



An
Bord
Pleanála

Board Direction
BD-011318-22
ABP-308799-20

The submissions on this file and the Inspector's report were considered at Board meetings held on 14/06/2022 and 26/09/2022.

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.

Proposed Development: The proposed development is for a ten-year permission that will constitute the provision of the following:

- nineteen (19) number wind turbines (blade tip height up to 169 metres),
- nineteen (19) number wind turbine foundations and associated hardstand areas,
- one (1) number permanent meteorological mast (100 metre height) and associated foundation and hardstand area,
- one (1) number substation (110 kilovolts) including associated ancillary buildings (electrical building including control, switchgear and metering rooms and the operational building including welfare facilities, workshop and office), security fencing and all associated works,
- upgraded site entrance,
- new and upgraded internal site service roads (8.4 kilometres of existing tracks to be upgraded and 11.4 kilometres of new service roads to be constructed),
- provision of an onsite visitor cabin and parking,
- underground electrical collection and SCADA system linking each turbine to the proposed on-site substation,

- construction of new roadways and localised widening along the turbine delivery route,
- two (2) number temporary construction site compounds,
- three (3) number burrow pits to be used as a source of stone material during construction,
- three (3) number peat and spoil deposition areas (at burrow pit locations),
- associated surface water management systems,
- tree felling for windfarm infrastructure, and
- all associated site development works.

All in the townlands of Ballydonaghan, Caherhurley, Coumnagun, Carrownagowan, Inchalughoge, Killokennedy, Kilbane, Coolready and Durmmod, County Clare.

Reasons and Considerations

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

European legislation, including of particular relevance:

- Directive 92/43/EEC (Habitats Directive) and Directive 79/409/EEC as amended by 2009/147/EC (Birds Directives) which set the requirements for Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union.
- EU Renewable Energy Directive 2009/28/EC which aims to promote the use of renewable energy.

National planning, related policy and guidance, including:

- National policy including the Climate Action Plan 2021, with regard to the development of alternative and indigenous energy sources and the minimisation of emissions from greenhouse gases.
- Project Ireland 2040 – National Planning Framework.
- 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, and the Draft Wind Energy Guidelines published by the Department of Housing Local Government and Heritage in December 2019.

Regional and local level policy, including the:

- Regional Spatial Economic Strategy for the Southern Region 2020.

The local planning policy including:

- Clare County Development Plan 2017- 2023,
- the nature, scale and design of the proposed development as set out in the planning application and the pattern of development in the vicinity,
- 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,
- the documentation submitted with the planning application, including the Natura Impact Statement and the Environmental Impact Assessment Report and the further information furnished to the Board,
- the submissions on file, including those from all parties and the planning authority,
- the report and recommendation of the Inspector, including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

Appropriate Assessment: Stage 1:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Slieve Bernagh Bog Special Area of Conservation (Site Code: 002312) and the Slieve Aughty Mountains Special

Protection Area (Site Code: 004168) are the European Sites for which there is a likelihood of significant effects.

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 proposal for the Slieve Bernagh Bog Special Area of Conservation (Site Code: 002312) and the Slieve Aughty Mountains Special Protection Area (Site Code: 004168), in view of the sites' conservation objectives. 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 scientific knowledge in the field.

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

- i. Site specific conservation objectives for these sites.
- ii. Current conservation status, threats and pressures of the qualifying interest features.
- iii. Likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects.
- iv. Mitigation measures which are included as part of the current proposal.
- v. Views of the prescribed bodies in this regard.

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 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 scientific doubt as to the absence of such effects.

Environmental Impact Assessment

In compliance with section 172 of the Planning and Development Act 2000, as amended, the Board completed an environmental impact assessment of the proposed development, taking into account:

- (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 application,
- (c) the submissions from the applicant and the planning authority, and
- (d) the Inspector's report.

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 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 those arising from the impacts listed below.

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

- Benefits/positive impacts on the **air and climate**, the proposed development will have a significant positive effect on **human health and population** due to the displacement of CO₂ from the atmosphere arising from fossil fuel energy production.

- Negative impacts on **human health and population** arising from construction include noise, traffic and dust disturbance to residents of neighbouring dwellings. All of these impacts are low to moderate. Adequate mitigation measures are proposed to ensure that these impacts are not significant and include adequate mitigation for operational noise.
- Negative **visual impact** from sensitive receptors at viewpoint 7 (view from Bodyke village on R352) where all nineteen turbines would be visible at this location including from residences and notwithstanding any intervening hedge row screening and that the towers and the hubs would be seen against the backdrop of the hills, pronounced views of the turbines would persist, with resultant significant effects on sensitive receptors at this location.
- Negative impacts on **biodiversity** including habitat loss, disturbance/displacement of species, pollution of rivers and streams draining the site and the spread of invasive species will be mitigated by a suite of measures outlined in the Construction and Environmental Management Plan contained in Appendix 3-1 of the Environmental Impact Assessment Report. It is noted that enhancement areas proposed will provide a net increase of 74.13 hectares of suitable habitat for hen harrier and will improve connectivity with the Slieve Bernagh Bog Special Area of Conservation (Site Code: 002312) by providing more attractive foraging and breeding grounds for the hen harrier than is available at present.
- Negative impacts on **water** could arise as a result of accidental spillages of chemicals, hydrocarbons or other contaminants entering the drainage system and discharging to the river thereafter during the construction and operational phases. These impacts will be mitigated by measures outlined within the application and can therefore be ruled out.
- Negative impacts on **soils, water and biodiversity** from the risk of **peat instability** during the construction phase of the development which will be mitigated by the gaining of scientific knowledge of the underlying soil conditions through the carrying out of ground investigation works that will inform the design, the avoidance of alteration or change, in any significant manner, the

hydrology regime of the site and maintaining all existing established drainage pathways. It is also noted that it is proposed to employ a geotechnical engineer to review the methodology of all civil works and to carry out dedicated inspection on a weekly basis.

