



Board Direction

Ref: PL04.245082

The submissions on this file and the Inspector's report and Addendum report were further considered at a Board meeting of all available Board members held on May 17th 2016.

The Board unanimously decided to grant permission generally in accordance with the Inspector's recommendation, for the reasons, 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 with regard to the development of alternative and indigenous energy sources and the minimisation of emissions of greenhouses gases,
- (b) the provisions of the "Wind Energy Development Guidelines – Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government (2006),
- (c) the policies set out in the Regional Planning Guidelines for the South-West Region 2010-2020,
- (d) the policies of the planning authority as set out in the Cork County Development Plan 2014-2020,
- (e) the location of the wind farm site in an area which is identified in the Cork County Development Plan as an area 'Open to Consideration' where it is the policy of the planning authority to facilitate the development of appropriate wind energy proposals,
- (f) the character of the landscape in the area and the absence of any ecological designation on or in the immediate environs of the wind farm site, and the character of the landscape through which the proposed grid connection would be provided,
- (g) the characteristics of the site and of the general vicinity,

- (h) the pattern of existing and permitted development in the area, including other windfarms,
- (i) the distances from the proposed development to dwellings or other sensitive receptors,
- (j) the range of mitigation measures set out in the documentation received, including the Environmental Impact Statement, the revised Environmental Impact Statement, the Natura Impact Statement and further information,
- (k) the planning history of the site and its surrounds,
- (l) the submissions and observations made in connection with the planning application and the appeal, including submissions in relation to the environmental and Natura impacts of the proposed grid connection, and the report of the Inspector.

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 significant effects on three European sites – the Mullaghanish to Musheramore Mountains Special Protection Area (site code 004162), the Gearagh Special Area of Conservation (site code 000108) and the Gearagh Special Protection Area (site code 004109), by reason of impacts on water quality arising from run-off of sediment and/or pollutants during the construction phase, and by reason of the potential for loss of foraging habitat for the Hen Harrier, and therefore that appropriate assessment was required.

The Board considered that the information before it, including the Natura Impact Statement submitted by the applicant on the 21st day of September 2015, together with the submissions made by the parties to the appeal, was adequate to allow for the carrying out of an appropriate assessment. The Board carried out an appropriate assessment. In carrying out this assessment, the Board considered the nature of the proposed development, the mitigation measures proposed as part of the development, the conservation objectives for which the Mullaghanish to Musheramore Mountains Special Protection Area (site code 004162), the Gearagh Special Area of Conservation (site code 000108) and the Gearagh Special Protection Area (site code 004109) are designated, and the distances between the proposed site and these European sites and any other European sites, and the content of the Inspector's report. The Board concurred with the Inspector's analysis in relation to these matters, and adopted his conclusions.

The Board concluded, beyond reasonable scientific doubt, that the proposed development (including the proposed grid connection), either individually or in combination with other plans and projects, would not adversely affect the integrity of these European sites, in view of those sites' conservation objectives, or of any other European sites.

Environmental Impact Assessment

The Board considered the Environmental Impact Statement and revised Environmental Impact Statement submitted with the application, the submissions on file and the Inspector's assessment of the environmental impacts. The Board considered that the Environmental Impact Statement submitted with the application, and the revised Environmental Impact Statement, other submissions on file, was adequate in identifying and describing the direct, indirect, secondary and cumulative effects of the proposed development (including the proposed grid connection). The Board adopted the Inspector's report on the environmental impact of the development, including the proposed grid connection, and concurred with his conclusions. 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 significant effects on the environment.

Planning Considerations

it is considered that, subject to compliance with the conditions set out below, the proposed wind farm 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 have a significant adverse impact on the landscape or the visual or residential amenities of the area or upon its archaeological heritage, would not give rise to any significant impacts on the natural 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 to Cork County Council (as amended by the further plans and particulars submitted on the 20th day of June 2012, and the 25th day of April 2013) and as submitted to An Bord Pleanála on the 21st 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. Specifically, the mitigation measures described in the Environmental Impact Statement, revised Environmental Impact Statement and Natura Impact Statement and other details submitted to the planning authority and to An Bord Pleanála shall be implemented in full during the construction, operation and decommissioning of the development.

Reason: In the interest of clarity.

