

An
Bord
Pleanála

Board Direction
BD-005855-20
ABP-303592-19

The submissions on this file, the Inspector's report, the response to Further Information, and the Addendum Report, were considered at Board meetings held on 19/09/19 and 07/05/20.

The Board decided to grant permission, for the following reasons and considerations and subject to the following conditions.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations.

The Board had regard to:

(a) the European, national, regional and local policy and targets with regard to the development of alternative and indigenous energy sources (including for renewable energy and wind energy in particular) and the minimisation of emissions from greenhouse gases,

(b) The national requirements under the EU Renewables Directive 2009/28/EC relating to the share of energy from renewable sources and to the increased obligations under the recast Renewable Energy Directive (2018/2001),

(c) The 'Climate Action Plan 2019', published by Government, which states with regard to the electricity sector, measures including the phasing out of fossil fuels, an increase in harnessing renewable energy including an increase in onshore wind capacity and in relation to peatlands, to undertake further research to assess the potential to sequester, store and reduce emissions of carbon through the management, restoration and rehabilitation of peatlands as outlined in the National Peatlands Strategy 2015-2025,

(d) The 'National Peatlands Strategy 2015-2025 published by Government which states that the potential contribution of peatlands rehabilitation, restoration and enhancement to climate change mitigation and adaptation be explored, in addition to their potential to contribute to a low carbon economy through use as sites for renewable energy,

(e) The 'Project Ireland 2040 National Planning Framework', published by Government, which recognises the necessity for a more distributed, renewables-focused energy generation system and places emphasis on the need to accelerate action on climate change, including National Policy Objective 54 (reduce our carbon footprint by integrating climate action into the planning system in support of national targets for climate policy mitigation and adaptation objectives) and National Policy Objective 55 (promote renewable energy use and generation at appropriate locations),

(e) 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,

(f) the policies of the planning authority as set out in the Longford County Development Plan 2015-2021,

(g) the character of the landscape in the area,

(h) the characteristics of the site and of the general vicinity,

(i) the pattern of existing and permitted development in the area,

- (j) the distance to dwellings and other sensitive receptors from the proposed development,
- (k) the Environmental Impact Assessment Report submitted,
- (l) the Natura impact statement submitted,
- (m) the full documentation submitted with the planning application and in response to the request for Further Information,
- (n) the submissions made in connection with the planning application and in response to the Further Information, and
- (o) the report the Planning Inspector dated 06/09/19 and the Addendum Report dated 05/03/20.

Appropriate Assessment: Stage 1

In completing the screening for Appropriate Assessment, the Board considered the identification of the European sites in the area which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' Conservation Objectives.

The applicant considered the potential for significant effects on European sites within a 15km buffer (Figure 1 of the Screening Report refers), in addition to hydrologically connected sites outside this zone, in view of their conservation objectives, detailed, with reference to their Features of Interest, on table 3.2 of the Screening Report, as follow: – Lough Ree SPA 004064 (c.2.5km to west), Lough Ree SAC 000440 (c.2.5km to west), Fortwilliam Turlough SAC 000448 (c.4.3km to east), Ballykenny-Fisherstown Bog SPA 004101 (c.4.5km north), Lough Forbes Complex SAC 001818 (c.4.7km north), Mount Jessop Bog SAC 001450 (c.3.3km east), Brown Bog SAC 002346 (c.5.8km north), Corbo Bog SAC 002349 (c.7.5km west), Clooneen Bog SAC 002348 (c.10.8km north), Annaghmore Lough SAC 001626 (c.15.8km northwest) and River Shannon Callows SAC 000216 (c.22.8km south). The Board is satisfied that the applicant considered all relevant European sites in the screening assessment.

The Board was not satisfied that the proposed development, either individually and in combination with other plans or projects, would not have potential for significant effects upon the European sites of the Lough Ree Special Protection Area (004064), Lough Ree Special Area of Conservation (000440), Ballykenny-Fisherstown Bog Special Protection Area (004101), and River Shannon Callows Special Area of Conservation (000216), in view of the sites' Conservation Objectives and that a Stage 2 Appropriate Assessment was therefore required for these sites.

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement and associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file, the Oral Hearing submissions and the Inspectors' assessments.

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 Planning Inspectors' reports in respect of the potential effects of the proposed development on the European Sites, Lough Ree Special Protection Area (004064), Lough Ree Special Area of Conservation (000440), Ballykenny-Fisherstown Bog Special Protection Area (004101), and River Shannon Callows Special Area of Conservation (000216), having regard to the sites' 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 aforementioned European Sites, in view of the sites' conservation objectives.

