



An
Bord
Pleanála

Board Direction
BD-007427-21
ABP-306204-19

The submissions on this file and the Inspector's report were considered at Board meetings held on 23/07/20, 15/01/21 and 19/01/2021.

The Board decided to approve the proposed development generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

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

- the nature, scale and extent of the proposed development,
- the decisions made in respect of an appropriate assessment,
- the national target to have 70% of electricity generated from renewable sources by 2030,
- national and local policy support for developing renewable energy, in particular the:-
 - Government's Strategy for Renewable Energy, 2012-2020,
 - The National Planning Framework, Project Ireland 2040
 - Delivering a Sustainable Future for Ireland – the Energy Policy Framework, 2007-2020
 - Climate Action Plan, 2019

- Government Policy Statement on the Strategic Importance of Transmission and Other Energy Infrastructure 2012,
- Regional Spatial & Economic Strategy for the Southern Regional, 2020
- the provisions as set out in the current Tipperary County Development Plan, including those regarding renewable energy development set out within the Tipperary Renewable Energy Strategy, 2016 and the appended Tipperary Wind Energy Strategy, 2016,
- the purpose of the proposal as enabling infrastructure for the permitted windfarm,
- the pattern of development in the area (including the separation distance to dwellings) and the pattern of permitted development in the area,
- the submissions on file including that from the Planning Authority,
- the documentation submitted with the application, including the Appropriate Assessment Report (Screening and Natura Impact Statement) and the Environmental Impact Assessment Report,
- the report of the Inspector,
- 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.

Appropriate Assessment: Stage 1

The Board agreed with and adopted the screening assessment and conclusions carried out in the Inspector's report that the only European sites in respect of which the proposed development has the potential to have a significant effect are the Slievefelim to Silvermines Mountains Special Protection Area (Site Code: 004165); the Lower River Suir Special Area of Conservation (Site Code: 002137); the Lower River Shannon Special Area of Conservation (Site Code: 002165); and the Clare Glen SAC (Site Code: 000930).

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement and other associated documentation submitted with the application, the mitigation measures contained therein, the submissions and observations on file and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development on the aforementioned European sites 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:

- (a) the likely direct and indirect impacts arising from the development and the proposed development, both individually, when taken together and in combination with other plans or projects,
- (b) the mitigation measures, which are included as part of the current proposal,
- (c) the submissions from the planning authority, the observers and prescribed bodies in the course of the application, and
- (d) 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 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 European Sites, in view of the sites' Conservation Objectives and there is no reasonable scientific doubt as to the absence of such effects.

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 and other associated documentation submitted in support of the application,

- (c) the submissions from the planning authority, the observers and prescribed bodies in the course of the application, and
- (d) the Inspector's report.

The Board agreed with the summary of the results of consultations and information gathered in the course of the environmental impact assessment, and the examination of the information contained in the Environmental Impact Assessment Report and the associated documentation submitted by the applicant, and the submissions made in the course of the application as set out in the Inspector's report. The Board was satisfied that the Inspector's report sets out how these various environmental issues were addressed in the examination and recommendation which are incorporated into the Board's decision.

Reasoned Conclusion of the Significant Effects:

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, provided information which is reasonable and sufficient to allow the Board to reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account current knowledge and methods of assessment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report is up to date and complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU. The Board considered that the main significant direct and indirect effects of the proposed development on the environment are those arising from the impacts listed below.

The main significant effects, both positive and negative, are:

- Positive impacts on **population and human health** in terms of the local economy from increased spending and jobs during the construction period.
- Construction phase impacts on Population and Human Health will be mitigated through a range of Project Design Environmental Measures and Best Practice Measures, e.g. construction within 350m of a residence will not take place at the same time as the Upperchurch Windfarm/ UWF Related Works.
- Slight to moderate impacts on **Biodiversity** in terms of aquatic habitat and species from the UWF Grid Connection. Impacts on Hen Harrier will be not

significant/ imperceptible and slight positive in terms of habitat enhancement for Hen harrier and general birds. The 110kV UGC take place mostly along the public road and the immediate vicinity of this road is of little use to Hen Harrier. Measures to avoid, prevent or reduce negative effects on Hen Harrier include confirmatory surveys and control of construction works close to breeding/ resting places. In terms of cumulative assessment, there will be moderate positive impacts on Hen Harrier, general birds and terrestrial habitat from the planting of trees as part of the Upperchurch Hen Harrier Scheme.

Two bats roosts in bridges that could be affected by the UWF Grid Connection works are considered to be of negligible importance. Project design measures incorporated into the development includes pre-construction surveys of bridges, exclusion procedures and provision of alternative roosting opportunities under derogation from the NPWS.

Evidence of otter was found in close proximity to 3 identified crossings; however, no holts or resting places occur and works will take place during daylight hours and from the surface of the bridge only.

In addition to Project Design Environmental Measures and Best Practice Measures, an Environmental Management Plan developed for the proposal will include a Surface Water Management Plan and Invasive Species Management Plan.

