



An
Bord
Pleanála

Board Direction
BD-001566-18
ABP-301619-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 07/11/2018.

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.

Reasons and Considerations

Having regard to:

- (a) national policy with regard to the development of alternative and indigenous energy sources and the minimisation of emissions from 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 in June 2006,
- (c) the policies set out in the Midland Regional Planning Guidelines, 2010 – 2022,
- (d) the policies of the planning authority as set out in the Offaly County Development Plan 2014 - 2020, including the Wind Energy Strategy for County Offaly Methodology Statement 2014,
- (e) the location of the wind farm site in an area which is identified in the Development Plan as an area 'Open for 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,
- (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 distance to dwellings and other sensitive receptors from the proposed development,
- (j) the Environmental Impact Assessment Report submitted,
- (k) the Natura Impact Statement submitted,
- (l) the appeals and observation made in connection with the planning application, and
- (m) the report of the Inspector.

Environmental Impact Assessment

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

- The nature, scale and extent of the proposed development;
- The Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the planning application;
- The submissions from the Planning Authority, the appellants, the observer and the prescribed bodies in the course of the application; and
- 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 also adequately identifies and describes 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 and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- **Landscape and Visual:** Localised significant visual impact from intermittent sections of the local road L5021, and on local properties, of the development which will not be avoided, mitigated, or otherwise addressed by means of condition. The impact is balanced by the nature of the landscape which is considered to be a moderated, working landscape and which is robust.
- **Biodiversity:** There will be habitat loss during construction and general disturbance during both construction and operation phases. These will be mitigated by the replanted forestry lands and the mitigation measures outlined in the EIAR and the Construction and Environmental Management Plan.
- **Lands, Soil and Geology:** Some potential risks could arise during construction. These are adequately mitigated by the measures outlined in the EIAR and the Construction and Environmental Management Plan.
- **Hydrology and Water Quality:** Potential indirect effects could be caused by the increase in run-off, such as soil erosion and sediment release into the receiving watercourses. The Construction and Environmental Management Plan includes an outline Site Drainage Management Plan which details the measures to be taken to mitigate any significant effect.
- **Population and Human Health:** potential impacts include shadow flicker and noise. Shadow flicker is substantially avoided by the limited number of sensitive receptors in close proximity to the site and mitigation measures which include the applicant's commitment to zero shadow flicker at residential receptors. Noise will be mitigated by the measures set out in the EIAR and the

Construction and Environmental Management Plan and will not reach levels that would impinge on residential amenity.

- Positive environmental impacts will arise during the operational phase from the generation of renewable energy and the recreational amenity trail.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Appropriate Assessment

Stage 1

The Board considered the Screening Report for Appropriate Assessment, the Natura Impact Assessment and all the other relevant submissions and carried out both 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 agreed with the screening assessment and conclusion carried out in the Inspector's report that the River Barrow and River Nore SAC (site code 002162), and the Slieve Bloom Mountains SPA (site code 004160), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

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, namely River Barrow and River Nore SAC (site code 002162), and the Slieve Bloom Mountains SPA (site code 004160), in view of the sites' Conservation Objectives. The Board considered that the

information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Sites.

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 site's Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' Conservation Objectives.

Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with European energy policy, the National Planning Framework, the Midlands Regional Development Plan 2010 – 2022 and the Offaly County Development Plan 2014 – 2020. It would

- make a positive contribution to Ireland's national strategic policy on renewable energy and its move to a low energy carbon future,
- have an acceptable impact on the landscape,
- not seriously injure the residential or visual amenities of the area,
- not adversely affect the archaeological or natural heritage
- 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.

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 on the 27th day of February 2018, 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. The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and other plans and particulars submitted with the planning application shall be implemented in full by the developer, except as may otherwise be required in order to comply with the following conditions.

Prior to the commencement of development, the developer shall submit a schedule of mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and details of a time schedule for implementation of the mitigation measures and associated monitoring, to the planning authority for its written agreement.

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

3. Prior to commencement of development, a detailed environmental management plan for the construction stage shall be submitted to and agreed in writing with the Planning Authority, generally in accordance with the proposals set out in the Environmental Impact Assessment Report. The environmental management plan shall incorporate the following:

- (a) a detailed plan for the construction phase incorporating, inter alia, construction programme, supervisory measures, noise management measures, construction hours and the management of construction waste;
- (b) a comprehensive programme for the implementation of all monitoring commitments made in the application and supporting documentation during the construction period;
- (c) an emergency response plan, and
- (d) proposals in relation to public information and communication.

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 environmental protection and orderly development.

4. The mitigation measures contained in the Natura Impact Statement which was submitted with the application shall be implemented in full.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the European sites.

5. 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 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.

6. 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 relevant planning authority to review the operation of the wind farm in the light of the circumstances then prevailing.

7. This permission shall not be construed as any form of consent or agreement to a connection to the national grid or to the routing or nature of

any such connection.

Reason: In the interest of clarity.

8. The following design requirements shall be complied with:
- a) The wind turbines including masts and blades shall be finished externally in a colour to be agreed in writing with the planning authority prior to commencement of development.
 - 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.

Reason: In the interest of visual amenity

9. Within one year of the commissioning of the wind farm details of amenity and public access arrangements, generally set out in the planning application documents, and the timescale for their realisation shall be submitted to the planning authority for its written agreement.

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

10. 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 be in accordance with the levels specified in the Environmental Impact Assessment Report.
- b) All sound 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 in writing with, the planning authority.

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

11. The following shadow flicker requirements shall be complied with:

(a) The proposed turbines shall be fitted with appropriate equipment and software to control shadow flicker at dwellings to limits specified in the Environmental Impact Assessment Report.

(b) Prior to commencement of development, the developer shall submit for the written agreement of the planning authority a shadow flicker compliance monitoring programme for the operational wind farm.

Reason: In the interest of residential amenity.

12. 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.

13. 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.

14.

(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 and the vehicle types to be used to transport materials on and off site and a schedule of control measures for exceptionally wide and heavy delivery loads.

(ii) A condition survey of the roads and bridges along the haul routes shall be carried out at the developer's expense by a suitably qualified person both before and after construction of the proposed 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.

(iv) Detailed arrangements for the protection of bridges to be crossed.

(v) Detailed arrangements for temporary traffic arrangements / controls on roads.

(vi) A phasing programme indicating the timescale within which it is intended to use each public route to facilitate construction of the proposed development.

(vii) Within three months of the cessation of the use of each public road and haul route to transport material to and from the site, a road survey and scheme of works detailing works to repair any damage to these routes shall be submitted to the planning authority.

(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.

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

15.

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:

(i) notify the relevant 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

(ii) 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.

16. Prior to the commencement of development, details of the community gain proposals shall be submitted to and agreed in writing with the planning authority.

Reason: In the interest of the community and orderly development of the area.

17. On full or partial decommissioning of the windfarm, or if the windfarm ceases operation for a period of more than one year, the turbines concerned and all decommissioned structures shall be removed, and foundations covered with soil to facilitate re-vegetation. These reinstatement works shall be completed to the written satisfaction of the relevant planning authority within three months of decommissioning or cessation of operation.

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

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 relevant 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 relevant 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 relevant planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory reinstatement of the delivery route.

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

Reason: To ensure the satisfactory reinstatement of the site.

20. The developer shall pay to Offaly County Council 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 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: 08/11/2018

Terry Prendergast