



An  
Bord  
Pleanála

**Board Direction**  
**BD-010952-22**  
**ABP-311565-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 05/07/2022.

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 reaching its decision, the Board had regard to:

- (a) European, national, regional and local policy with regard to the development of alternative and indigenous energy sources (including for renewable energy, and wind energy in particular) and the minimisation of emissions from greenhouse gases,
- (b) 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,
- (c) the policies set out in the Regional Spatial and Economic Strategy of the Eastern and Midland Region, 2019,
- (d) the policies of the planning authorities as set out in the Westmeath County Development Plan 2021-2027 and the Meath County Development Plan 2021-2027,
- (e) the character of the landscape in the area and the absence of any ecological designation on or in the immediate environs of the wind farm site,

- (f) the characteristics and topography of the site and of lands in the general vicinity,
- (g) the pattern of the existing and permitted development in the area,
- (h) the distance to dwellings and other sensitive receptors from the proposed development,
- (i) the Environmental Impact Assessment Report submitted,
- (j) the Natura Impact Statement submitted, including the Screening for Appropriate Assessment
- (k) the submissions and observations made in connection with the planning application,
- (l) the report and recommendation of the Planning Inspector.

### **Appropriate Assessment**

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the River Boyne and River Blackwater SAC (Site Code: 002299), the River Boyne and River Blackwater SPA (Site Code: 004232), and the Lough Derravaragh SPA (Site Code: 004043) are European Sites for which there is a possibility of significant effects, and which 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 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 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) the view of the National Parks and Wildlife Service – Department of Housing, Local Government and Heritage, 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 for 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 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 s.172 of the Planning and Development Act 2000, as amended, the Board completed an Environmental Impact Assessment of the proposed development, taking into account:

- the nature, scale, location, and extent of the proposed development,
- the Environmental Impact Assessment Report and associated documentation submitted with the application,
- the submissions from the applicant, the observers, the planning authorities and the prescribed bodies, and
- the Planning 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 EIAR 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) and 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, as set out in each of the Chapters 4 to 13 of the EIAR Volume I and also in the Schedule of Mitigation Measures in Annex 1.8 of Volume II, 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:

- the visual impact arising from the permanent removal of forestry, and the erection of 9 wind turbines of 185 metres in height which will be mitigated by the colour of the proposed turbines which will be light grey,
- the climate change impact resulting from the total annual greenhouse gas emissions saving of almost 48,000 tonnes of CO<sub>2</sub> equivalent over the 30-year lifespan of the wind farm, which will contribute towards the achievement of national targets in this area.

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

### **Proper Planning and Sustainable Development**

Having regard to the provisions of National Planning Framework, the Regional Spatial and Economic Strategy of the Eastern and Midland Region 2019 and the provisions of the Westmeath County Development Plan 2021-2027 and the Meath County Development Plan 2021-2027, it is considered that, subject to compliance with the conditions set out below, the proposed development would make a positive contribution to Ireland's national strategic policy on renewable energy and its move to a low energy carbon future, would not seriously injure the residential or visual amenities of the area, and 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.

### **Costs**

The Board determined its costs in the amount of €66,517.50, and that the amount due to be reimbursed to the applicant is €35,532.50, in accordance with the costs submission on the file.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the planning application, 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 the commencement of development and the proposed development shall be carried out and completed in accordance with the agreed particulars.

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

2. The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report and other plans and particulars submitted with the application, including the Schedule of Mitigation Measures, shall be implemented in full.

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

3. The mitigation measures identified in the Natura Impact Statement and also in the Schedule of Mitigation Measures submitted with the planning application shall be implemented in full.

**Reason:** In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of European Sites in the vicinity.

4. The period during which the proposed development hereby permitted may be constructed shall be 10 years from the date of this order.

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

5. The permission shall be for a period of 30 years from the date of the first commissioning of the wind farm.

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

6. The turbines shall be 185 metres in height with a hub height of 104 metres and a rotor diameter of 162 metres in accordance with the turbine option assessed in the Environmental Impact Assessment Report and the Natura Impact Statement together with the other application documentation.

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

7. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 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 residential amenities of property in the vicinity.

8. 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 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.



9. (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.

10. The developer shall comply with the following design requirements:

(a) The wind turbines, including masts and blades shall be finished externally in a light grey colour.

(b) Cables within the proposed development 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 planning permission.

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

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

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

12. 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 (National Parks and Wildlife Service) and shall cover the entire period of the operation of the wind farm.

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

13. Prior to the commencement of development, details of a post construction monitoring and reporting programme for bats shall be submitted to and agreed in writing with the planning authority. The monitoring shall be undertaken by a suitably qualified and experienced bat specialist to identify any measures required to mitigate any identified effects. The survey shall be completed annually for a period of 3 years following the commissioning of the wind farm and copies of the report shall be submitted to the planning authority.

