



**An  
Bord  
Pleanála**

**Board Direction  
BD-008944-21  
ABP-306706-20**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 19/08/2021.

The Board decided 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**

In coming to its decision the Board has regard to the following:

- (a) national policy including the Climate Action Plan 2019, with regard to the development of alternative and indigenous energy sources and the minimisation of emissions from greenhouse gases,
- (b) National Peatlands Strategy 2015-2025,
- (c) Eastern and Midlands Regional Spatial and Economic Strategy 2019-2031,
- (d) 'Wind Energy Guidelines-Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government in June 2006, and the Draft Wind Energy Guidelines published by the Department of Housing Local Government and Heritage in December 2019.
- (e) the relevant policies of the planning authority as set out in the Offaly County Development Plan 2014-2020,
- (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 wind farms,
- (i) the distance to dwellings or other sensitive receptors from the proposed development,
- (j) the Environmental Impact Assessment Report.
- (k) the Natura Impact Statement.
- (l) the submissions made in connection with the application and the response to further information, and
- (m) the report of the Inspector.

### **Appropriate Assessment: Stage 1**

The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion reached in the Inspector's report that the River Shannon Callows Special Area of Conservation (Site Code: 000216), the Lough Derg North-east Shore Special Area of Conservation (Site Code: 002241), the Middle Shannon Callows Special Protection Area (Site Code: 004096), the River Little Brosna Callows Special Protection Area (Site Code: 004086) and Lough Derg (Shannon) Special Protection Area (Site Code:004058 ) are the European Sites for which there is a possibility of significant effects and which, must, therefore be subject to Appropriate Assessment.

---

### **Appropriate Assessment: 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 the European Sites in view of the Sites' Conservation Objectives (namely the River Shannon Callows Special Area of Conservation (Site Code: 000216), the Lough Derg North-east Shore Special Area of Conservation (Site

Code: 002241), the Middle Shannon Callows Special Protection Area (Site Code: 004096), the River Little Brosna Callows Special Protection Area (Site Code: 004086) and Lough Derg (Shannon) Special Protection Area (Site Code:004058 ).

The Board concluded that the information before it was adequate to allow for a complete assessment of all aspects of the proposed development and to allow them reach complete, precise and definitive conclusions for 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 proposal,
- iii. the conservation objectives for the European Sites'
- iv. the views contained in the submissions.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspectors report in respect of the potential effects of the proposed development on the integrity of 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 site's conservation objectives and there is no reasonable doubt remaining as to the absence of such effects.

#### **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,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the planning application, including further information,
- (c) the submissions received during the course of the application, 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.

### **Reasoned Conclusions on the Significant Effects**

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:

- **Population and Human Health: Noise, vibration and shadow flicker** during the construction and/or the operational phases would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report (EIAR) and the Construction and Environment Management Plan (CEMP).
- **Biodiversity:** Habitat loss associated with construction will impact on habitats of generally low ecological value with no rare or protected species recorded. Potential impacts to habitats and faunal species (including badger, otters, bats, marsh fritillary), aquatic fauna and invertebrates and avian species would be mitigated by the implementation of the measures during the construction and/or operational phases set out in the Environmental Impact Assessment Report, the Biodiversity Management Plan, and the Lapwing, Waterfowl and Wader Enhancement Plan.
- **Landscape and Visual:** Localised visual impacts will occur primarily from intermittent sections of the local roads in proximity to the site and from local properties. The impact of the development coupled with existing and permitted windfarms in the vicinity, will have a cumulative impact on the visual character of the wider landscape. These impacts will not be avoided, mitigated, or otherwise addressed by means of condition. The impact is

balanced by the nature of the cutover bog landscape, which has been significantly impacted by peat production activities and which is robust.

- **Hydrology and Hydrogeology:** Impacts to surface water and ground water would be mitigated by the implementation of the measures set out in the Environmental Impact Assessment Report and the Construction and Environment Management Plan. The proposed surface water management system would be integrated with the existing bog drainage system, with additional treatment and attenuation provided.
- **Climate:** Impacts are assessed as positive associated with the generation of renewable energy.
- **Material Assets (Roads & Traffic)** will be mitigated during construction by the measures set out in the Environmental Impact Assessment Report and by a Traffic Management Plan required by condition. The main impacts will occur during the construction stage which will be short-term and temporary. Impacts during the operational stage would be negligible.

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 proposed as set out in 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. In doing so, the Board adopted the report and conclusions of the Inspector.

