



## Board Direction

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**Ref: PL16.244055**

The submissions on this file, including those received following submission of the applicant's response to the Section 132 Notice issued by the Board, together with the original Senior Planning Inspector's report dated 12<sup>th</sup> March 2015, and the subsequent Senior Planning Inspector's dated 30<sup>th</sup> September 2016, were further considered at a meeting of all available Board members held on 2<sup>nd</sup> December 2016.

This file was considered at the same time as files reference numbers P16.244033 and PL16.244034 (relating to nearby wind farms proposed by the same applicants), and the Environmental Impact Assessment and Appropriate Assessment of the proposed development were carried out in conjunction with the documentation and submissions contained on those files (including the grid connections for those windfarms).

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the reasons and considerations, and subject to the conditions set out below.

### **Reasons and Considerations**

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

- (a) national policy relating to the development of alternative and indigenous energy sources and the minimisation of emissions of greenhouse gases,
- (b) the provisions of the "Wind Farm Planning Guidelines", issued by the Department of the Environment, Heritage and Local Government in 2006,
- (c) the policies of the planning authority as set out in the Mayo County Development Plan 2014-2020, including the Landscape Appraisal Policies contained therein,

- (d) the policies and provisions contained in the Renewable Energy strategy for County Mayo 2011 – 2020, and the fact that the subject site is located within an area designated as “Tier 1 – Preferred (Cluster of Turbines)”,
- (e) the character of the landscape and the topography surrounding the site, and the absence of any ecological designation on or in the immediate environs of the site or proposed grid connection,
- (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 planning history of the site and the planning history of surrounding sites,
- (i) the nature and scale of the proposed development, and the range of mitigation measures set out in the documentation received, including the Environmental Impact Statement, as amended, the Natura Impact Statement, as amended, and the Bird Impact Statement,
- (j) the submissions and observations made in connection with the planning application and the appeal, including the further observations and submissions made in relation to the proposed grid connection and in relation to the environmental and Natura impacts of the proposed development and its grid connections,
- (k) the report of the Senior Planning Inspector, including the examination, analysis and evaluation undertaken in respect of Appropriate Assessment and Environmental Impact Assessment, including the cumulative Environmental Impact Assessment and Appropriate Assessment relating to the proposed grid connections from the windfarm to the national electricity grid.

The Board was satisfied that the information before it was adequate to undertake an Appropriate Assessment and an Environmental Impact Assessment in respect of the proposed development, including the grid connection.

#### Appropriate Assessment

The Board agreed with the Inspector’s conclusion that the proposed development, which is not directly connected with or necessary to the management of a European site, could potentially give rise to a significant

effect on two European sites:- The Lough Carra / Mask Complex Special Area of Conservation (site code 001774), and the River Moy Special area of Conservation (site code 002298), by reason of the hydrological connection between the site of the proposed development and its grid connections and these European sites, and that appropriate assessment was required. The Board concurred with the Inspector's screening exercise conclusions that the proposed development would not be likely to have significant effects on any other European Sites, in view of the conservation objectives of such sites.

The Board considered that the information before it, including Natura Impact Statement, as revised, and the Bird Impact Statement, the submissions received, and the documentation on file was adequate to allow for the carrying out of an appropriate assessment in respect of the identified European site. The Board carried out an appropriate assessment. In carrying out this assessment, the Board considered the nature of the proposed development (including the grid connections), the mitigation measures proposed as part of the development (including the mitigation measures relating to potential in-combination effects proposed by the applicant), the conservation objectives for which the Lough Carra / Mask Complex Special Area of Conservation (site code 001774) and the River Moy Special area of Conservation (site code 002298) are designated, and the distances between the proposed development, including the grid connections, and these European site, both directly and hydrologically.

The Board concurred with the Inspector's report and adopted his conclusions. The Board therefore concluded that it was beyond reasonable scientific doubt that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of the Lough Carra / Mask Complex Special Area of Conservation (site code 001774), and the River Moy Special Area of Conservation (site code 002298), in view of the conservation objectives of these sites.

### Environmental Impact Assessment

The Board considered the Environmental Impact Statement submitted with the application, as amended in the submission to An Bord Pleanála, the submissions on file and the Inspector's assessment of the environmental impacts, which it noted. The Board considered that this documentation identified and described adequately the direct, indirect, secondary and cumulative effects of the proposed development, including the grid connection, on the environment. The Board adopted the Inspector's report and concurred with its conclusions, and accordingly completed an Environmental Impact Assessment of the development. The Board concluded that the effects on the environment of the proposed development would be acceptable by itself and cumulatively with other development in

the vicinity, including other wind farms and the grid connections, subject to compliance with the mitigation measures proposed, and subject to compliance with the conditions set out below.

### Planning Considerations

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 an unacceptable risk of environmental 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, would not seriously injure 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.

