

An  
Bord  
Pleanála

**Board Direction**  
**BD-014323-23**  
**ABP-308885-20**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 19/10/2023.

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 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 and regional planning and related policy**, including:

- National policy including the Climate Action Plan 2023, 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,
- National policy with regard to the development of alternative and indigenous energy sources and the minimisation of emissions from greenhouse gases,

- 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.

**Regional level policy**, including:

- Regional Spatial Economic Strategy for the Southern Region.

**The local planning policy** including:

- Cork County Development Plan 2022- 2028,

and other matters, including:

- 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 submissions made to An Bord Pleanála in connection with the planning application and the submissions made to the further information response,
- 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 noted that the proposed development is not directly connected with or necessary for the management of a European Site.

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 002170) and Blackwater Callows Special Protection Area (Site Code: 004094) 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 Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 002170) and Blackwater Callows Special Protection Area (Site Code: 004094), in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

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

- i. likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon the Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 002170) and Blackwater Callows Special Protection Area (Site Code: 004094),
- ii. mitigation measures which are included as part of the current proposal.
- iii. conservation objectives for these European Sites, and
- iv. the views of 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 site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives and there is no reasonable 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 on a site,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions received from the prescribed bodies and observers, 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 was satisfied 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 in the Inspector's report and 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.

#### **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:

- Negative impacts on **human health and population** arising from construction including 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.
- 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 CO<sub>2</sub> from the atmosphere arising from fossil fuel energy production.
- 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 **Noise** 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 likely to give rise to slight to moderate impacts depending on distance to dwellings given that new sources of noise would be introduced into the soundscape however, given the separation distances

between turbines and the most proximate dwellings the impact is not considered to be significant.

- Negative **Traffic** impacts arise during the construction phase of the development, these impacts will be mitigated through the implementation of a traffic management plan and a construction management plan. Impacts arising from traffic can be appropriately mitigated.
- Negative **Landscape and Visual** impacts arise during the operational phase of the development given the placement of significant structures within the local landscape thereby changing the existing visual context in a slight to substantial magnitude. The impacts have been mitigated where possible by the proposed layout and the use of the existing landscape contours.
- Negative **Biodiversity** impacts arise during the operational phase of the development in respect of low to medium residual impacts in respect of the Hen Harrier, in particular in respect of foraging areas for same. The impacts have been mitigated to some degree in respect of the measures proposed including the conservation and habitat management plan however while negative impacts on the Hen Harrier are likely to arise they are not considered to be significant.

Having regard to the above, the Board is satisfied that the proposed development would not have any unacceptable direct or indirect effects on the environment. 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 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 subject to compliance with the conditions set out below the proposed development would accord with European, national, regional and local planning policy, would be consistent with national climate ambitions and with the relevant provisions of the Climate Action Plan 2023, would be acceptable in terms of impact on the visual amenities and landscape character of the area, would not seriously injure the amenities of property in the



vicinity, would not be prejudicial to public health, would not pose a risk to water quality and would be acceptable in terms of traffic safety. 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 on the 1<sup>st</sup> day of April, 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.

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

2. The period during which the development hereby permitted is constructed shall be 10 years from the date of this order.

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

3. This permission shall be for a period of 30 years from the date of the first commissioning of the wind farm. 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 planning authority to review its operation in the light of the circumstances then prevailing.

4. The developer shall ensure that all construction methods and environmental mitigation measures set out in the Environmental Impact Assessment Report and associated documentation and Natura Impact Statement, as revised are implemented in full, save as may be required by conditions set out below. 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 protection of the environment.

- Repealed in Council (4)*
5. Prior to the commencement of development, the developer shall submit to, and agree in writing with, each 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 the protection of the environment.

6. 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 0700 and 2300:

(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

(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.

7. Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority, details of an obstacle warning light scheme which can be visible to night vision equipment.

**Reason:** in the interest of aviation safety.



8. The construction of the development shall be managed in accordance with a 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 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.

9. 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.

10. The following design requirements shall be complied with:

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

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

11. The delivery of large-scale turbine components for the construction of the windfarm shall be managed in accordance with a 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 over-sized 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.



12. 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.

13. Details of the materials, colours and textures of all the external finishes of the proposed substation building and enclosing fence shall be submitted to and agreed in writing with the relevant planning authority, prior to commencement of development.

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

14. The developer shall comply with the following shadow flicker requirements:

- (a) Cumulative 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, each 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 each 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, each 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 each planning authority.

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

15. 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 protecting telecommunications signals and of residential amenity.

16. 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 and shall notify the Irish Aviation Authority of intention to commence crane operations with at least 30 days prior notification of their erection.

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

17. The developer shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

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

18. The developer shall retain the services of a suitably qualified and experienced Ecologist to undertake pre-construction surveys at the various project elements, including any river crossings, immediately prior to commencing work in order to check for the presence of protected species in the vicinity.

**Reason:** In the interest of protecting ecology and wildlife in the area.

19. 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.



20. 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.

21. The Conservation and Habitat Management Plan (2022) will be implemented in full. In addition to the mitigations contained in the Conservation and Habitat Management Plan (CHMP), the following shall be submitted:

- (a) A monitoring programme shall be established in line with that proposed in the CHMP for bird surveying, auditing and review of management area prescriptions (every 5 years).
- (b) The annual bird survey shall include for general breeding birds in addition to Hen Harrier to establish presence and abundance of bird species including possible prey species.
- (c) In addition to the habitat monitoring described, a detailed habitat evaluation programme shall be established based on the parameters for open habitats as set out in Chapter 3 of the Conservation Objectives Supporting Document: Breeding Hen Harrier (National Parks & Wildlife Service, 2022) to ensure that habitat management measures achieve their aim.

- (d) Results of monitoring shall be submitted to the planning authority and to the National Parks & Wildlife Service.

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

22. Prior to the commencement of development, the developer shall agree with Transport Infrastructure Ireland and the planning authority a strategy for the proposed directional drilling under the M8.

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

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

24. 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 interests of orderly development and visual amenity and to ensure satisfactory reinstatement of the site.

25. 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



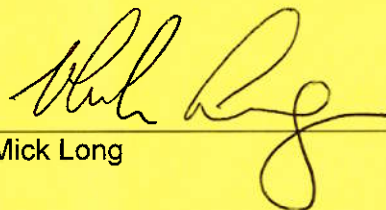
accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject 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

26. Prior to the commencement of development, the details of the proposed community benefit scheme as outlined in Section 4.5 of Chapter 4 (Description of the Proposed Development) of the EIAR shall be submitted to each planning authority for their written agreement.

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

**Board Member**



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Mick Long

**Date:** 25/10/2023

