



**An
Bord
Pleanála**

Board Direction

BD-000534-18

ABP-300460-17

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/06/2018.

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

At a further meeting held on 21/06/2018 the Board confirmed the following and confirmed the costs as set out below to refund the applicant €27,776.

Reasons and Considerations

Having regard to:

- (a) the national targets for renewable energy contribution of 40% gross electricity consumption by 2020,
- (b) the "Wind Energy Development Guidelines - Guidelines for Planning Authorities", issued by the Department of the Environment, Heritage and Local Government in June 2006,
- (c) the policies of the planning authority as set out in the Donegal County Development Plan (2018-2024),

- (d) the proximity and availability of a grid connection to serve the proposed development,
- (e) the distance to dwellings or other sensitive receptors from the proposed development,
- (f) the good transport access,
- (g) the planning history of the site
- (h) the submissions made in connection with the planning application,
- (i) the submissions made in connection with the transboundary aspects of the planning application,
- (j) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on European Sites, and
- (k) the report and recommendation of the Inspector.

Appropriate Assessment:

Stage 1

The Board considered the Screening Report for Appropriate Assessment, the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites. The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site and considered the nature, scale and location of the proposed development, as well as the report of the Inspector.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that Croagnonagh Bog Special Area of Conservation (Site Code:000129), River Foyle and Tributaries Special Area of Conservation (Site Code:

UK 030320), Lough Eske Ardnamona Wood Special Area of Conservation (Site Code: 000163), River Finn Special Area of Conservation (Site Code: 002301) and the Pettigo Plateau Nature Reserve Special Protection Area (Site Code: 004099) are the European sites for which there is a likelihood of significant effects.

The Board was satisfied that all other European sites could be screened out of any further assessment because of the nature of the European site, the absence of relevant Qualifying Interests downstream of the works, the absence of an aquatic connection between the European site and the windfarm site, or the location of the European site significantly outside of the core foraging range of birds detailed in the Scottish Natural Heritage Guidance Assessing Connectivity with Special Protection Areas (SPAs), (Version 3 – June 2016) document.

Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites in view of the sites' conservation objectives (Croaghnagh Bog Special Area of Conservation (Site Code:000129), River Foyle and Tributaries Special Area of Conservation (Site Code: UK 030320), Lough Eske Ardnamona Wood Special Area of Conservation (Site Code: 000163), River Finn Special Area of Conservation (Site Code: 002301) and the Pettigo Plateau Nature Reserve Special Protection Area (Site Code: 004099)). The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment the Board considered, in particular, the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, the mitigation measures which are included as part of the current proposal and the Conservation Objectives for these European Sites the view of the Department of Arts, Heritage and the Gaeltacht and the transboundary submissions in particular the submissions from the Natural Environment Division in Northern Ireland.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of European sites in view of the site's Conservation Objectives.

Environmental Impact Assessment:

The Board completed an environmental impact assessment of the proposed development taking account of:

- (a) the nature, scale, location and extent of the proposed development on a site,
- (b) the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the planning application,
- (c) the submissions received from the local authority, prescribed bodies, transboundary bodies and observers, and
- (d) the Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the environmental impact assessment report and associated documentation submitted by the applicant and submissions made in the course of the planning application. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Significant landscape and visual impacts were identified during the operational phase and were considered to have been partially mitigated by the design in particular the location and siting of the turbines and met mast to assimilate into the upland forestry setting
- Noise, vibration, dust, shadow flicker, and the risk of pollution of ground and surface waters, during the construction and/or the operational phases will all be mitigated by the implementation of the measures set out in the Environmental Impact Assessment Report (EIAR) and the Construction and Environment Management Plan (CEMP)
- The risk of peat instability and peat erosion during the construction phase will be mitigated by the implementation of the measures in the Peat and Spoil Management Plan (Appendix 4.2 of the EIAR) and the CEMP
- Biodiversity impacts, including on habitats, otters, birds, bats, fisheries and aquatic invertebrates, would be mitigated by the implementation of specific mitigation to protect otters, birds, bats, fisheries and aquatic invertebrates, during the construction and/or operational phases and the implementation of a Restoration Plan for Blanket Bog and a Habitat Enhancement Plan for Hen Harrier.
- Habitat impacts, in particular the impact of the proposed development on Annex 1 Upland blanket bog/Wet heath Priority habitat will be mitigated by the replacement of the lost habitat through the developer's proposed enhancement project
- Positive environmental impacts would arise during the operational phase from the generation of renewable energy and the public amenity areas and walking path network.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed, as set out in Appendix 4.4 of the EIAR, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. The Board was satisfied that the Blanket Bog/Wet heath habitat replacement project was an appropriate mitigation measure for the priority Annex 1