### **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 to the planning authority on the 14<sup>th</sup> day of August 2014 and the 7<sup>th</sup> day of October 2014, together with the additional information submitted to An Bord Pleanála on the 17<sup>th</sup> day of December 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. (a) All of the environmental, construction and ecological mitigation measures set out in the Environmental Impact Statement, as amended, the Natura Impact Statement, as amended, and other particulars submitted with the application, and the mitigation measures set out in the Bird Impact Assessment submitted as part of the planning application on the 19<sup>th</sup> day of December 2013, as amended by the information submitted to An Bord Pleanála on the 17<sup>th</sup> day of December 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.

(b) Prior to the commencement of development, the developer shall submit a schedule of mitigation measures identified in the Environmental Impact Statement (as amended) and the Natura Impact Statement (as amended), to the planning authority for its written agreement.

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

3. The proposed development shall be amended by the omission of Turbine number 3, and its associated access road and peat storage areas. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** Having regard to the significant peat depths at this particular location within the overall site, the Board is not satisfied that the erection of this Turbine is justified having regard to the substantial amount of peat required to be removed to accommodate this Turbine, and the associated impacts on the environment.

4. 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.

5. 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.

6.
  - a) The permitted turbines shall have a maximum tip height of 156.5 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 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.

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

when measured externally at dwellings or other sensitive receptors. All of the noise mitigation measures set out in the submitted documentation shall be fully complied with.

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) The proposed development shall be fitted with appropriate equipment and software to suitably control shadow flicker at nearby dwellings, including control or turbine rotation, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
- (b) 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.
- (c) 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. The developer shall outline proposed measures to address any recorded non-compliances, including control of turbine rotation. A similar report shall be provided by the developer to the planning authority at such time intervals as may be required by the 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 (including the installation of wheelwash facilities on the site);
  - (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) Details of construction hours, including for deliveries of materials to the site;
  - (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels (where not already provided for in documentation submitted with the application and appeal);

- (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 and details of how it is proposed to manage excavated soils;
- (m) Details of a site drainage management plan, in accordance with the documentation and mitigation measures provided in the Environmental Impact Statement, as revised, the Natura Impact Statement, as revised, and the other documentation submitted with the application and appeal, incorporating a detailed silt management plan and pollution prevention plan, and including appropriately-sized silt traps and/or settlement ponds as required, to be prepared by a suitably qualified drainage engineer or equivalent professional with experience of drainage design, to the satisfaction of the planning authority,
- (n) a programme for the on-going monitoring of water quality during the construction period.

Prior to the commencement of construction, proposals for environmental monitoring of construction works on site by an ecologist and by an environmental scientist or equivalent professional, including the monitoring and implementation of construction stage mitigation measures and illustrating compliance with the requirements set out above shall be submitted to, and agreed in writing with, the planning authority, together with associated reporting requirements. 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 archaeological appraisal of the area affected by any roadways/widened roadways and/or foundations associated with the turbines, and shall provide for 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 operations (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.

**Note 1.** In imposing condition no. 9, the Board considered that the standards in respect of shadow flicker should relate to actual occurrences of shadow flicker, rather than theoretical occurrences, and accordingly accepted that the relevant climate conditions at this location, i.e. sunshine/cloud conditions, should be taken into account in determining shadow flicker levels. However, the Board considered that it was the responsibility of the developer, where shadow flicker mitigation is required under this condition, to directly provide for such mitigation, and that therefore the appropriate method of mitigation should be the cessation of rotation of turbines, rather than any mitigation through the use of shelter landscaping or the provision of blinds etc. on affected receptors.

**Note 2.** The Board did not consider it necessary to include number condition 21, as recommended by the Inspector (the establishment of an environmental monitoring committee), as it considered that the monitoring of the development was more appropriately carried out by the planning authority. In this regard, the Board has required, by condition no. 13 of this permission, that the developer employ qualified ecologists/environmental scientists to monitor the construction stage of the development and to report to the planning authority.

**Note 3.** The Board decided not to include the financial contribution recommended by the Inspector in his condition number 31, relating to a “community benefit contribution”, having regard to the fact that such a contribution relates to a policy adopted by the Council which is not appropriate to Sections 48/49 of the Planning and Development Act 2000, and which policy was adopted by the Council subsequent to the lodgement

of the planning application for this windfarm. Furthermore, the Board noted the applicant's stated willingness to provide the sum of €525,000 in local funding for the purposes of community gain, within the context of the plans and particulars lodged with the application (and in particular section 3.2 of the Environmental Impact Statement), and therefore concluded that this matter is one for separate agreement between the planning authority and the developer.

**Note 4.** The Board decided that it was not necessary to require any further information or to undertake any specialist reports in relation to any aspect of the case. The Board also decided to streamline a number of the conditions recommended by the Inspector.

*Please issue a copy of this Direction with the Board Order*

Board Member: \_\_\_\_\_ Date: 29<sup>th</sup> December 2016  
Philip Jones