*
- *Lough Corrib SPA (004042);*
- *Lough Corrib Ramsar Site (Ramsar Site No. 846);*
- *Galway Bay Complex SAC (000268);*
- *Inner Galway Bay SPA (004031);*
- *Inner Galway Bay Ramsar Site (Ramsar Site No. 838)*

and the distances between the proposed site and these sites and any other European sites.

The Natura Impact Statement accompanying the application and appeal screened out the need for Stage II Appropriate Assessment in the case of (i) the Gortnadarragh Limestone Pavement SAC (001271) and (ii) the Galway Bay Complex SAC (000268). The Inspector accepted this screening. On the basis of the information available including the Inspector's report the Board concluded that the proposed development, either individually or in combination with other plans and projects, would not be likely to have a significant effect on either of these two European sites in view of the sites conservation objectives.

Stage II

Having regard to the relevant information on file, the Board considered the Inspector's Report, conclusions and recommendation during its deliberations at a Board meeting held on 12th, May 2015. The Board agreed with the Inspector's conclusions including the concerns expressed in relation to potential impacts on bird species in respect of which the Connemara Bog Complex SPA, Lough Corrib SPA and Inner Galway Bay SPA have been designated including, in particular, the Golden Plover. The Board decided to issue a S. 132 Notice asking the Applicant to respond to this issue prior to completing the Appropriate Assessment.

The Board considered the Inspector's suggestion concerning the possible need for further pre-construction survey work in respect of disturbance to potential habitat for the Marsh Fritillary. However, the Board considered that further survey as suggested by the Inspector was not necessary having regard to the nature and extent of the survey work that had been carried out to date in respect of this species and its host habitat in connection with the proposed development. The Board accepted the Inspector's recommendation to include a condition requiring works to be carried out outside the breeding season for this species as a precautionary measure.

A response to the S. 132 Notice issued by the Board on 25th, May 2015 was received on 24th, August 2015/1st day of September, 2015. This response was circulated to the parties and new public notices issued. Responses and comments were received from the following parties and observers:

- Martin Walsh
- Stiofán Ó'Cualáin & Máire Ní Raghallaigh
- An Taisce
- Padraig Ó'Catháin
- John Rushe & Annette Collins
- Thomas O'Raghallaigh
- Peter Sweetman
- Máire Ní Luachra & others

The Board examined the further information received from the Applicant including the revised Natura Impact Statement together with the comments from other parties and observers and carried out further evaluation and analysis of the potential impact of the proposed development on protected bird species including, in particular, the Golden Plover. In evaluating that issue, the Board was satisfied that the information contained within the further information submission and revised Natura Impact Statement was comprehensive, thorough and robust and had employed the best available

scientific expertise in relation to research, the collection of survey data and the analysis of same.

The revised Natura Impact Statement concluded:

- There are no traditional feeding areas or over-wintering areas for the Golden Plover and no Golden Plover breeding at, or in the vicinity of the site;
- Few, very small to small flocks of Golden Plover were observed at the site and in the region flying at high altitudes and migrating between sites;
- The largest flock observed represents 0,003% of the national over-wintering population;
- The proposed cluster arrangement of turbines yields ample flight corridors between turbines;
- Based on the scientific evidence presented in the revised Natura Impact Assessment there will be no significant disturbance and no effect on the Golden Plover as a result of the proposed wind farm;
- The proposed development will cause no significant effects to movement of Golden Plover and no significant collision risk and
- The favourable conservation status of Golden Plover will not be affected by the project.

The submissions and comments received from other parties and observers did not identify any substantive issue or concern or provide any substantive scientific evidence that would cast doubt on the findings and the conclusions of the revised Natura Impact Statement. Following comprehensive evaluation the Board found that the findings and the conclusions of the revised Nature Impact Statement could be accepted.

The Board accepted that the proposed 110KV connection route to the national grid via the permitted 110/KV substation currently nearing completion will involve the laying of electric cable underground along the already proposed wind farm access to the west of proposed Turbine No. 4 and proposed Turbine No. 11 and accepted the conclusions of the revised Natura Impact Statement in relation to this element of the development.

