



An  
Bord  
Pleanála

**Board Direction**  
**BD-011306-22**  
**ABP-309306-21**

The submissions on this file and the Inspector's report were considered at Board meetings held on 15/02/2022, 15/09/2022 and 20/09/2022.

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.

### **Reasons and Considerations**

Having regard to:

- a. The National Planning Framework – Ireland 2040,
- b. The Climate Action Plan, 2021,
- c. The Regional Spatial & Economic Strategy for the Southern Region 2020,
- d. the “Wind Energy Development Guidelines - Guidelines for Planning Authorities”, issued by the Department of the Environment, Heritage and Local Government in June 2006, and Draft Amendments, 2019
- e. the relevant policies and provisions of the planning authority as set out in the current Kilkenny County Development Plan,
- f. the distance to dwellings or other sensitive receptors,
- g. the submissions made in connection with the planning application,
- h. 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, and
- i. 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 River Barrow and River Nore Special Area of Conservation Site code 002162, the Lower River Suir Special Area of Conservation Site code 002137, the River Nore Special Protection Area Site code 004233 and the Saltee Islands Special Protection Area Site code 004002 are the only European sites for which there is a possibility of significant effects and must therefore be subject to Appropriate Assessment.

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites in view of the site's Conservation Objectives for the River Barrow and River Nore Special Area of Conservation Site code 002162, the Lower River Suir Special Area of Conservation Site code 002137, the River Nore Special Protection Area Site code 004233 and the Saltee Islands Special Protection Area Site code 004002. 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 site's conservation objectives using the best available scientific knowledge in the field.

In completing the 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 Department of Arts, Heritage and the Gaeltacht,

(v) mitigation measures which are included as part of the current proposal,

In completing the AA, 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 site's Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of 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:**

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 (EIAR) 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, 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, 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 considered that the main significant direct



and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Positive environmental impacts would arise during the operational phase from the generation of renewable energy.
- Noise, vibration, dust, shadow flicker, risk of soil instability and soil erosion and risk of pollution of ground and surface waters during the construction and/or the operational phases would be avoided by the implementation of the measures set out in the Environmental Impact Assessment Report (EIAR) and the Construction and Environment Management Plan (CEMP) which include specific provisions relating to the above.
- Biodiversity impacts, including on habitats, badgers, birds, bats, fisheries and aquatic invertebrates, would be mitigated by the implementation of specific mitigation to protect badgers, birds, bats, fisheries and aquatic invertebrates, during the construction and/or operational phases and the implementation of a Biodiversity Management Plan.
- The increase in vehicle movements and resulting traffic during the construction phase would be mitigated by the upgraded site access, the preparation of a Construction Traffic Management Plan.
- Landscape and visual impacts would arise during the operational phase from the insertion of the turbines and met mast into the upland setting, the location and siting of which would assist in assimilating the works into the landscape.
- The impact on cultural heritage would be mitigated by archaeological monitoring with provision made for resolution of any archaeological features or deposits that may be identified.

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 EIAR, and the implementation of the measures proposed in the Biodiversity Management Plan, 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, renewable energy, other and related policy, it would not have an unacceptable impact on the landscape or ecology, it would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and it would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

**Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, including the further information received by the Board on the 26<sup>th</sup> day of November 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 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 interests of clarity.

3. This permission shall be for a period of 35 years from the date of the first commissioning of the wind farm.

**Reason:** To enable the planning authority to review its operation in the light of the circumstances then prevailing.

4. The mitigation measures set out in the Environmental Impact Assessment Report, Natura Impact Statement and associated documentation shall be implemented in full, save as may be required by conditions set out below.

**Reason:** In the interest of protection of the environment.

5. The developer shall ensure that all soil and water quality related mitigation measures are implemented in full and monitored throughout the life cycle of the construction works and monitored throughout the operational phase, and that rock extraction within the on-site borrow pits does not extend below winter water table levels.

**Reason:** In the interest of 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 7am and 11pm:

i. the greater of 5 dB(A)  $L_{90,10min}$  above background noise levels, or 45 dB(A)  $L_{90,10min}$ , at wind speeds of 5m/s or greater

ii. 40 dB(A)  $L_{90,10min}$  at all other wind speeds

(b) 43 dB(A)  $L_{90,10min}$  at all other times

where wind speeds are measured at 10m above ground level.

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. The following shadow flicker requirements shall be complied with:
- (a) Cumulative shadow flicker arising from the proposed development shall not exceed 30 minutes in any day or 30 hours in any year at any dwelling.
  - (b) The proposed turbines shall be fitted with appropriate equipment and software to control shadow flicker at dwellings.
  - (c) Prior to commencement of construction, a wind farm shadow flicker monitoring programme shall be prepared by a consultant with experience of similar monitoring work, in accordance with details to be submitted to the planning authority for written agreement. Details of monitoring programme shall include the proposed monitoring equipment and methodology to be used, and the reporting schedule.

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

8. The following design requirements shall be complied with:
- (a) The wind turbines will be constructed to one of the following fixed dimensions:
    - Tip height of 185 metres, hub height of 107.5 metres, rotor diameter of 155 metres.
    - Tip height of 185 metres, hub height of 110.5 metres, rotor diameter of 149 metres,
    - Tip height of 179 metres, hub height of 105 metres, rotor diameter of 155 metres.
  - (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.

9. Interpretive panels shall be provided in the Recreational Area to offer information on the natural history and cultural heritage of the area, and renewable energy and climate change. The panels shall require visitors keep their dogs on a lease in the Recreational Area and along the walking trails.

**Reason:** To enhance the amenities of the area and to protect wildlife.

10. 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.

11. 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 air traffic safety.

12. Prior to commencement of development, a transport management plan for the construction stage shall be submitted to, and agreed in writing with, the planning authority. The traffic management plan shall incorporate details of the road network to be used by construction traffic, including over-sized loads, and detailed arrangements for the protection of roads, 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. Any works, including reinstatement works, to existing junctions on the national road



network shall comply with Transport Infrastructure Ireland (TII) standards as outlined in TII Publications and shall be subject to Road Safety Audit as appropriate.

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

13. 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 (incl. badgers, otters, nesting birds, bats & common lizard). A 500m buffer should be placed around any protected bird species nest sites and maintained free from construction works until the nest is vacated. The mitigation measures contained in the Badger Report (EIAR Appendix 6.3) shall be implemented in their entirety. Derogation licences shall be obtained as required.

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

14. 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 Arts, Heritage and the Gaeltacht

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

15. The developer shall prepare an Invasive Species Management Plan for the written agreement of the planning authority and 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.

16. Site development and building works relating to the construction and future decommissioning works shall be carried out only between 0700 to 18.00 hours Monday to Friday, 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority

**Reason:** In order to safeguard the amenities of nearby residential properties.

17. 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 wind monitoring mast, the turbines concerned and all decommissioned structures shall be removed, and foundations covered with soil to facilitate re-vegetation, all to be complete 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 full or partial cessation of the project.

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 planning authority, to secure the satisfactory reinstatement of the site and delivery route upon cessation of the project, coupled with an agreement empowering the planning authorities to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authorities and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure satisfactory reinstatement of the site.

19. 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. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authorities 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 authorities 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 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.

### SCHEDULE OF COSTS

Net amount due to be recouped from the applicant

EURO 1,320 (One thousand, three hundred and twenty euro)

Board Member



Chris McGarry

Date: 22/09/2022