- Potential cumulative impacts to local surface **Water** bodies in relation to surface water quality impacts and impact to local water dependant habitats. However, the majority of in-stream works in the Whole UWF Project works area are within drains or marginal watercourses and there is little potential for pathways to the Lower Shannon SAC. Most of the watercourse crossings along the UWF Grid Connection are already culverted and local surface water quality effects will be localised. Watercourses to be crossed throughout the Whole UWF Project area are distributed over a large geographical area and within the River Shannon and River Suir catchments.

Project Design Measures and detailed best practice measures such as the requirement that works will be in compliance with IFI guidance, implementation of a sediment controls and other drainage measures, and measures relating to the

handling and storage of fuels, oils, chemicals and overburden will ensure that there will be no significant effects on water. An Environmental Management Plan that includes a Surface Water Management Plan will also provide a framework for water quality protection.

- Positive cumulative impacts on **Climate** from the Whole UWF Project due to the production renewable wind energy and a reduction in the use of fossil fuels.
- Potential impacts in terms of **Material Assets (Roads)** during the construction phase include damage to road pavements and increase journey times for road users arising from construction works and construction deliveries to the site. Impacts will be mitigated through implementation of a traffic management plan that will include measures to maximise road safety and traffic free flow.
- Potential impacts on **Cultural Heritage and the Landscape** will be mitigated during the construction stage through archaeological monitoring of ground works and agreement with the Department of Culture, Heritage and the Gaeltacht in relation to parapet works to bridges listed in the NIAH. The overall visual impact of the Whole UWF Project from sensitive locations, including designated viewpoints, is evaluated as imperceptible to slight. The main visual impact will be from the turbines themselves. These were assessed in the original EIA, where it was accepted that the development will not change the visual character of the area to a significant degree.

The Board is satisfied that the reasoned conclusion is up to date at the time of making the decision.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures referred to above, including proposed monitoring as appropriate, 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 set out in the Inspector's report.

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 and the relevant provisions of the North Tipperary County Development Plan 2010 (as varied) and would:

- (a) make a positive contribution to Ireland's national strategic policy on renewable energy and its move to a low energy carbon future, and
- (b) have an acceptable impact on the environment and on the amenities of the area.

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, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interests of clarity.

2. 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 European Sites.

3. The mitigation and monitoring measures and environmental commitments contained in Chapter 19 of the Environmental Impact Assessment Report 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.

4. (a) No additional artificial lighting shall be installed or operated on site unless authorised by a prior grant of planning permission.
(b) The substation and all related ancillary structures shall be dark green in colour.

Reason: In the interests of clarity, and of visual and residential amenity.

5. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed:
 - (i) An LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. [The T value shall be one hour.]
 - (ii) An LAeqT value of 45 dB(A) at any other time. [The T value shall be 15 minutes]. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

(b) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with respect of Community Response" as amended by ISO Recommendations R 1996 1, 2 or 3 "Description and Measurement of Environmental Noise" as applicable.

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

6. The undertaker shall retain the services of a suitably qualified and experienced bird specialist to undertake appropriate surveys of this site for the Hen Harrier. Details of the surveys to be undertaken shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: To monitor the impact of the development on the local population of the Hen Harrier.

7. The undertaker shall appoint a suitably qualified ecologist to monitor and ensure that all avoidance/mitigation measures relating to the protection of flora and fauna are carried out in accordance with best ecological practice and to liaise with consultants, the site contractor, the NPWS and Inland Fisheries Ireland. A report on the implementation of these measures shall be submitted to the planning authority and retained on file as a matter of public record.

Reason: To protect the environmental and natural heritage of the area.

8. Details of landscaping around the proposed Mountphilips substation and alongside the proposed access roadway to the substation, 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.

9. All works to protected structures, their curtilage and within their setting shall be supervised on an ongoing basis by a Grade I or II Conservation Architect and undertaken in accordance with the conservation principles contained in the Architectural Heritage Protection Guidelines for Planning Authorities, Oct. 2011.

Reason: To protect the architectural heritage on the area.

10. 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:

- the nature and location of archaeological material on the site, and
- 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.

11. Detailed measures in relation to the protection of bats at bridge crossings shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection.

12. All proposed entrance/ access points with the public road network shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interests of amenity and of traffic safety.

13. Water supply and drainage arrangements, including the disposal of surface water and wastewater, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

14. 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, traffic management and road restoration 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 Hen Harrier 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) a Japanese Knotweed Management Plan,
- (e) an emergency response plan, and
- (f) 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.

15. All road surfaces, culverts, bridges, watercourses, verges and public lands shall be protected during construction and, in the case of any damage occurring, shall be reinstated to the satisfaction of the planning authority. Prior to commencement of development, a road condition survey shall be taken to provide a basis for reinstatement works. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to ensure a satisfactory standard of development.

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the 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 a satisfactory standard of development.

Schedule of Costs

In accordance with the provisions of Section 182B of the Planning and Development Act 2000, as amended, the amount to be reimbursed to the applicant is **€65,188**.

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

Board Member

Date: 28/01/2021

Chris McGarry