Having considered the totality of the Environmental Impact Assessment Report, associated documentation submitted with the application and the report of the Inspector, the Board concluded that any likely significant effects on the environment would be mitigated by the mitigation measures proposed by the applicant.

**Proper planning and sustainable development:**

The proposed development is located on a site, only part of which lies within an area identified as open for consideration for Wind Energy Development, as outlined in Map 3.2 of the Offaly County Development Plan 2014-2020.

Notwithstanding the location of some of the turbines (T3, T5, T8, T14, T15 and T16) outside the area open for consideration and in material contravention of the Offaly County Development Plan 2014-2020, the Board determined that the development constituted strategic infrastructure development and in accordance with the provisions of Section 37G(2)(6) of the Planning and Development Act 2000, as amended, decided to grant permission for this part of the development.

Having regard to the

- location of the site in a large cutaway bog, which is recognised as being suitable for large scale wind farms in the development plan,
- the information provided in the Environmental Impact Assessment Report, which shows that the entire area of the development site displays similar characteristics and that no reasonable distinction can be made between the areas that lie within, or, outside the areas identified as 'open for consideration',
- the positive contribution the proposed development would make to Ireland's national strategy policy on renewable energy and its move to a low carbon future,

It is considered that subject to compliance with the conditions set out below the proposed development would accord with European, national, and regional planning and related policy, would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would not have an unacceptable impact on the landscape or ecology, would not pose a risk to water quality and 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.

### **Conditions**

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and the further

plans and particulars received by the Board on the 24<sup>th</sup> day of September, 2020, 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 proposed development shall be carried out and completed in accordance with agreed particulars.

**Reason:** In the interests of clarity.

2. The mitigation measures and monitoring commitments identified in the Environmental Impacts Assessment Report including the Biodiversity Management Plan and other plans and particulars submitted with the application shall be implemented in full.

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

3. The mitigation measures contained in the Natura Impact Statement 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.

4. The period during which the proposed development hereby permitted may be constructed shall be 10 years from the date of this Order.

**Reason:** In the interests of clarity.

- 5 This permission shall be for a period of 30 years from the date of the first commissioning of the wind farm.

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

- 6 The Turbines shall be 185m in height with a hub height of 110m and a blade diameter of 150m in accordance with the turbine option assessed within the Environmental Impact Assessment Report and/or Natura Impact Statement and the application documentation.

**Reason:** In the interests of clarity and proper planning and development.

- 7 The developer shall ensure that all peat related and spoil mitigation measures set out in the Peat and Spoil Management Plan are implemented in full and monitored throughout the lifecycle of the construction works and monitored throughout the operational phase.

**Reason:** In the interests of protection of the environment.

- 8 Prior to any development taking place on the site the developer shall submit for the written agreement of the planning authority, the final detail and specification of the proposed grid connection route.

**Reason:** In the interests of clarity and proper planning and development.

- 9 Decommissioning and construction works shall be limited to between 0800 and 18.00 hours Monday to Saturday and shall not be permitted on Sundays or public holidays.



**Reason:** To protect the amenities of nearby residential properties

10 The operation of the proposed development, by itself or in combination with 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:

i the greater of 5 dB(A)  $L_{90,10\text{mins}}$  above background noise levels, or 45 dB(A)  $L_{90,10\text{mins}}$ , at standardised 10-meter height above ground level wind speed of 7m/s or greater.

ii 40 dB(A)  $L_{90,10\text{ mins}}$  at all other standardised 10-meter height above ground level wind speeds.

(b) 43 dB(A)  $L_{90,10\text{ mins}}$ , at all other times.

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 Recommendation R 1996-1. The results of the initial noise compliance monitoring shall be submitted to and agreed in writing with the planning authority within 6 months of the commissioning of the wind farm.

**Reason:** In the interests of residential amenity.

11 The developer shall comply with the with the following shadow flicker requirements:

- (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 development, 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 the monitoring programme shall include the proposed monitoring equipment methodology to be used, and the reporting schedule.

**Reason:** In the interests of residential amenity.

12. The developer shall comply with the following design requirements:

- (a) The wind turbines, including masts and blades, and the wind monitoring masts shall be finished externally in a light-grey colour.
- (b) Cables within the proposed development site shall be placed 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 affixed to any structure on the site without a prior grant of permission.

**Reason:** In the interests of visual amenity.

13 Details of the materials, colours and textures of all the external finishes of the proposed substation building and enclosing fencing shall be submitted to and

agreed in writing with the planning authority, prior to commencement of the development.