Environmental Impact Assessment:

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

- (a) the nature, scale and extent of the proposed development,
- (b) the Environmental Impact Assessment Report (EIAR) and associated documentation submitted by the applicant in support of the planning application including at appeal stage,
- (c) the submissions from the planning authority, the applicant, the observers and the prescribed bodies in the course of the application, and
- (d) the Planning Inspector's report dated 06/09/19 and the Addendum Report dated 05/03/20.

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 Planning Inspectors' reports, 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 Inspectors' reasoned conclusions, except with reference to the reasoned conclusion of the Inspector in the report dated 06/09/19 with regard to significant long term indirect adverse impact on climate due to ongoing pumping of the entire industrial extracted peatland site for the duration of the construction and operational phases to facilitate the wind farm development.

The Board concluded that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Significant long term indirect positive impact on climate and air from provision of a largescale clean energy source that will replace current energy supplied from fossil fuel sources;

- Significant direct adverse impacts on water quality, with indirect impacts on the biodiversity (the aquatic environment), during construction from surface water runoff contaminated by sediment and / or by accidental spillage of hazardous substances (concrete, hydrocarbons) which will be mitigated by the best practice construction methods set out in CIRIA Document C741 (2015), implementation of an agreed Construction Environmental Management Plan and the Surface Water Management Plan overseen by the appointed Site Ecologist and Project Manager.
- Significant indirect adverse impacts on population and human health arising from shadow flicker at residences or within other sensitive receptors (e.g. schools and/or businesses) by humans which will be mitigated by avoidance through the automatic shutdown of individual turbines that would cause shadow flicker, as per the intended programme of timing of shutdown of individual turbines appended to the EIAR.
- Significant direct and indirect adverse impacts on population and human health from noise and visual impacts which have been mitigated through avoidance by design through the provision of adequate separation distance from sensitive receptors.
- Significant adverse impacts on birds from collision risk which has been mitigated by avoidance through design including the location of the turbines away from the River Shannon and the provision of adequate separation distance between turbines.
- Significant indirect impacts on Lough Bawn pNHA, and potentially on Desmoulin's Whorl snail and Curlew, which will be mitigated by remediation measures to improve and protect the hydrology of the habitat, including provision of a 30m buffer zone.
- Significant direct impacts on Annex I remnant raised bog habitat through grid connection option B which, in the event of a grant of permission, will be mitigated through avoidance by way of condition omitting option B and requiring the implementation of grid connection option A only.
- Significant adverse impact on the landscape setting of Corlea Trackway visitor centre, an important and sensitive cultural heritage feature and an important

material asset (tourist attraction) within County Longford, which cannot be adequately mitigated by screening but is acceptable as an impact. Having regard to the positive impacts on climate arising from the proposed renewable energy project, in view of Government policy on and obligations in respect of climate change, it is considered that this impact does not warrant a refusal of permission or the removal of the relevant turbines by way of condition in the event of a grant of permission.

The Board completed an Environmental Impact Assessment of the likely significant effects of the proposed development, which include positive and negative climate impacts, adverse impacts on population and human health, water, biodiversity including birds and habitats, and on cultural heritage and material assets.

The Board concluded that, subject to the implementation of the mitigation measures referred to above, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable and that the likely impact from the renewable energy project, is significant and positive, and that the project would not militate against environmental rehabilitation across the wider peatlands within the application site but outside of the development footprint of the proposed wind farm project, to be completed by the applicant in accordance with a separate licensing obligation. In doing so the Board adopted the report and conclusions of the Inspector in the report dated 06/09/19 (with the exception of the inspector's concerns in relation to significant indirect adverse impact on climate due to pumping of the entire industrial extracted peatland site for the duration of the construction and operational phases to facilitate the wind farm development).

In deciding not to accept the inspector's reasoned conclusions in their entirety, the Board considered that the proposed development would not have an adverse impact on climate, as the basis for this reasoned conclusion was subsequently addressed in the response of the applicant to a request for further information, submitted to the Board on 18/11/19 and which clarified that the rehabilitation of peatlands within the overall application site but outside of the working footprint of the proposed wind farm project, will continue to be implemented, including the potential for revegetation, rewetting and other positive environmental impacts, in accordance with the separate statutory obligations under Environmental Protection Agency Licence No. 504 and that the proposed windfarm development does not require the ongoing pumping of the entire industrial extracted peatland site for the duration of the construction and operational phases. In this context, the Board considered Chapter 12 of the EIAR, and agreed with the Inspector that no significant direct adverse impacts in terms of climate change would arise from the proposed development, but also concluded that the content of the EIAR and the further information received from the applicant, both of which were fully considered by the Board as part of its environmental impact assessment of the

proposed development, provide an adequate assessment of no significant indirect adverse impact on climate from the proposed development. Finally, the Board agreed with the reasoned conclusion of the Inspector, that the proposed development would result in a significant long term indirect positive impact on climate and air from the provision of a large scale clean energy source that will replace current energy supplied from fossil fuel sources.

