

**An
Bord
Pleanála**

**Board Direction
BD-008218-21
ABP-308419-20**

The submissions on this file and the Inspector's report were considered at Board meeting held on 30/04/21 and 19/05/2021.

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

Having regard to:

- (a) national policy relating to the development of sustainable energy resources,
- (b) the provisions of the "Wind Energy Development Guidelines" for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June 2006,
- (c) the over-arching policies of the planning authority as set out in the Donegal County Development Plan, as varied,
- (d) the scale and nature of the proposed development,
- (e) The presence of existing turbines in the immediate vicinity

- (f) the general character of the site and the landscape features and general topography of the surrounding area,
- (g) the separation distance of the proposed turbines from any inhabited dwellings,
- (h) the range of mitigation measures set out in the documentation received including the Environmental Impact Assessment Report and the Natura Impact Statement
- (j) the report of the Inspector,

Appropriate Assessment Screening

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that,

- The Slieve Tooley/Tormore Island / Loughros Beg Bay SAC (Site Code 000190)
- West of Ardara /Maas Road SAC (Site Code 000197).
- Lough Nillian Bog SPA (Site Code 004110)
- Durnish Lough SPA (Site Code 004145)
- Sheskinmore Lough SPA. (Site Code 004090)

are European sites for which there is a possibility of significant effects and which must therefore be subject to Appropriate Assessment.

Appropriate Assessment

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European sites in the sites' Conservation Objectives (The Slieve Tooey/Tormore Island / Loughros Beg Bay SAC (Site Code 000190); West of Ardara /Maas Road SAC (Site Code 000197); Lough Nillian Bog SPA (Site Code 004110); Durnish Lough SPA (Site Code 004145); Sheskinmore Lough SPA. (Site Code 004090). The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' conservation objectives using the best available scientific knowledge in the field.

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

- (i) The site specific conservation objectives for these European Sites,
- (ii) Current conservation status, threats and pressures of the qualifying interest features,
- (iii) Mitigation measures which are included as part of the current proposal.

In completing the appropriate assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the implications 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 would not adversely affect the integrity of these 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 considered the Environmental Impact Assessment Report submitted with the application to the planning authority, the submissions on file and the Inspector's assessment of the environmental impacts. The Board considered that the Environmental Impact Assessment Report together with other documentation on file, was adequate in describing the direct effects, indirect effects and cumulative effects in combination with other projects of the proposed development, including grid connection. The Board noted and adopted the Inspector's report and conclusions in respect of Environmental Impact Assessment.

Reasoned Conclusion on the Significant Effects

Having regard to the examination of environmental information contained above in the EIAR submitted by the applicant, reasoned conclusions in relation to significant effects are:

(a) The most significant effects will be the visual impact arising from the permanent removal of forestry and the erection of 3 wind turbines with a tip height of 110 meters in height. These structures will have a significant impact on the receiving environment and will be visible, at certain vantage points at distances up to 9 to 10 km surrounding the site. However, development must be assessed in the context of the extant permissions in the immediate area surrounding the site, including the three existing turbines erected under the Killin Hill wind farm development and the grant of planning permission for 7 turbines to the north at the Clogheravaddy turbines. The visual impact arising from the proposed development will contribute to the presence of the turbines at this location and will not look incongruous or out of place in the existing environment.

(b) From a sustainable energy perspective, the proposal fully supports government policy to reduce reliance on fossil fuels and provide more sustainable sources of energy. The proposal will result in the reduction of significant emissions of CO₂, NO_x and SO₂ during the lifespan of the wind farm. The proposal therefore will have a moderate positive impact on climate change and on reducing the State's reliance on fossil fuels.

(c) any material effect on tourism in the area is not considered to be significant on the basis that surveys undertaken suggest that tourists have a generally positive disposition towards wind farms and also on the basis that there are already existing wind farms in the area. The provision of a new renewable energy resource could also improve and facilitate business opportunities in the wider area.

(d) Impacts in terms of traffic, noise, shadow flicker and water quality and land soils could potentially occur either during the construction or operational phase and this could give rise to adverse environmental impacts or impacts on sensitive receptors in the surrounding area. However, with the incorporation of appropriate mitigation measures and the implementation of best practice, the impacts are deemed to be acceptable.

(e) Finally, EIAR reasonably concludes, having regard to the nature of the existing environment, that there will be little or no adverse impacts arising from the proposed wind farm in terms of biodiversity, material assets, electromagnetic radiation and cultural heritage.

The EIAR considered that the main significant direct, indirect and cumulative effects of the proposed development on the environment and potential impacts would be primarily mitigated by environmental management measures, as appropriate.

Following mitigation, no residual significant long-term negative impacts on the environment or sensitive receptors would remain with the exception of the visual impact and the positive impact in terms of promoting and utilising more sustainable forms of renewable energy. It is considered that the proposed development would not have any unacceptable direct, indirect or cumulative effects on the environment during the construction or operational phase, particularly in the context of the wind farm developments already permitted in the area.