In conclusion, the Board was satisfied that it could be concluded beyond reasonable scientific doubt that the proposed development including grid connection, either individually or in combination with other plans and

projects, would not adversely affect the integrity of the European sites *Connemara Bog Complex SAC (002134)*; *Ross Lake and Woods SAC (001312)*; *Connemara Bog Complex SPA (004181)*; *Lough Corrib SAC (000297)*; *Lough Corrib SPA (004042)*; *Lough Corrib Ramsar Site (Ramsar Site No. 846)*; *Inner Galway Bay SPA (004031)* and *Inner Galway Bay Ramsar Site (Ramsar Site No. 838)* in view of these site's conservation objectives, during either the construction or operation phase of the wind farm development.

Environmental Impact Assessment

The Board considered the Environmental Impact Statement submitted with the application, the submissions on file and the Inspector's assessment of the environmental impacts during its deliberations at a Board meeting held on 12th, May 2015. The Board adopted the Inspector's report on the Environmental Impact Statement and concurred with its analysis and conclusions including the concerns expressed in respect of the impact of the project on Annex 1 bird species.

The Board also noted the issues that have arisen in respect of the project (wind farm and grid connection) as a consequence of the recent High Court judgement in the case of *Pól O'Grianna and others – v – An Bord Pleanála*. The Board decided to issue a S. 132 Notice asking the Applicant to respond to these issues prior to completing an Environmental Impact Assessment.

A response to the S. 132 Notice issued by the Board on 25th, May 2015 was received on 24th, August 2015/1st day of September, 2015. This response was circulated to the parties and new public notices issued. Responses and comments were received from the following parties and observers:

- Martin Walsh
- Stiofán Ó'Cualáin & Máire Ní Raghallaigh
- An Taisce
- Pádraig Ó'Catháin
- John Rushe & Annette Collins
- Thomas O'Raghallaigh
- Peter Sweetman
- Máire Ní Luachra & others

The Board considered the further information received from the Applicant including the revised Environmental Impact Statement together with the comments from observers.

The Board considered the Environmental Impact Statement and revised Environmental Statement submitted with the application, and other

submissions on file, was adequate in identifying and describing the direct effects, indirect effects and cumulative effects in combination with other projects of the proposed development, including grid connection.

The Board completed an Environmental Impact Assessment and concluded that the proposed development, subject to compliance with the mitigation measures proposed, and subject to compliance with the conditions set out below, would not have unacceptable impacts on the environment.

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 submitted the 13th day of December, 2013 and by the further plans and particulars received by the Board on the 24th day of August, 2015/1st day of September 2015 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. All of the environmental, construction and ecological mitigation measures set out in the Environmental Impact Statement, the Natura Impact Statement, as revised, and other particulars submitted with the application and in the further information submitted to the planning authority on the 13th, day of December 2013, and to An Bord Pleanála on 24th, August 2015 shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.

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

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

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

4. This permission shall be for a period of 25 years from the date of commissioning of the wind farm.

Reason: To enable the planning authority to review its operation in the light of the circumstances then prevailing.

5.
 - a) The permitted turbines Nos. 5, 6, 7, 9, 11 and 14 shall have a maximum tip height of 140.5 metres and Nos. 1, 2, 3, 8 and 13 shall have a maximum tip height of 130.5 metres. Details of the turbine design, height and colour shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development.
 - b) Cables from the turbine to the substation shall be run underground within the site.
 - c) The wind turbines shall be geared to ensure that the blades rotate in the same direction.
 - d) Transformers associated with each individual turbine and mast shall be located either within the turbine mast structure or at ground level beside the mast.
 - e) No advertising material shall be placed on or otherwise affixed to any structure on the site without a prior grant of planning permission.
 - f) The access tracks within the site shall be surfaced in suitable material, acceptable to the planning authority, and shall not be hard topped with tarmacadam or concrete.
 - g) Roads, hard-standing areas and other hard-surfaced areas shall be completed to the written satisfaction of the planning authority within three months of the date of commissioning of the windfarm.
 - h) Soil, rock and other materials excavated during construction shall not be left stockpiled on site following completion of works. Excavated areas including the borrow pits and areas of peat placement shall be appropriately restored within three months of the date of commissioning of the wind farm, to details to be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of the amenities of the area.