The Board also noted the described nature and extent of the proposed development as it relates to turbine no. 22, the associated access track and the separation distance of same from the buffer zone and from the Lough Bawn pNHA, and concluded that the detail set out in the application including mitigating measures was sufficient and did not require a further condition.

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, relevant National and Regional guidance and the Longford County Development Plan 2015-2021 and 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, and
- be acceptable in terms of pedestrian and traffic safety and convenience.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the recommendation of the Inspector, in his report dated 06/09/19, the Board considered the response of the applicant submitted on 18/11/19 to a request for further information, and which addressed the issue that rehabilitation of peatlands within the overall application site but outside of the working footprint of

the proposed wind farm project, will continue to be implemented, including the potential for revegetation, rewetting and other positive environmental impacts, in accordance with the separate statutory obligations under Environmental Protection Agency Licence No. 504. In addition, the further information response notes the potential loss of carbon sequestration due to the presence of the proposed wind farm infrastructure including buffer area, and thus the total carbon offset due to the operation of the windfarm over a 30-year period as being 0.9%. In this regard, the production of renewable energy from the wind farm project, far exceeds any potential 'loss' of carbon sequestration which would arise from the allocation of the wind farm infrastructure footprint including buffer 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 details submitted by the applicant to the oral hearing held from 12th June 2019 to 14th June 2019, and the applicant's further information submission received by the Board on the 18th day of November 2019, 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 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.

3. This permission shall be for a period of 30 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 of use.

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

4. The proposed windfarm development shall be served by Grid Connection Option A only.

Reason: In the interest of clarity.

5. Details of landscaping along side the proposed access roadways, shall be submitted to and agreed in writing with, the planning authority, prior to commencement of development.

Reason: in the interest of landscape and visual amenity.

6. (a) The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and other plans and particulars, including the Natura impact statement 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.

(b) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, a schedule of these mitigation

measures and monitoring commitments, and details of a time schedule for implementation of the mitigation measures and associated monitoring.

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

7. Prior to commencement of development, a detailed Construction 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 Construction 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) details of a pre-construction survey to identify/confirm the absence of any merlin nests within the subject site, and including a work cessation protocol including appropriate buffer in the vicinity of any identified nest, until the nest has been vacated at the end of the breeding season,
 - (d) an emergency response plan, and
 - (e) 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 available for public inspection by the planning authority.

Reason: In the interests of environmental protection and orderly development.

7. The following design requirements shall be complied with:

- (a) The wind turbines will have a maximum tip height of 185 metres. Final details of the turbine design, hub height, tip height and blade length complying the maximum limit and within the range set out in the application documentation, along with details of colouring, shall be submitted to, and 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.

8. The operation of the proposed development, by itself or in combination with any other permitted wind energy development, shall not result in noise levels, when measured externally at nearby noise sensitive locations, which exceed:

- (a) between the hours of 0700 and 2300;
the greater of 5 dB(A) $L_{90,10min}$ above background noise levels, or 43 dB(A) $L_{90,10min}$, and
- (b) 43 dB(A) $L_{90,10min}$ at all other times where wind speeds are measured at 10 metres above ground level.

9. 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 windfarm.

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

10. (a) Shadow flicker arising from the proposed development, by itself or in combination with other existing or permitted wind energy development in the vicinity, shall not exceed 30 hours per year or 30 minutes per day at existing or permitted dwellings or other sensitive receptors.
- (b) The proposed development shall be fitted with appropriate equipment and software to control shadow flicker in accordance with the above requirement. Details of these control measures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) A report 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 windfarm, 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-compliance, controlling 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.

11. 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 interests of protecting telecommunications signals and of residential amenity.

12. Details of the 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.

13. (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 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 any 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, and agreed in writing with, 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.

14. 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 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

(b) employ a suitably qualified archaeologist prior to 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.

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

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

16. 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.

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 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.

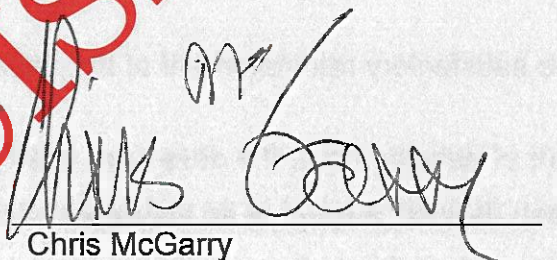
18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the relevant planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project, 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 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.

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 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 An Bord Pleanála 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


Chris McGarry

Date: 29/05/2020