

An
Bord
Pleanála

Board Direction
BD-011289-22
ABP-309156-21

The submissions on this file and the Inspector's report were considered at Board meetings held on 15/08/2022 and 20/09/2022.

At the meeting of the 20/08/2022, 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 has regard to the following:

- (a) 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,
- (b) National Peatlands Strategy 2015-2025,
- (c) Regional Spatial and Economic Strategy for the Southern Region 2020,
- (d) 'Wind Energy Guidelines-Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government in June 2006, and the Draft Wind Energy Guidelines published by the Department of Housing Local Government and Heritage in December 2019,
- (e) the relevant policies of the planning authority which supports increasing energy supplies derived from renewable sources as set out in the current Kerry County Development Plan,

which there is a possibility of significant effects and which, must therefore be subject to Appropriate Assessment.

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the European Sites in view of the Sites' Conservation Objectives namely the Lower River Shannon Special Area of Conservation (Site code 002165), the River Shannon and River Fergus Estuaries Special Protection Area (Site Code 004077) and The Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site code 004161). The Board concluded that the information before it was adequate to allow for a complete assessment of all aspects of the proposed development and to allow them reach complete, precise and definitive conclusions for appropriate assessment.

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

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the proposal,
- iii. the conservation objectives for the European Sites' and
- iv. the views contained in the submissions.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspectors report in respect of the potential effects of the proposed development on the integrity of the aforementioned European Sites', having regard to the sites' Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' Conservation Objectives and there is no reasonable doubt remaining as to the absence of such effects.

implementation of the measures during the construction and/or operational phases set out in the Environmental Impact Assessment Report

- **Landscape and Visual:** Localised visual impacts will occur primarily from in proximity to the site and from local properties. The impact of the development coupled with existing and permitted windfarms in the vicinity, will have a cumulative impact on the landscape and the visual amenities of the area. Impacts will not be avoided, mitigated, or otherwise addressed by means of condition. The impact is balanced by the nature of the cutover bog landscape, which has been significantly impacted by existing activities (agriculture, forestry and peat extraction) and which has the capacity to absorb the proposed development without detracting significantly from the character of the landscape and the visual amenities of the area.
- **Hydrology and Hydrogeology:** Impacts to the water environment would be mitigated by the implementation of the measures set out in the Environmental Impact Assessment Report, the Construction and Environment Management Plan and the Surface Water Management Plan. The proposed surface water management system would be integrated with the existing bog drainage system, with additional treatment and attenuation provided.
- **Lands and Soil:** The risk of peat stability erosion during construction and operation phases has been mitigated by the design of the proposed development which places turbines and infrastructure in areas of low residual risk of peat stability and by the implementation of the measures set out in the Environmental Impact Assessment Report, the Construction and Environment Management Plan and the Peat and Spoil Management Plan.
- **Climate:** Impacts on climate are assessed as positive associated with the generation of renewable energy and taking into account the cutover nature of the bog, the limited footprint of the proposed development within the overall site, and the existing landowner and turbary rights on the bog which would currently preclude options for rewetting.
- **Cultural Heritage:** The potential impacts on cultural heritage would be mitigated by archaeological monitoring with provision made for resolution of any archaeological features/deposits that may be identified.

Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and the further plans and particulars received by the Board on the 14th day of October, 2021, and the 11th day of May, 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 proposed development shall be carried out and completed in accordance with agreed particulars.

Reason: In the interests of clarity.

2. Turbine No's T1 and T2 and associated infrastructure including road infrastructure and Temporary Compound No 2 shall be omitted from the development. A revised layout plan incorporating these changes shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of any development on the site. A copy of the revised layout plan shall be placed on the file and maintained as part of the public record.

Reason: To ensure that the identified hen harrier roost site is protected and preserved.

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

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

Reason: In the interests of protection of the environment.

The final Construction Environment Management Plan (CEMP), environmental monitoring plan and culvert/water crossing designs shall be submitted to, and agreed in writing with, the planning authority following consultation with Inland Fisheries Ireland and shall include provision for post construction monitoring. The CEMP shall be placed on the file and maintained as part of the public record.