2. This permission shall not be construed as any form of consent for the proposed grid connection, which shall be the subject of a separate planning application, unless it is exempted development at the time of construction. Any other grid connection, other than that indicated in the revised Environmental Impact Statement and Natura Impact Statement submitted to An Bord Pleanála on the 21st day of September 2015, shall be the subject of a separate planning application, which shall be accompanied by an Environmental Impact Statement and Appropriate Assessment screening / Natura Impact Statement (as appropriate).

Reason: In the interest of clarity, and to ensure that the cumulative effects on the environment and any in-combination impacts on European sites, of the grid connection associated with the proposed wind farm, are subject to necessary assessments.

3. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this Order.

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

4. The permission shall be for a period of 25 years from the date of the commissioning of the wind turbines. The wind turbines and related ancillary structures shall then be decommissioned and removed unless, prior to the end of the period, planning permission shall have been granted for their continuance for a further period.

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

5.
 - (a) The permitted turbines shall have a maximum tip height of 150 metres. Details of the turbine design and height shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. The wind turbines, including tower and blades, shall be finished externally in a light grey colour.
 - (b) Cables within the site shall be laid underground.
 - (c) The wind turbines shall be geared to ensure that the blades rotate in the same direction.
 - (d) No advertising material shall be placed on or otherwise be affixed to any structure on the site without a prior grant of planning permission.
 - (e) The access tracks within the site shall be surfaced in gravel or hard-core, either won from the borrow pit on site or imported to the site from nearby quarries, and shall not be hard topped with tarmacadam or concrete.
 - (f) 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.
 - (g) 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 interests of visual amenity, traffic safety and orderly development.

6. 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.

Reason: In the interest of air traffic safety.

7. Wind turbine noise arising from the proposed development, by itself or in combination with any other 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.

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.

8. (a) The proposed development shall be fitted with appropriate equipment and software to suitably control shadow flicker at nearby dwellings, 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 if necessary. A similar report may be requested at reasonable intervals thereafter by the planning authority.

Reason: In the interest of residential amenity.

9. 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.

Reason: In the interest of residential amenity and orderly development, and to prevent any interference with such services.

10. The developer shall review usage by birds of the wind farm site (particularly Hen harrier and Merlin) through an annual monitoring programme, which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This programme shall be developed following consultation with the Department of Arts, Heritage and the Gaeltacht and shall be repeated annually for a period of 3 years following completion of construction.

Reason: To ensure appropriate monitoring of the impact of the development on the avifauna of the area.

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 the use of each road 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. Prior to the commencement of development, a detailed reinstatement programme providing for the removal of all turbines and ancillary structures shall be submitted to, and agreed in writing with, the planning authority. On full or partial decommissioning of the windfarm, or if the windfarm ceases operation for a period of more than one year, the masts and turbines concerned shall be dismantled and removed from the site. The site shall be reinstated in accordance with the agreed programme and all decommissioned structures shall be removed within three months of decommissioning.

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

13. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

- 14. All clear felling of forestry associated with the development shall be undertaken in accordance with the appropriate Forest Service Guidelines. All necessary licences shall be obtained from the forest service for any felling operations on site.

Reason: In the interest of orderly development and to protect the amenities of the area.

- 15. The construction of the development shall be managed in accordance with a Construction and Environment 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 including areas identified for the storage of construction waste,
- (b) location of area for construction site offices and staff facilities,
- (c) measures providing for access for construction vehicles to the site, including details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include, in particular, proposals to facilitate and manage the delivery of over-sized loads,
- (d) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (e) 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,
- (f) details of appropriate mitigation measures for construction-stage noise, dust and vibration, and monitoring of such levels,
- (g) 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,
- (h) appropriate provision for re-fuelling of vehicles,
- (i) off-site disposal of construction waste and construction-stage details of how it is proposed to manage excavated soil,
- (j) means to ensure that surface water run-off is controlled in accordance with the mitigation measures proposed in the submitted documents, and
- (k) details of the intended hours of construction.

Prior to the commencement of construction, proposals for the environmental monitoring of construction works on site by an ecologist and by an environmental scientist or equivalent professional, including the monitoring of the 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.

Reason: In the interest of protection of the environment and of the amenities of the area.

16. Rock from the borrow pit shall be won only for the purposes of road/hardstand construction on the site, and shall not be sold or transported off site without a prior grant of planning permission.

Reason: In the interest of orderly development.

17. 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.

18. 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.

19. 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.

20. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in respect of works to the public road in the vicinity of the site which are required to facilitate the proposed development and which are undertaken by the local authority. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Board Member: _____ Date: 17th May 2016
Philip Jones