- **Negative noise and dust** impacts arise during the construction phase from construction activities. These impacts will be mitigated through adherence to best practice construction measures. Noise disturbance from the operation of turbines is not likely to arise given the separation distances between turbines and residential properties. Impacts arising from noise and dust disturbance during both the construction and operational stage can therefore be ruled out.
- **Negative traffic** impacts arise during the construction phase of the proposed development, these impacts will be mitigated through the implementation of a traffic management plan and a construction management plan. Impacts arising from traffic can therefore be ruled out.

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 Environmental Impact Assessment Report, 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.

Proper planning and sustainable development:

It is considered that the proposed development would accord with European, national, regional and local planning policy, would make a positive contribution to Ireland's national strategic policy on renewable energy and its move to a low energy carbon future, would be acceptable in respect of its likely effects on the environment and its likely consequences for the proper planning and sustainable development of the area. 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 information response submitted to the Board dated 8th July 2021 and 23rd December, 2021, 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 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 for a further period.

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 following design requirements shall be complied with:
 - (a) The hub height shall be 101 metres, the rotor diameter shall be 136 metres, and the blade length shall be 68 metres. The overall tip height shall be 169 metres.

- (b) The wind turbines including masts and blades, and the wind monitoring mast, shall be finished externally in a light grey colour.
- (c) Cables within the site shall be laid underground.
- (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 clarity and visual amenity.

5. The developer shall ensure that all construction methods and environmental mitigation measures set out in the Environmental Impact Assessment Report, the Natura Impact Statement and associated documentation are implemented in full, by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the following conditions. Prior to the 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.

6. The developer 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 National Parks and Wildlife Service 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.

7. The developer shall retain the services of a suitably qualified and experienced bird specialist to undertake appropriate annual bird surveys of this site. Details of the surveys to be undertaken and associated reporting requirements shall be

developed following consultation with, and agreed in writing with, the planning authority prior to commencement of development. These reports shall be submitted on an agreed date annually for five years, with the prior written agreement of the planning authority. Copies of the reports shall be sent to the Department of Housing, Local Government and Heritage.

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

8. The developer shall ensure that water levels are monitored at regular frequency throughout all seasons of each year over the life of the development and shall ensure that water levels are maintained at a level required to maintain viable and active peat habitat within and adjacent to the site. Details of such monitoring shall be agreed in writing with the planning authority prior to the commencement of development. Monitoring shall occur both within the site at various locations and along the development boundary of the site and shall include the use of appropriate means such as piezometers to measure ground water levels, as agreed by the planning authority.

Reason: In the interest of protection of the environment.

9. The construction of the proposed development shall be managed in accordance with a final Construction Environment 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 proposed development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

10. 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) L90,10min above background noise levels, or 45 dB(A) L90,10min, at standardised 10m height above ground level wind speeds of 7m/s or greater,
 - ii. 40 dB(A) L90,10min at all other standardised 10m height above ground level wind speeds.
- (b) 43 dB(A) L90,10min at all other times.

Reason: In the interests 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 interest of protecting telecommunications signals and of residential amenity.

12. (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 the commencement of development.
- (c) 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. The developer shall outline proposed measures to address any recorded non-compliances, 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.

13. Details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Prior to commissioning of the turbines, the developer shall inform the planning authority and the Irish Aviation Authority of the as constructed tip heights and co-ordinates of the turbines and wind monitoring masts.

Reason: In the interest of aviation safety.

14. The delivery of large-scale turbine components for the construction of the windfarm shall be managed in accordance with a finalised Traffic 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 the road network to be used by construction traffic, including oversized loads, and detailed arrangements for the protection of bridges, culverts or other structures to be traversed, as may be required. The plan should also contain details of how the developer intends to engage with and notify the local community in advance of the delivery of oversized loads.

Reason: In the interests of public safety and residential amenity.

15. Water supply, wastewater treatment and surface water attenuation and disposal shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

16. On full or partial decommissioning of the turbines or if the turbines cease operation for a period of more than one year, the mast and the turbine concerned shall be removed and all decommissioned structures shall be removed, and foundations covered with soil to facilitate re-vegetation, within three months of decommissioning.

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

17. 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.

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 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 traffic safety and the proper planning and sustainable development of the area.

19. 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: In the interest of orderly development and visual amenity and to ensure satisfactory reinstatement of the site.

20. 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to this permission.

Schedule of Costs

The Board also considered the submission on file relating to its own costs and decided that the amount due to be refunded to the applicant is €59,145.

Board Member

Patricia Calleary

Patricia Calleary

Date: 26/09/2022