The Board considers that the information provided is reasonable and sufficient to allow a reasoned conclusion on the significant effects of the project on the environment, taking into account current knowledge and methods of assessment. Overall, the Board

is satisfied that the information contained in the EIAR complies with the provisions of Article 3, 5 and Annex (IV) of EU Directive 2014/52/EU

The Board completed an Environmental Impact Assessment and concluded that the proposed development, subject to compliance with the mitigation measures proposed, and subject to compliance with the conditions set out below would be acceptable having regard to the proper planning and sustainable development of the area.

Conclusions on Proper Planning and Sustainable Development

It is considered that the proposed development, subject to compliance with the conditions set out below, would be in accordance with the National and County policies in respect of wind energy, would not give rise to pollution, would not result in unacceptable impacts on the visual amenity of the general area, would not seriously injure the amenities of the area or of property in the vicinity of the site, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. 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 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 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 and monitoring measures set out in the Environmental Impact Assessment Report and Natura Impact Statement accompanying the application to the planning authority and other particulars submitted with the application to the planning authority shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.

REASON: In the interest of clarity and the protection of the environment during the construction and operation phases of the development.

3. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this order.

REASON: Having regard to the nature of the development, the Board considers it appropriate to specify a period of validity of this permission in excess of five years.

4. This permission is for a period of 40 years from the date of commissioning of the wind farm. The wind turbines and related ancillary structures and temporary roadway shall then be removed and the site appropriately reinstated, prior to the end of this period, unless planning permission shall have been granted for their retention for a further specified period. Details of the reinstatement plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

REASON: To enable the impact of the development to be reassessed, having regard to the changes in technology and design during this period.

5. Post construction usage of the wind farm site by birds and bats shall be monitored for a period of five years which shall be carried out by a suitably qualified and competent ecologist. Full details of the methodology of monitoring and data collection and reporting arrangements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

REASON: To ensure appropriate monitoring of the impact of the development on the fauna of the area.

6. (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 indicated in the Environmental Impact Assessment Report including the vehicle types to be used to transport materials on and off site, and a schedule of control measures for exceptional wide and heavy delivery loads.
 - (ii) A condition survey of the roads and bridges along the haul routes to be carried out at the developer's expense by a suitably qualified person both before and after construction of the wind farm 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/authorities.
 - (iv) Detailed arrangements for temporary traffic arrangements/controls on roads.
 - (v) A programme indicating the timescale within which it is intended to use each public route to facilitate construction of the development.
- (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.

7. 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 7am and 11pm:
 - i. the greater of 5 dB(A) $L_{90,10min}$ above background noise levels, or 45 dB(A) $L_{90,10min}$, at a standardised 10m height above ground level at wind speeds of 4m/s or greater

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

- (b) 43 dB(A) $L_{90,10min}$ 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 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 wind farm.

Reason: In the interest of residential amenity.

- 8. (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) A report shall be 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 wind farm, this report shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of residential amenity.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) location of areas for construction site offices and staff facilities;
 - (c) details of site security fencing and hoardings;
 - (d) details of on-site car parking facilities for site workers during the course of construction;
 - (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
 - (f) measures to obviate queuing of construction traffic on the adjoining road network;
 - (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
 - (i) provision of construction hours, including deliveries of materials to the site;
 - (j) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
 - (k) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater; and
 - (l) off-site disposal of construction/demolition waste.

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 amenities and safety.

10. The wind turbines including masts and blades shall be finished externally in a light grey matt colour.

Reason: In the interest of visual amenity.

11. (i) Cables within the site shall be laid underground.
- (ii) The wind turbines shall be geared to ensure that the blades rotate in the same direction.
- (iii) Transformers associated with each individual turbine and mast shall be located either within the turbine mast structure or at ground level beside the mast.

Reason: In the interest of visual amenity and for clarification purposes

12. Prior to the commencement of development, the developer shall agree a protocol for assessing any impact on radio or television or other telecommunications reception in the area. In the event of interference occurring, the developer shall remedy such interference according to a methodology to be agreed in writing with the planning authority, following consultation with other relevant authorities and prior to commissioning the turbines.

Reason: In the interest 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. Subsequently, the developer shall inform the planning authority of the coordinates of the as constructed positions of the turbines and the highest point of the turbines to the top of the blade spin.

Reason: In the interest of air traffic safety.

14. On full or partial decommissioning of the wind farm or if the wind farm ceases operation for a period of more than one year, the masts and the turbines concerned, shall be removed and all decommissioned structures shall be removed within three months of decommissioning.

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

15. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

- 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 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. 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 satisfactory reinstatement of the site.

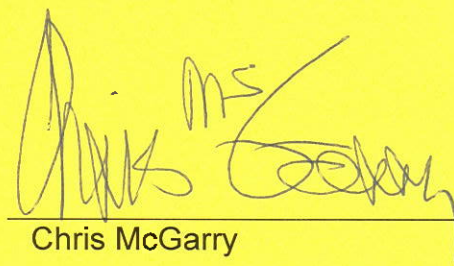
- 17. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the 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 planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: In the interest of road safety and the proper planning and sustainable development of the area.

18. 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.

Board Member



Chris McGarry

Date: 20/05/2021

