



An
Bord
Pleanála

Board Direction
BD-018207-24
ABP-312606-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/11/2024.

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

The Board made its decision consistent with the:

- Climate Action and Low Carbon Development Act 2015, as amended;
- Climate Action Plan 2024,

And 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 and amending Directive EU/2023/2413 which aims to speed up the EU's clean energy transition.

- National and regional planning and related policy, including:
 - National policy with regard to the development of alternative and indigenous energy sources and the minimisation of emissions from greenhouse gases,
 - 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,
 - the objectives and targets of the National Biodiversity Action Plan 2023-2030.
- Regional and local level policy, including the:
 - Regional Spatial Economic Strategy for the Southern Region
 - Cork County Development Plan 2022-2028
- other relevant national policy and guidance documents,
- 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 agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that Mullaghanish to Musheramore Mountains Special Protection Area (Site Code: 004162), Blackwater River (Cork/Waterford) Special Area

of Conservation (Site Code: 002170) and The Gearagh Special Protection Area (Site Code: 004109) are the European Sites for which there is a likelihood of significant effects.

Appropriate Assessment: Stage 1:

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 Mullaghanish to Musheramore Mountains Special Area of Conservation (Site Code: 004162), Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 002170) and The Gearagh Special Protection Area (Site Code: 004109), 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 following:

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

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 site's conservation objectives.

Environmental Impact Assessment

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 with the application, including the further information,
- (c) the submissions received during the course of the application, and
- (d) the Inspector's report;

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 examination and recommendation and are incorporated into the Board's decision.

Reasoned Conclusions on the Significant Effects

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 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. 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:

- **Population and Human Health:** Potential significant positive impacts on the socio-economic profile of the area due to community funding and investment; potential significant health and safety impacts during construction, operation and decommissioning that will be mitigated through the implementation of the measures set out in the Environmental Impact Assessment Report, including the Construction Environmental Management Plan, best practice construction methods, appropriate training, installation of shadow flicker and ice detection systems on turbines, remote monitoring and scheduled maintenance.
- **Biodiversity:** Potential significant effects on habitats, mammals, bats, birds and aquatic ecology in the construction phase and operational phase which would be mitigated by the implementation of the mitigation measures contained in the Environmental Impact Assessment Report, including the Construction Environmental Management Plan, good practice construction measures, timing of vegetation removal, water pollution prevention measures, provision of bird/bat boxes, use of buffer zones, biosecurity measures and the appointment of an Ecological Clerk of Works and Environmental Manager. Further pre-commencement biodiversity surveys are also proposed. Significant impacts on areas of Annex I European Dry Heath [4030], which is suitable foraging habitat for hen harrier, can be avoided through the omission of turbines T2, T3, T13 and T17.
- **Land, Soils, Water, Air and Climate:** Potential significant effects on hydrology, hydrogeology and soils would be mitigated by a series of best practice construction management and pollution prevention measures and other specific measures outlined in the Environmental Impact Assessment Report, the Construction Environmental Management Plan, surface water management plan, use of buffer zones, erosion control and pollution prevention measures, and appointment of an Environmental Manager. Positive air quality and climate impacts are identified for the operational phase due to the offsetting of fossil fuels by the generation of renewable energy. Construction noise will be mitigated by the measures outlined in the Construction Environmental Management Plan, while cumulative operational noise with the Boggeragh Wind Farm (1 and 2) will be mitigated by curtailment of turbine operation, if required.

- **Material Assets, Cultural Heritage and the Landscape:** Potential positive impacts on material assets due to the provision of new and upgraded recreational walking trails. Traffic impacts will be short-term and temporary and will be mitigated during construction by the measures set out in the Environmental Impact Assessment Report, including the Construction Environmental Management Plan, Traffic Management Plan and appointment of a Traffic Management Co-Ordinator. Traffic impacts during the operational stage would be negligible. Potential impacts on unknown cultural heritage would be mitigated by archaeological monitoring with provision made for resolution of any archaeological features/deposits that may be identified. Landscape and visual impacts will arise but would be balanced to a degree by the nature and characteristics of the receiving environment including extensive commercial forestry, agricultural uses, the existing Boggeragh Wind Farm (1 and 2) and the nature and characteristics of the various Scenic Routes in the area.

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 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

Proper Planning and Sustainable Development

It is considered that the proposed development would accord with European, national, regional and local planning policy provision. The Board was satisfied that an approval for the proposed development would be consistent with national climate ambitions and with the relevant provisions of the Climate Action Plan 2024. Furthermore, the Board has performed its functions in relation to the making of its decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015, as

amended by Section 17 of the Climate Action and Low Carbon Act 2021. The Board considered that by reason of scale, form and extent, that, subject to compliance with the following conditions, the proposed development would be in accordance with the relevant provisions of the Cork County Development Plan 2022-2028, would not seriously injure the visual amenities of the area, or of property in the area, would be acceptable in terms of traffic safety and would constitute an appropriate form of development at this location. 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, as amended by the further information response received by An Bord Pleanála on the 15th day of January 2024, 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 undertaker 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. Turbines referenced as T2, T3, T13 and T17, together with associated hardstands and access tracks, shall be omitted from the development hereby permitted. For clarity, the permitted wind farm shall relate to sixteen wind turbines only. Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of biodiversity.