**Reason:** To ensure the appropriate monitoring of the use of the site by bat species.

14. In the event that the proposed development causes interference with telecommunication signals, effective measures shall be introduced to minimise interference with telecommunication 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 the commissioning of the turbines and following consultation with relevant authorities.

**Reason:** In the interest of protecting telecommunication signals and residential amenity.

15. Details of aeronautical requirements shall be submitted to and agreed in writing with the planning authority prior to the commencement of 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 each of the turbines in WGS-84 format and the wind monitoring masts.

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

16. Water supply and drainage arrangements including the discharge of any surface water shall be agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interest of public health.

17. The developer shall comply with the requirements of Irish Water with regard to diversion of infrastructure within the site and connections to the public network.

**Reason:** In the interest of public health.

18. (a) Prior to the commencement of 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:
- (i) Details of the road network/haulage routes and the vehicle types to be used to transport materials and turbine parts to and from the site and a schedule of control measures for exceptionally wide and heavy delivery loads.
  - (ii) A condition survey of the roads and bridges along the haul route shall be carried out at the developer's expense by a suitably qualified person both before and after the construction of the proposed development. This survey shall include a schedule of required works to enable 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 authorities and Transport Infrastructure Ireland prior to the commencement of development.
  - (iii) Detailed arrangements whereby any construction damage which arises shall be made good and completed to the satisfaction of the planning authority.
  - (iv) Detailed arrangements for the protection of bridges to be crossed.
  - (v) Detailed arrangements for temporary traffic arrangements/control on roads and protocols to keep residents informed of upcoming traffic related matters, temporary lanes/road closures and delivery of turbines.
  - (vi) A phasing programme indicating the timescale within which it is intended to use each public route to facilitate the construction of the proposed development. In the event that the proposed development is being developed concurrently with any other wind farm in the area the developer shall consult with and arrange suitable traffic phasing arrangements with the planning authority.

(b) Within three months of the cessation of the use of each public road and haul route to transport material to and from the site, a road survey and scheme of works detailing works to repair any damage to these routes shall be submitted to and agreed in writing with the planning authority. 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.

(c) Road safety audits shall be submitted to, and agreed in writing with, the planning authority in respect of the permanent works to be carried out along the L5508 between its junction with the L1504 and the access to the site.

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

19. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

20. On full or partial decommissioning of the wind farm, or if the wind farm ceases operation for a period of more than 1 year, the turbines and all decommissioned structures shall be removed, and foundations covered with soil to facilitate revegetation. 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 a satisfactory reinstatement of the site upon cessation of the project.

21. Details of the construction and environmental management plan shall be agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to operational controls for dust, noise and vibration, waste management, protection of soils and groundwaters and surface waters, protection of flora and fauna, site housekeeping, emergency response planning, site environmental policy, project roles and responsibilities.

**Reason:** In the interest of environmental protection and orderly development.

22. During the construction phase, the developer shall maintain a complaints register to record any complaints regarding but not limited to noise, odour, dust, traffic or any other environmental nuisance. The complaint register shall include details of the complaint and measures taken to address the complaint and prevent repetition of the complaint.

**Reason:** In the interest of orderly development.

23. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. 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:** To ensure the satisfactory completion of the development.

24. 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 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.



**Notes:**

- 1 In respect of shadow flicker, the Board considered that it was appropriate to attach a condition which would ensure compliance with the Wind Energy Development Guidelines for Planning Authorities, 2006. As the Draft 2019 guidelines remain in draft form and have not been officially adopted as official guidance, the 2006 guidelines still constitute the official strategy guidance on wind farms under the provisions of Section 28 of the Planning and Development Act 2000 (as amended) and therefore remain the applicable guidelines under which all wind energy development must be currently assessed. While the Board noted the Inspector's comments in respect of the Supreme Court judgement in Balz & Anor v An Bord Pleanála [2016] IESC 134, it also noted that, in that particular case, the Court held that an *evidence-based* submission by an objector that statutory guidelines (which remain in force) are out of date is not an "irrelevant planning consideration" and that this submission should have been addressed by the Board and reasons given for not accepting it. However, the Board did not consider that, in the particular circumstances of the subject application, an evidence-based submission had been made such as would justify a departure from the 2006 guidelines (in respect of shadow flicker), notwithstanding the draft provisions contained in the Draft 2019 guidelines.
  
- 2 The Board did not consider that road safety audits were warranted in the case of temporary works on national or local roads to facilitate the construction of the development.

**Board Member**



John Connolly

**Date:** 05/07/2022