



An
Bord
Pleanála

Board Direction
BD-011121-22
ABP-308806-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 17/08/2022.

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.

Reasons and Considerations

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

- European, national, regional and local policy support for developing renewable energy, in particular:-
 - the National Planning Framework, 2018,
 - the Climate Action Plan, 2021
 - the Regional Spatial & Economic Strategy for the Northern and Western Region, 2020, and
 - the relevant provisions as set out in the Donegal County Development Plan 2018-2024,
- the national target to have up to 80% of electricity generated from renewable sources by 2030,

- 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,
- the character of the landscape in the area and the absence of any ecological designations on the site,
- the characteristics and topography of the site and of the general vicinity,
- the planning history of the site and the pattern of existing and permitted development in the area,
- the distance to dwellings and other sensitive receptors from the proposed development,
- the nature, scale and extent of the proposed development,
- the submissions on file including that from the Planning Authority,
- the documentation submitted with the application, including the Revised Appropriate Assessment Screening Report, Revised Natura Impact Statement and the Environmental Impact Assessment Report,
- the report and recommendation of the Inspector.

Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Derryveagh and Glendowan Mountains SPA (Site code: 004039), the Lough Swilly SPA (Site code: 004075), the River Finn SAC (Site code: 002301), the River Foyle and Tributaries SAC (Site code: UK0030320) and Meentygrannagh Bog SAC (Site code: 000173) are European Sites for which there is a possibility of significant effects and must therefore be subject to Appropriate Assessment.

The Board considered the Revised Appropriate Assessment Screening Report, the Revised 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 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 available scientific knowledge in the field.

In completing the Appropriate Assessment, the Board considered, in particular, the following:

- (i) site specific Conservation Objectives for these European Sites,
- (ii) current conservation status, threats and pressures of the qualifying interest features,
- (iii) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (iv) view of the Development Applications Unit of the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media, and
- (v) 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 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:

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, the planning authority, the observer and prescribed bodies in the course of the application, and

(d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report (EIAR), supported by the information submitted by the applicant, identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the EIAR complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and 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 application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation (including environmental conditions) which are incorporated into the Board's 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, and subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting inspector.

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

- Positive impacts on **population and human health** and the local economy from increased spending and jobs during the construction period and from landowner benefit payments. Any adverse impacts on population and human health will be mitigated by the measures to reduce impacts relating to material assets, air & climate, noise & vibration and shadow flicker to acceptable levels.

- Positive cumulative impacts on **Climate** from Drumnahough Windfarm due to the production of renewable wind energy and a reduction in the use of fossil fuels.
- Potential for adverse effects on **Biodiversity** arising from the proposed development and cumulatively with other projects, plans and activities in the area with respect to peat habitat, terrestrial invertebrates, aquatic habitats and species, salmonids, European eel and other fish related to water quality and habitat degradation. There will be permanent loss of 6.71 hectares of peat habitat, with potential secondary impacts on adjacent peat habitats. This will be offset through habitat reinstatement and a biodiversity enhancement plan. Potential impacts on fauna relate primarily to habitat loss and disturbance, and collisions with proposed turbines in the case of bats. Potential impacts on aquatic receptors are related to water quality and pathways with source pollutants. Potential cumulative impacts related to climate change, water quality deterioration, agricultural intensification and wind farm development could exacerbate potential impacts associated with the proposed development. The impacts will be mitigated by measures to provide a biodiversity net gain in an area currently under commercial forestry, provide habitat amelioration, establishment of stream buffer zones/forestry set back distances, riparian woodland creation, pond creation, bat box installation and general best practice construction mitigation measures in accordance with the Construction and Environmental Management Plan and through implementation of a Biodiversity Enhancement Plan under guidance of Ecological Clerk of Works.
- Potential for adverse impacts on **Ornithology** due to habitat loss resulting in reduced feeding and nesting opportunities, disturbance from the presence of machinery or personnel, and displacement due to barrier effects and collisions. Habitat loss will be limited and there is an abundance of similar habitat in the area. Collision risks are low due to factors related to bird species, numbers and avoidance behaviour. The most sensitive bird species is considered to be merlin and the proposed development site seems to harbour a stable passerine population, which provides an adequate food supply for this species. Raptors were recorded but merlin is the only breeding

species on site. Mitigation will include a 350m buffer between merlin nest site and turbines, and should this species be present within 350m of proposed works, construction works within this zone will be restricted to outside the breeding season. The proposed development site and the wider area is already modified in nature, and it is noted that bird species, in particular merlin, have adapted to the proliferation of commercial forestry in the area. The cumulation of windfarms in the area is not evaluated as significant based on the multiple raptor records within adjacent windfarm sites

- Potential for adverse impacts to **Land and Soils** from slope failure risk, excavations, rock blasting, storage and disposal of excavated materials and drainage. Mitigation by design has taken place to avoid areas of deep peat. Peat sightline monitoring will be carried out and monitoring will take place at areas of deep peat excavation, material deposition areas and any areas of works with a risk higher than low. Emergency procedures will be implemented to prevent the onset of bog burst or localised peat slide.
- Potential impacts on **Water**, if left unmitigated, could have an effect on receiving watercourses, particularly the risk of sedimentation of sensitive catchments. These potential impacts will be mitigated by siltation and erosion controls, temporary settlement ponds, buffer zones to rivers/ streams, avoidance of deep peat/ steep slopes, surface water monitoring and forestry clearing in accordance with guidelines.
- Potential impacts on **Landscape character and visual amenity** focused mainly at the site and its immediate surrounds. From the north and north-west, a low number of residences are likely to experience open views of the turbines. More sensitive viewpoints will not experience significant effects. Cumulatively, the proposed windfarm will have the effect of extending the presence of turbines further to the north-east. This will result in the visual effects being more pronounced than at present in some areas. In more distant views, the proposed turbines will be difficult to distinguish from existing turbines.