habitat and by reason of the habitat not being located within a designated European Site that the mitigation could not be considered to be a compensatory measure in accordance with Article 6.4 of the Habitats Directive. Furthermore, the Board was also satisfied that the Habitat Enhancement Plan to mitigate potential impacts on the Hen Harrier non-designated area of importance was acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Proper planning and sustainable development:

It is considered that subject to compliance with the conditions set out below the proposed development would accord with European, national, regional and local planning and related policy, would make a positive contribution to Ireland's national strategic policies on renewable energy and moving Ireland to a low carbon energy future, would not have an unacceptable impact on the landscape or ecology, it would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and it would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted that the proposed development now lies in an area where windfarms are not favoured in accordance with the County Donegal Development Plan, 2018-2024 which had effect from 5th June 2018. However, the Board considered that the proposed site was an appropriate location for the proposed development, subject to compliance with the conditions set out below, and that implementation of the project was in compliance with the national strategic objectives and policies in delivering Ireland's targets for maximising Ireland's renewable energy resources and would support Ireland's transition to a low carbon economy.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be

required in order to comply with the following conditions. For the purposes of clarity the board considered and is granting permission for the proposed independent underground cabling grid connection from the Proposed Development at Cashelnavreen to connect to the Clogher substation that was included in the EIAR. Where 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. 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 and extent of the proposed development, the Board considered it appropriate to specify a period of validity of this permission in excess of five years.

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

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

4. The developer shall ensure that construction works associated with the upgrade of the existing access track adjacent to the Croaghnonagh Bog Special Area of Conservation (Site Code:000129) shall not encroach upon the Special Area of Conservation.

Reason: To protect the adjacent designated habitat

5. Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority proposals for the Blanket Bog/Wet

heath habitat replacement project generally in accordance with the proposals described in section 6.5.3.2 of the EIA including proposals for ongoing monitoring and reporting post-construction.

Reason: In the interest of protection of the environment

6. Following consultation with Irish Water, and prior to commencement of development, the developer shall submit details to, and agree in writing with the planning authority the scheduling of the construction works for the proposed development relative to the Lough Mourne public water augmentation intake scheme.

Reason: In the interest of orderly development.

7. The developer shall ensure that all construction methods and environmental mitigation measures including operation monitoring requirements as set out in the environmental impact assessment report and the CEMP (Appendix 4.4) and associated documentation are implemented in full, save as may be required by conditions in this order.

Reason: In the interest of protection of the environment.

8. The following design requirements shall be complied with:
 - (a) The wind turbines including masts and blades, and the wind monitoring mast, 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 other than those already applied for as part of this proposed development, shall be placed on or otherwise be affixed to any structure on the site without a prior grant of planning permission.

Reason: In the interest of visual amenity.

9. The following shadow flicker requirements shall be complied with:
- (a) Cumulative shadow flicker arising from the proposed development shall not exceed 30 minutes in any day or 30 hours in any year at any dwelling.
 - (b) The proposed turbines shall be fitted with appropriate equipment and software to control shadow flicker at dwellings.
 - (c) Prior to commencement of construction, a wind farm shadow flicker monitoring programme shall be prepared by a consultant with experience of similar monitoring work, in accordance with details to be submitted to the planning authority for written agreement. Details of monitoring programme shall include the proposed monitoring equipment and methodology to be used, and the reporting schedule.

