

An
Bord
Pleanála

Board Direction
BD-013340-23
ABP-312895-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 22/08/2023.

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:

- (a) the nature, scale, and extent of the proposed development,
- (b) the provisions of the Project Ireland 2040 National Planning Framework,
- (c) the provisions of the Climate Action Plan 2023 – Changing Ireland for the Better,
- (d) the provisions of the Wind Energy Development Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in 2006,
- (e) the policies of the Northern and Western Regional Assembly Regional Spatial and Economic Strategy (RSES) 2020-2032,

- (f) the provisions of the Leitrim County Development Plan 2023-2029,
- (g) the documentation submitted with the planning application, including further information responses to both Leitrim County Council and the Board, including the Environmental Impact Assessment Report (EIAR), as amended and the Natura Impact Statement (NIS), as amended,
- (h) the submissions received on file including from the planning authority, prescribed bodies, and third parties,
- (i) 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 on European sites,
- (j) the pattern of development in the area, including the existing Tullynamoyle wind farm and permitted extension to same, and the separation distance to houses, and,
- (k) the report of the Inspector.

Appropriate Assessment: Stage 1

The Board agreed with and adopted the screening assessment and conclusions carried out in the Inspector's report that the only European sites in respect of which the proposed development has the potential to have a significant effect are Boleybrack Mountain Special Area of Conservation (site code: 002032) and Lough Gill Special Area of Conservation (site code: 001976).

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement (NIS) as submitted with the grounds of appeal, and other associated documentation, the mitigation measures

contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an Appropriate Assessment of the implications of the proposed development on the two European sites, Boleybrack Mountain Special Area of Conservation (site code: 002032) and Lough Gill Special Area of Conservation (site code: 001976), 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 Appropriate Assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and,
- (c) the conservation objectives for the European sites.

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 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 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

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,

- (b) the Environmental Impact Assessment Report, as amended and associated documentation submitted in support of the application,
- (c) the submissions received from the applicant, planning authority, prescribed bodies, and observers/submitters in the course of the application and appeal, and
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, as amended, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed renewable energy 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, as amended and associated documentation submitted by the applicant and submissions made in the course of the application and appeal.

Reasoned conclusion on the significant effects

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated where relevant, as follows:

- Biodiversity – There would be some habitat loss due to the construction of some access tracks, hardstanding areas, substation, and turbine foundations. Existing and permitted infrastructure is used where possible. Some biodiversity impact is inevitable and unavoidable with development of the type proposed. The Environmental Impact Assessment Report, as amended, demonstrates that no habitat to be lost within the development site is a qualifying interest of Boleybrack Mountain Special Area of Conservation.

Measures have been designed to mitigate potential negative and harmful effects as a result of the proposed development, primarily during the construction phase, on the key ecological receptors identified as part of the impact assessment. Measures for the construction, operation and decommissioning phases are set out relating to general mitigation, water quality and aquatic fauna, non-volant mammals, birds, and bats.

- Soils and Geology – There is the potential for landslide at this location, though this is true of many upland wind energy developments. Mitigation measures proposed, as set out in the Environmental Impact Assessment Report as amended, are related to, for example, earthworks, drainage management, and groundwater dewatering. The Environmental Impact Assessment Report as amended concludes that peat slide risk analysis indicates a low to negligible risk of instability should all mitigation measures and recommendations be adhered to.
- Hydrology and Hydrogeology – Impacts on hydrology and hydrogeology could most likely occur during the construction phase. On-site data is in keeping with principals of peat hydrology in that there is a correlation between bog water level and distance from drainage features. A substantial number of mitigation measures are proposed to protect hydrology and hydrogeology, which also relate to other environmental factors such as biodiversity.
- Air and Climate – There would be a positive impact on the environment as a result of the increase in renewable energy resources.
- Landscape and Visual – The site is in an upland location and the proposed development would effectively read as an extension to the existing 15 number turbine wind farm where there are also an additional four permitted turbines. While the proposed development would result in additional landscape and visual change in the area, the impact is not considered to be significant at this location where turbines are already operational.

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, as amended 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.

Overall, the Board is satisfied that the proposed development would not have any unacceptable effects on the environment.

Proper Planning and Sustainable Development

The Board considered that the proposed wind farm extension development, subject to compliance with the conditions set out below, would be in accordance with national, regional, and local planning policy including the relevant provisions of the Leitrim County Development Plan 2023-2029, would make a positive contribution to Ireland's move to a low-carbon energy future, 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 or affect the natural heritage of the area, would not adversely impact the road network in the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Note

The Leitrim County Development Plan 2023-2029 was the applicable statutory plan in place at the date of the Board's decision. In this regard, the Board considered in full all relevant provisions of the statutory plan. In doing so, the Board recognised that at the time of the decision of the planning authority, the Leitrim County Development Plan 2017-2023 was in place and this also applied on the date of the Inspector's report (though the Inspector referred to the then Draft Plan in his report). The Board noted that the relevant provisions of the current statutory plan as they

would relate to the proposed development are comparable and no material issue arises therefrom. Furthermore, it is noted that the decision of the planning authority made no reference to any provisions of the then statutory plan but was confined to specific areas of concern regarding detail provided (or otherwise) in the application. In overview therefore, the Board determined that the grounds of appeal and the material considerations arising therefrom, are not affected by or material to the relevant provisions of the current plan in any manner which of themselves are not materially different to the previous plan and which did not form part of the basis of the decision of the Board.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 19th day of November 2021 and in the grounds of appeal received by An Bord Pleanála on the 1st day of March 2022 and the further information received by An Bord Pleanála on the 5th day of September 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. This permission shall be for a period of 30 years from the date of commissioning of the proposed development.