6. Removal of site vegetation shall be carried out outside of the breeding season for the Marsh Fritillary Butterfly (*Euphydryas Aurinia*).

Reason: As a precautionary measure in the interest of protecting the species.

7. Details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, following consultation with the Irish Aviation Authority. Prior to the commissioning of the turbines, the developer shall inform the planning authority and the Irish Aviation Authority of the co-ordinates of the as-constructed tip heights and co-ordinates of the turbines and wind monitoring mast.

Reason: In the interest of air traffic safety.

8. Noise mitigation measures outlined in the environmental impact statement and in the further information submitted to the planning authority shall be carried out in full. The following conditions shall be complied with:

(a) Wind turbine noise arising from the proposed development, by itself or in combination with other existing or permitted wind energy development in the vicinity, shall not exceed the greater of:

- 5 dB(A) above background noise levels or
- 43 dB(A) $L_{90,10min}$

when measured externally at dwellings or other sensitive receptors.

(b) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a noise compliance monitoring programme for the subject development, including any mitigation measures such as the de-rating of particular turbines. All noise measurements shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with Respect to Community Response," as amended by ISO Recommendations R 1996-1. The results of the initial noise compliance monitoring shall be submitted to, and agreed in writing with, the planning authority within six months of commissioning of the wind farm.

Reason: In the interest of residential amenity.

9. (a) Shadow flicker arising from the proposed development, by itself or in combination with other existing or permitted wind energy development in the vicinity, shall not exceed 30 hours per year or 30

minutes per day at existing or permitted dwellings or other sensitive receptors.

(b) A report shall be prepared by a suitably qualified person in accordance with the requirements of the planning authority, indicating compliance with the above shadow flicker requirements at dwellings. Within 12 months of commissioning of the proposed wind farm, this report shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of residential amenity.

10. Prior to the commencement of development the developer shall agree a protocol for assessing any impact on radio or television or other telecommunications reception in the area. In the event of interference occurring, the developer shall remedy such interference according to a methodology to be agreed in writing with the planning authority, following consultation with other relevant authorities and prior to commissioning the turbines.

Reason: In the interest of residential amenity.

11.

a) Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with the planning authority:

- i) a Transport Management Plan, including details of the road network/haulage routes, the vehicle types to be used to transport materials on and off site, and a schedule of control measures for exceptional wide and heavy delivery loads.
- ii) a condition survey of the roads and bridges along the haul routes to be carried out at the developer's expense by a suitably qualified person both before and after construction of the wind farm development. This survey shall include a schedule of required works to enable the haul routes to cater for construction-related traffic. The extent and scope of the survey and the schedule of works shall be agreed with the planning authority/authorities prior to commencement of development.
- iii) detailed arrangements whereby the rectification of any construction damage which arises shall be completed to the satisfaction of the planning authority/authorities.
- iv) detailed arrangements for temporary traffic arrangements/controls on roads.

- v) a programme indicating the timescale within which it is intended to use each public route to facilitate construction of the development.
- b) All works arising from the aforementioned arrangements shall be completed at the developer's expense, within 12 months of the cessation of each road's use as a haul route for the proposed development.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: To protect the public road network and to clarify the extent of the permission in the interest of traffic safety and orderly development.

12. On full or partial decommissioning of the wind farm or if the wind farm ceases operation for a period of more than one year, the masts and the turbines concerned shall be removed and all decommissioned structures shall be removed, and foundations removed or covered with soil to facilitate re-vegetation, within three months of decommissioning.

Reason: To ensure satisfactory reinstatement of the site upon cessation of the project.

13. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Provision of construction hours, including deliveries of materials to the site;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction/demolition waste.

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

Reason: In the interest of amenities and safety.

14. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public

road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: In the interest of traffic safety and the proper planning and sustainable development of the area.

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

Reason: In the interest of orderly development and visual amenity and to ensure satisfactory reinstatement of the site.

17. 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 the 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 the Board 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.

Board Member: _____ Date: 20th, January 2016
Paddy Keogh

Note: The Board noted the Applicant's commitment to the provision of a community benefit scheme to be used for the benefit of local community projects. In light of this commitment the Board did not consider it necessary to impose a condition in this regard.

[Please issue a copy of Board Direction with the Board Order]