Reason: In the interest of residential amenity.

10. In the event that the proposed development causes interference with telecommunications signals, effective measures shall be introduced to minimise interference with telecommunications signals in the area. Details of these measures, which shall be at the developer's expense, shall be submitted to, and agreed in writing with, the planning authority prior to commissioning of the turbines and following consultation with the relevant authorities.

Reason: In the interest of protecting telecommunications signals and of residential amenity.

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

Reason: In the interest of air traffic safety.

12. Prior to commencement of development, the Construction and Environmental Management Plan provided in Appendix 4.4 of the EIAR shall be revised and updated and agreed with writing with, the planning authority. The revised and updated plan shall provide finalised details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction waste.

Reason: In the interests of public safety and residential amenity.

13. (a) Noise levels emanating from the proposed development following commissioning, by itself or in combination with other existing or permitted wind energy development in the vicinity, when measured externally at third party noise-sensitive locations, shall not exceed the greater of 43dB(A) $L_{90,10}$ or 5 dB(A) above background levels.
(b) All sounds measurements shall be made in accordance with ISO 1996: Acoustics – Description and Measurement of Environmental Noise.
(c) Prior to commencement of development the developer shall arrange for a noise compliance monitoring programme for the operational wind farm.
(d) Details of the nature and extent of the monitoring programme shall be submitted to, and agreed with writing with, the planning authority.

Reason: To protect the amenities of property in the vicinity of the site.

14. Prior to commencement of development, a traffic management plan for the construction stage shall be submitted to, and agreed in writing with, the planning authority. The traffic management plan shall incorporate details of the road network to be used by construction traffic, including over-sized loads, and detailed arrangements for the protection of bridges, culverts or other structures to be traversed, as may be required. The plan should also contain details of how the developer intends to engage with and notify the local community in advance of the delivery of oversized loads.

Reason: In the interest of traffic safety.

15. The developer shall retain the services of a suitably qualified and experienced Ecologist to undertake pre-construction surveys at the various project elements, including any river crossings, immediately prior to commencing work in order to check for the presence of protected species in the vicinity (including Otter, Globeflower and Irish Lady's Tresses). Any plant specimens should be removed and relocated to a similar, suitable, undisturbed nearby habitat under the direct supervision of the Ecologist and subject to a Derogation Licence where required.

Reason: In the interest of protecting ecology and wildlife in the area.

16. The developer shall retain the services of a suitably qualified and experienced bird specialist to undertake appropriate construction and operation phase bird surveys of this site in accordance with the monitoring requirements set out in Appendix 4.4 of the EIAR. Details of the surveys to be undertaken and associated reporting requirements including the post-commissioning requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These reports shall be submitted to the planning authority annually for five years post-commissioning of the development. Copies of the reports shall be made publicly available by the developer.

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

17. 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.

18. 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 wind monitoring mast, the turbines concerned and all decommissioned structures shall be removed, and foundations covered with soil to facilitate re-vegetation, all to be complete to the written satisfaction of the planning authority within three months of decommissioning or cessation of operation.

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

19. 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 planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project, coupled with an agreement empowering the planning authorities to apply such security or part thereof to such reinstatement. The form and amount of the security shall

be as agreed between the planning authorities and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure satisfactory reinstatement of the site.

20. 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. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authorities 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 authorities 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 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.

Schedule of Costs

In accordance with the provisions of section 37H(2)(c) of the Planning and Development Act 2000, as amended, the amount due to be refunded to the applicant is €27, 776.

A breakdown of the Board's costs is set out in the attached Appendix 1.

Board Member

Date: 19/06/2018

Maria FitzGerald