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

3. 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.

4. The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, as amended through the course of the application and appeal, 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.

5. The mitigation measures contained in the Natura Impact Statement, as amended during the course of the application and appeal, shall be implemented in full.

Reason: In the interests of clarity, ensuring the protection of European sites, and the proper planning and sustainable development of the area.

6.
 - (a) The turbines shall have maximum hub heights of 92 metres, rotor diameters of 126 metres, and blade tip heights of 155 metres.
 - (b) The wind turbines including hubs and blades shall be externally finished in a light grey colour.
 - (c) Cables within the proposed development site shall be placed underground except as noted at the one water crossing to facilitate connection of proposed turbine T22 to the previously permitted substation.
 - (d) The wind turbines shall be geared to ensure that the blades rotate in the same direction.

- (e) 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 clarity and visual amenity.

- 7. 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 interest of the visual amenities of the area.

- 8. The developer shall appoint a suitably qualified ecologist to monitor and ensure that all avoidance/mitigation measures relating to the protection of flora and fauna are carried out in accordance with best ecological practice and to liaise with consultants, the site contractor, the National Parks and Wildlife Service, and Inland Fisheries Ireland, where necessary. A report on the implementation of these measures shall be submitted to the planning authority and retained on file as a matter of public record.

Reason: To protect the environmental and natural heritage of the area.

- 9. The developer shall retain the services of a suitably qualified bird specialist to undertake appropriate pre-construction and post-construction bird monitoring surveys of the site. Details of the surveys to be undertaken and associated reporting requirements shall be developed following consultation with the National Parks and Wildlife Service and shall be agreed in writing with the planning authority prior to commencement of development. The surveys shall be completed annually for a period of five years following commissioning of the proposed development and copies of the report shall be submitted annually to the planning authority and to the National Parks and Wildlife Service.

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

10. The developer shall review usage by birds of the proposed development site and document bird casualties through an annual monitoring programme, details of which shall be submitted 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, and shall cover the entire period of the operation of the proposed development.

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

11. 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 metres height above ground level wind speeds of 7 metres per second or greater,
- (ii) 40 dB(A) $L_{90,10min}$ at all other standardised 10 metres height above ground level wind speeds

(b) 43 dB(A) $L_{09,10min}$ at all other times.

Prior to commencement of development, or as otherwise agreed in writing with the planning authority, 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.

12. 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 telecommunication signals and of residential amenity.

13. Details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development, or as otherwise agreed in writing with the planning authority. 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.

Reason: In the interest of air traffic safety.

14. (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 existing or permitted house, or other sensitive receptor.
- (b) The proposed turbines shall be fitted with appropriate equipment and software to control shadow flicker at houses and sensitive receptors.
- (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. Within 12 months of commissioning of the proposed wind farm extension 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.

15. Prior to commencement of development a detailed Construction Management Plan for the construction stage shall be submitted to, and agreed in writing with, the planning authority, generally in accordance with the proposals set out in the Environmental Impact Assessment Report. The Construction Management Plan shall incorporate the following:

- (a) a detailed plan for the construction phase incorporating, inter alia, the construction programme, supervisory measures, noise management measures, construction hours, and the management of construction waste,
- (b) a comprehensive programme for the implementation of all monitoring commitments made in the application and supporting documentation during the construction period,
- (c) an emergency response plan, and,
- (d) proposals in relation to public information and communication.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

Reason: In the interests of environmental protection and orderly development.

16. Details of the Construction and Environmental Management Plan (CEMP) shall be submitted to and 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, and project roles and responsibilities.

Reason: In the interests of environmental protection and orderly development.

17. During the construction phase a complaints register shall be maintained 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. This register shall be available for inspection by the planning authority.

Reason: In the interest of orderly development.

18. On full or partial decommissioning of the proposed development, or if the wind farm 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 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 satisfactory reinstatement of the site upon cessation of the project.

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. 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 roads. The form and amount of the security shall be as agreed between the relevant planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory reinstatement of the delivery route.

21. 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.

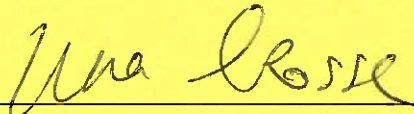
Reason: To ensure satisfactory reinstatement of the site.

22. 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 & 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 & 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.

Copy of Direction to issue with Order

Board Member



Una Crosse

Date: 23/08/2023