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

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, the Regional Spatial and Economic Strategy for the Northern and Western Region and the relevant provisions of the current Donegal County Development Plan, would not seriously injure the visual amenities of the area or of property in the vicinity, would not have an unacceptable impact on the landscape character of the area, would not be detrimental to the natural heritage or cultural heritage of the area, would make a positive contribution to Ireland's national strategic policy on renewable energy and its move to a low energy carbon future. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 25th day of February 2022, 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.</p> <p>Reason: In the interests of clarity.</p>
2.	<p>The period during which the development hereby permitted may be carried out shall be ten years from the date of this Order.</p> <p>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.</p>
3.	<p>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</p>

	<p>end of the period, planning permission shall have been granted for their continuance for a further period.</p> <p>Reason: To enable the relevant planning authority to review the operation of the wind farm in the light of the circumstances then prevailing.</p>
4.	<p>The following design requirements shall be complied with:</p> <p>(a) The hub height shall be 95 metres, the rotor diameter shall be 145 metres, and the blade length shall be 71 metres. The overall tip height shall be 167.5 metres and the height of the permanent meteorological mast shall be 110 metres.</p> <p>(b) Cables within the site shall be laid underground.</p> <p>(c) The wind turbines shall be geared to ensure that the blades rotate in the same direction.</p> <p>(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.</p> <p>Reason: In the interest of clarity and visual amenity.</p>
5.	<p>Prior to any development taking place on site, the developer shall submit the final detail and specification of the proposed grid connection route to the Planning Authority.</p> <p>Reason: In the interests of clarity.</p>
6.	<p>The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, Revised Natura Impact Statement, and other related plans and particulars submitted to An Bord Pleanála, with the exception of the merlin habitat management plan (February 2022), shall be 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.</p> <p>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.</p> <p>Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.</p>

7.	<p>The applicant 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.</p> <p>Reason: To protect the environmental and natural heritage of the area.</p>
8.	<p>The developer shall review usage by birds of the wind farm site and document bird casualties through an annual monitoring programme, which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This programme shall be developed in consultation with the Department of Housing, Local Government and Heritage, and shall cover the entire period of the operation of the wind farm.</p> <p>Reason: To ensure appropriate monitoring of the impact of the development on the fauna of the area.</p>
9.	<p>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:</p> <p>(a) Between the hours of 7am and 11pm:</p> <ul style="list-style-type: none"> i. the greater of 5 dB(A) $L_{90,10min}$ above background noise levels, or 45 dB(A) $L_{90,10min}$, at standardised 10m height above ground level wind speeds of 7m/s or greater ii. 40 dB(A) $L_{90,10min}$ at all other standardised 10m height above ground level wind speeds <p>(b) 43 dB(A) $L_{90,10min}$ at all other times.</p> <p>Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a noise compliance monitoring</p>

	<p>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.</p> <p>Reason: In the interest of residential amenity.</p>
10.	<p>In the event that the proposed development causes interference with telecommunications signals, effective measures shall be introduced to minimise such interference. 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.</p> <p>Reason: In the interests of protecting telecommunications signals and of residential amenity.</p>
11.	<p>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, the Irish Aviation Authority and the Department of Defence of the as constructed tip heights and co-ordinates of the turbines. Prior to the commissioning of the turbines, the developer shall inform the planning authority and the Irish Aviation Authority of the co-ordinates of the 'as constructed' positions and highest point of the telecoms pole and turbines (to the top of the blade spin).</p> <p>Reason: In the interest of air traffic safety.</p>
12.	<p>(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.</p> <p>(b) The proposed development shall be fitted with appropriate equipment and software to control shadow flicker in accordance with the above</p>

	<p>requirement. Details of these control measures shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</p> <p>(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.</p> <p>Reason: In the interest of residential amenity.</p>
13.	<p>(a) Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with the planning authority:</p> <ul style="list-style-type: none"> (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.

	<p>(v) A programme indicating the timescale within which it is intended to use each public route to facilitate construction of the development.</p> <p>(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.</p> <p>Reason: To protect the public road network and to clarify the extent of the permission in the interest of traffic safety and orderly development.</p>
14.	<p>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:</p> <ul style="list-style-type: none"> (a) a detailed plan for the construction phase incorporating, inter alia, construction programme, supervisory measures, noise management measures, construction hours and the management of construction waste, (b) a comprehensive programme for the implementation of all monitoring commitments made in the application and supporting documentation during the construction period, (c) an emergency response plan, and (d) proposals in relation to public information and communication. <p>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.</p> <p>Reason: In the interests of environmental protection and orderly development.</p>
15.	<p>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.</p>

	<p>Reason: To ensure satisfactory reinstatement of the site upon cessation of the project.</p>
16.	<p>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.</p> <p>Reason: To ensure the satisfactory reinstatement of the delivery route.</p>
17.	<p>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.</p> <p>Reason: To ensure satisfactory reinstatement of the site.</p>
18.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the</p>

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.

Costs

The Board considered the submission on file relating to its own costs and decided that the amount due to be refunded to the applicant is €38,595.

Board Member



Date: 17/08/2022

John Connolly