**Reason:** In the interests of the visual amenities of the area.

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

**Reason:** In the interests of advancing the recreational amenities of the area.

- 15 Prior to commencement of development, details of a pre-construction and post construction monitoring and reporting programme for birds shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. The surveys shall be undertaken by a suitably qualified and experienced bird specialist and shall include measures to reduce disturbance to ground nesting species. The surveys shall be completed annually for a period of five years following commissioning of the wind farm and copies of the report submitted to the planning authority and to the Department of Housing, Local Government and Heritage (National Parks and Wildlife Service).

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

- 16 Prior to commencement of development the developer shall submit the following plans for the written agreement of the planning authority:

(a) Biodiversity Management Plan,

- (b) Lepidoptera Management Plan, and
- (c) Lapwing, Waterfowl and Habitat Enhancement Plan.

**Reason:** In order to protect and enhance biodiversity within the site

- 17 Prior to commencement details of a post construction monitoring and reporting programme for bats shall be submitted to and agreed in writing with the planning authority. Monitoring shall be undertaken by a suitably qualified and experienced bat specialist and identify any measures required to mitigate any identified effects. The surveys shall be completed annually for a period of three years following commissioning of the wind farm and copies of the report submitted to the planning authority.

**Reason:** To ensure the appropriate monitoring of the use of the site by bat species.

- 18 Prior to commencement of development, the community gain proposals shall be submitted to the planning authority for written agreement. In default of agreement, the matter shall be referred back to An Bord Pleanála for determination.

**Reason:** In the interests of the proper planning and sustainable development of the area.

- 19 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 the protection of telecommunications signals and of residential amenity.

20 Details of aeronautical requirements shall be submitted to, and agreed in writing with the planning authority prior to commencement of the development. Prior to the 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 in WGS-84 format and the wind monitoring masts.

**Reason:** In the interests of air traffic safety.

21 The developer shall comply with the requirements of Irish Water with regard to diversion of infrastructure within the site and connections to the public network.

**Reason:** In the interests of public health.

22 Prior to any development taking place on the site, the developer shall submit the following to the planning authority for written agreement:

(a) Road Safety Audit(s) relating to junction works proposed on the national road network,

(b) Technical Acceptance for the proposed N62 underpass structure,

in accordance with the detailed requirements of Transport Infrastructure Ireland.

**Reason:** In the interests of traffic safety.

23 (a) Prior to commencement of the development, a traffic management plan for the construction phase shall be submitted to, and agreed in writing with, the planning authority. The traffic plan shall incorporate the following:

- i. Details of the road network/haulage routes and the vehicle types to be used to transport materials to and from the 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 the 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 within the planning authority/authorities/ Transport Infrastructure Ireland 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/control on roads and protocols to keep residents informed of upcoming traffic related matters, temporary lane/road closures and delivery of turbines.
  - vi. A phasing programme indicating the timescale within which it is intended to use each public route to facilitate construction of the proposed development. In the event that the proposed development is being developed concurrently with any other windfarm in the area, the developer shall consult with and arrange suitable traffic phasing arrangements with the planning authority,
  - 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, the amenity of local residents and to clarify the extent of the permission in the interest of traffic safety and orderly development.

- 24 Within one months of the cessation of the use of the proposed haul road connecting the N52 and N62 north of Kennedy's Cross, the access road shall be covered with top-soil, reseeded and the gates shall be permanently locked. The future use of the access road shall be restricted to oversized deliveries required for turbine maintenance purposes only associated with the windfarm

and shall be subject to prior notification and the written agreement of the planning authority. The access shall not be used for any other purpose.

**Reason:** In the interest of traffic safety and to preserve the carrying capacity of the national road network

25 The developer shall facilitate the preservation, recording and protection of archaeological materials and features that may exist on or 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 operations (including hydrological or geotechnical investigation) relating to the proposed development,

(b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation 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 future 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.

**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 on the site.

26 On full or partial decommissioning of the windfarm, or if the windfarm ceases operation for a period of more than one year, the turbines 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 planning authority within three months of decommissioning or cessation of operation.

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

27 Prior to commencement of the development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other such 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 roads. 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.

**Reason:** To ensure the satisfactory reinstatement of the delivery routes.

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

**Reason:** To ensure the satisfactory reinstatement of the site.

29 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to 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.

At the meeting of the 19<sup>th</sup> day of August, 2021, the Board considered the costs of determining the application as set out in Appendix 1 of the Board Order. The Board determined that the New Amount due to be paid by the applicant was €82,659 and the sum of €7,341.53 was a reasonable sum to be paid by the applicant to the planning authority.

**Board Member**

Maria FitzGerald  
Maria FitzGerald

**Date:** 20/08/2021