3. 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.

4. This 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 its operation in the light of the circumstances then prevailing.

5. The mitigation and monitoring measures contained in the submitted Environmental Impact Assessment Report (EIAR), shall be implemented.

Reason: To protect the environment.

6. The mitigation and monitoring measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of European Sites.

7. 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 10 metre height above ground level wind speeds of 7m/s or greater
- ii. 40 dB(A) $L_{90,10min}$ at all other standardised 10 metre height above ground level wind speeds

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

Prior to commencement of development, the undertaker 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.

8. The measures outlined in the Environmental Impact Assessment Report submitted with the application, such as turbine shut down during the associated time periods, shall be taken by the wind energy developer or operator to eliminate the shadow flicker.

Reason: In the interest of residential amenity.

9. Prior to the commencement of development, the undertaker 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.

10. The construction of the development shall be managed in accordance with a Construction Environmental 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, but not limited to, hours of working, noise management measures, surface water management measures (including weekly water sampling), and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

11. Water supply, wastewater treatment and surface water attenuation and disposal shall comply with the requirements of the planning authority for such works and

services. Prior to the commencement of development, the undertaker shall submit details for the disposal of surface water from the site (including drainage monitoring/maintenance), for the written agreement of the planning authority, following consultation with Inland Fisheries Ireland.

Reason: In the interest of public health and to prevent flooding and in the interests of sustainable drainage and biodiversity.

12. 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.

13. The delivery of large-scale turbine components for the construction of the wind farm shall be managed in accordance with a Construction Traffic Management Plan (CTMP), 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, detailed proposals for 'Access Point' sightlines (including those to be retained after the construction phase), 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 undertaker 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.

14. 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.

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 undertaker'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.

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 undertaker 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 undertaker 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 undertaker 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 undertaker 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. (a) The Biodiversity Enhancement Management Plan (BEMP) shall be implemented in accordance with the commitments outlined therein for a period of at least fifteen years following first commissioning of the wind farm hereby permitted. Prior to commencement of development, the undertaker shall enter into a written agreement with the planning authority under Section 47 of the Planning and Development Act 2000, as amended to this effect.
- (b) Further details relating to the commitments provided in the BEMP and the timeline for the delivery of individual prescriptions shall be submitted and agreed with the planning authority prior to commencement of development. This shall include, but is not limited to:

- i. A monitoring programme established in line with the avifauna monitoring program contained in the Natura Impact Statement, auditing and review of management area prescriptions (every 5 years).
 - ii. Annual bird surveys in accordance with Condition 18 (above), to establish presence and abundance of bird species including possible prey species.
 - iii. In addition to the habitat management described in the BEMP, 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 for hen harrier (National Parks and Wildlife Services, 2022) to ensure that habitat management measures achieve their aim.
 - iv. Results of monitoring shall be submitted to Cork County Council and to the National Parks and Wildlife Service.
- (c) Within six months prior to the expiry of the Section 47 planning agreement mentioned in paragraph (a), the undertaker shall provide details in relation to BEMP lands for the remainder of the duration of the permission. The details provided shall be commensurate in area to those contained within the BEMP submitted with the application and subject to the provisions of paragraph (b). The undertaker shall enter into a further written agreement with the planning authority under Section 47 of the Planning and Development Act 2000, as amended to this effect prior to expiry of the initial agreement mentioned in paragraph (a).

This condition shall not affect the sale of land or buildings by a mortgagee in possession or the occupation of such land or buildings by any person deriving title from such a sale.

Reason: In the interest of biodiversity.

21. The undertaker shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the undertaker 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.

22. Prior to the commencement of any works within the curtilage of Drishane Castle, a protected structure (Record of Protected Structures Reference: 00319), the undertaker shall submit, for written agreement of the planning authority, a specification and method statement covering all development to be carried out, including works to facilitate sightlines at the junction of the R583 and L95831-1, to ensure the development is carried out in accordance with good conservation practice.

Reason: In the interest of the protection of architectural heritage.

23. Prior to commencement of development, the undertaker 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 undertaker or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

24. Prior to commencement of development, the undertaker 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 undertaker 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.

Schedule of Costs

The amount due to be refunded to the applicant is **€19,905**

Note: The Board noted the commentary of the inspector relating to potential impact from landslide/peat slippage and its avoidance through the omission of turbines T3, T13 and T17, and relating to visual impact on scenic route S20 and its avoidance through the omission of turbines T13 and T17. Having considered the totality of the documentation and examined the relevant detail on file relating to these matters, the Board concluded that the omission of the above-mentioned turbines was not warranted by reference to the respective issues of peat slippage and visual impact. Nevertheless, it is noted that the above-mentioned turbines have been omitted by the Board, in accordance with the recommendation of the inspector, in the interest of biodiversity (condition no. 2 refers)

Board Member


Chris McGarry

Date: 15/11/2024