Reason: To protect water quality.

- 9 Decommissioning and construction works shall be limited to between 0800 and 1800 hours, Monday to Saturday and shall not be permitted on Sundays or public holidays.

Reason: To protect the amenities of nearby residential properties

- 10 The operation of the proposed development, by itself or in combination with other permitted wind energy development, shall not result in noise levels when measured externally at nearby noise sensitive locations, which exceed:

(a) Between the hours of 0700 and 2300:

- i the greater of 5 dB(A) $L_{90,10\text{mins}}$ above background noise levels, or 45 dB(A) $L_{90,10\text{mins}}$, at standardised 10-meter height above ground level wind speed of 6m/s or greater.
- ii 40 dB(A) $L_{90,10\text{ mins}}$ at all other standardised 10-meter height above ground level wind speeds.

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

- (b) Cables within the proposed development site shall be placed underground.
- (c) The wind turbines shall be geared to ensure that the blades rotate in the same direction.
- (d) No advertising material shall be placed on or otherwise affixed to any structure on the site without a prior grant of permission.

Reason: In the interests of visual amenity.

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

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

- 14 The developer shall retain the services of a suitably qualified and experienced bird specialist with respect to Hen Harrier to undertake the following:

- (a) a Land Management Plan in the area of the identified roost location and encompassing the lands identified in Appendix 2 of the applicant's submission received by the Board on the 11th day of May 2022.
- (b) operational phase monitoring of the roost between October to March for Year 1 to Year 5 following construction.
- (c) pre-construction and during construction roost survey monitoring for the wind farm development (as amended by Condition 2 of this Order).

Details of the Land Management Plan and the surveys to be undertaken and associated reporting requirements shall be agreed in writing with the NPWS prior to commencement of the development. Copies of the Land Management Plan and the results of the reports shall be submitted (annually on an agreed date) to the planning authority and the NPWS.

17 A bird and bat corpse survey, carried out by a competent ecological surveyor shall be conducted annually under the operational turbines. The survey shall be carried out according to up-to-date best practice concerning timing and using trained search dogs. The result shall be forwarded annually to the planning authority and the NPWS

Reason: In order to monitor bird and bat mortality associated with the operational wind farm.

18 In the event that the proposed development causes interference with telecommunications signals, effective measures shall be introduced to minimise interference with telecommunications signals in the area. Details of these measures, which shall be at the developer's expense, shall be submitted to, and agreed in writing, with the planning authority prior to commissioning of the turbines and following consultation with the relevant authorities.

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

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

Reason: In the interests of air traffic safety.

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

scheme of works detailing works to repair any damage to these routes shall be submitted to, and agreed in writing with, the planning authority.

- (b) All works arising from the aforementioned arrangements shall be completed at the developer's expense within 12 months of the cessation of each road's use as a haul route for the proposed development.

Reason: To protect the public road network, the amenity of local residents and to clarify the extent of the permission in the interest of traffic safety and orderly development.

- 21 The developer shall comply with the requirements of Irish Water with regard to the protection of drinking water sources and infrastructure in proximity to the development, and in respect of any potential diversions and connections to the public network.

Reason: In the interests of public health.

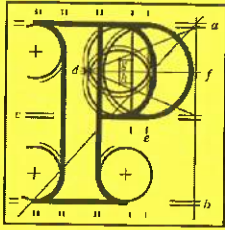
- 22 On full or partial decommissioning of the windfarm, or if the windfarm ceases operation for a period of more than one year, the turbines and all decommissioned structures shall be removed, and foundations covered with soil to facilitate re-vegetation. These reinstatement works shall be completed to the written satisfaction of the planning authority within three months of decommissioning or cessation of operation.

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

- 23 Prior to commencement of the development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other such security as may be acceptable to the relevant planning authority, to

26 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.



An
Bord
Pleanála

Board Direction
BD-011274-22
ABP-309156-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/09/2022.

The Board decided to defer this case for consideration at a further Board meeting.

Board Member:

Maria FitzGerald

Maria FitzGerald

Date: 16/09/2022