



An
Bord
Pleanála

Board Direction
BD-015099-24
ABP-314275-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 17/01/2024.

The Board decided to approve the proposed development 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:

- European, national, regional, and county level support for renewable energy development as follows:
 - (i) Climate Action Plan 2023.
 - (ii) Project Ireland 2040 National Planning Framework.
 - (iii) The Regional Spatial and Economic Strategy for the Southern Assembly.
 - (iv) The policies and objectives of the Kerry County Development Plan 2022-2028 and the Cork County Development Plan 2022-2028,
- the nature, scale, and extent of the proposed development,
- mitigation measures proposed for the construction, and operation of the site and subject works,

- the submissions and observations on file including those from prescribed bodies, the planning authority and other third parties,
- the planned renewable energy development (Cork County Council Planning Reference Number: 19/4972),
- 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 absence likely significant effects of the proposed development on European Sites, and
- the report of the Inspector.

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 further information and associated documentation submitted by the applicant,
- (d) the submissions received from the prescribed bodies, the planning authority and third parties, and
- (e) 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 during 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.

- The risk of pollution of ground and surface waters during the construction phase through a lack of control of surface water during excavation and construction, the mobilisation of sediments and other materials during excavation and construction and the necessity to undertake construction activities in the vicinity of existing watercourses. The construction of the proposed project could also potentially impact negatively on ground and surface waters by way of contamination through accidents and spillages. These impacts would be mitigated by the agreement of measures within a Construction and Environment Management Plan, and the implementation of mitigation measures related to control and management of sediments, accidental spills and contamination, and drainage management.
- The proposed development would give rise to a short-term increase in vehicle movements and resulting traffic impacts during the construction phases. These impacts would be mitigated by the agreement of measures within a Construction and Environment Management Plan.
- The overall proposed project, including the permitted development (Cork County Council Planning Reference Number: 19/4972), the concurrent application before the Board for part of the grid connection (An Bord Pleanála Reference Number ABP-317406-23, Cork County Council Planning Reference Number: 22/816) and the proposed development for this 110kV cable and substation would have a direct long term positive impact on the climate by supplying electricity to the national grid from renewable energy sources.

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 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.

Appropriate Assessment – Stage 1

The Board considered the screening report for appropriate assessment, all other relevant submissions and carried out an appropriate assessment screening exercise relation to the potential effects of the proposed development on designated European Sites. The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site and considered the nature, scale, and location of the proposed development, as well as the report of the Inspector. The Board agreed generally with the screening report submitted with the application and with the screening exercise carried out by the Inspector.

The Board concluded that, having regard to the qualifying interests for which the sites were designated and in the absence of connections to, and distance between, the application site and the European Sites, Mullaghanish Bog Special Area of Conservation (Site Code: 001890), St. Gobnet's Wood Special Area of Conservation (Site Code: 000106), Blackwater River (Cork/Waterford) Special Area of Conservation (Site Code: 002170), Old Domestic Building, Curraglass Wood Special Area of Conservation (Site Code: 002041], Kilgarvan Ice House Special Area of Conservation (Site Code: 000364), The Gearagh Special Area of Conservation (000108), The Gearagh Special Protection Area (Site Code: 004109), could be screened out from further consideration and that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effects on these European Sites or any other European Sites in view of the Sites' conservation objectives and that a Stage 2 appropriate assessment is therefore not required in relation to these European Sites.

Appropriate Assessment - Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code: 000365) and Mullaghanish to Musheramore Mountains Special Protection Area (Site Code: 004162) 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 as well as the report of the Inspector.

In completing the assessment, the Board considered the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, the mitigation measures which are included as part of the current proposal and the conservation objectives for these 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 would not adversely affect the integrity of the Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment Special Area of Conservation (000365) and Mullaghanish to Musheramore Mountains Special Protection Area (Site Code: 004162) or any other European Site in view of the Sites' Conservation Objectives.

Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with European, national and regional renewable energy policies and with the provisions of the Kerry County Development Plan 2022-2028 and the Cork County Development Plan 2022-2028 , would not seriously injure the visual or residential amenities of the area or otherwise of property in the vicinity or have an unacceptable impact on the character of the landscape or on cultural or archaeological heritage, would not have a significant adverse impact on ecology, would be acceptable in terms of traffic safety, public health and would make a positive contribution to Ireland's renewable energy and security of energy supply requirements. 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 as amended by the further plans and particulars received by An Bord Pleanála, 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 interests of clarity and of proper planning and sustainable development of the area.

2. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission(s), Cork County Council Planning Reference Number: 19/4972, and any agreements entered thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).

3.

- a) All of the environmental, construction, ecological and heritage-related mitigation measures, as set out in the Environmental Impact Assessment Report, the Natura Impact Statement, and the Construction and Environmental Management Plan, and other particulars submitted with the application, shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this Order.
- b) Prior to commencement of development a badger survey shall be undertaken, in the event of badger sett(s) being identified appropriate mitigation and avoidance will be agreed in writing with the Planning Authority.

- c) There shall be no felling or scrub clearance within the bird nesting season, from the 1st day of March to the 31st day of August.
- d) A finalised Invasive Species Management plan detailing the methodology of control of Invasives and monitoring to be agreed with the Planning Authority prior to commencement of development.
- e) Submission of an "Annual Environmental Report" on the Habitat Enhancement Area should be submitted to the planning authority on an annual basis.
- f) Submission of a Mitigation and Monitoring report prepared by a suitably qualified ecologist clearly indicating compliance with all ecological conditions listed in those reports from Section a).

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

4.

- a) All mitigation measure in relation to Archaeology and cultural heritage as set out in Chapter 11 of the Environmental Impact Assessment Report (Tobar Archaeological Services: 29th day of July 2022) shall be implemented in full, except as may otherwise be required in order to comply with the conditions of this permission.
- b) The Construction Environmental Management Plan shall clearly identify and highlight the location of all archaeological and cultural heritage constraints located in proximity to the proposed works (Chapter 11 of the Environmental Impact Assessment Report) the Construction Environmental Management Plan shall clearly describe all identified likely archaeological impacts, both direct and indirect, and all mitigation measures to be employed to protect the archaeological or cultural heritage environment during all phases of site preparation and construction activity.

c) The applicant is required to employ a suitably qualified, archaeologist to monitor all ground disturbance required for this proposed development. No groundworks of any type (including any enabling works or advance site investigations) are to take place in the absence of the archaeologist without his/her express consent. The use of appropriate machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary.

i. The archaeological monitoring programme must be carried out under license from National Monuments Service and in accordance with an approved method statement, note a period of five to six weeks should be allowed to facilitate processing and approval of the licence application and method statement.

ii. Should archaeological material be found during the course of the archaeological monitoring, the archaeologist shall have work on site stopped pending a decision regarding appropriate mitigation. The developer shall be prepared to be advised by the National Monuments Service with regard to any mitigating action (preservation *in situ* and/or excavation). The developer shall facilitate the archaeologist in recording any material found.

d) The planning authority and National Monuments Service shall be furnished with a final archaeological report describing the results of archaeological monitoring and of any archaeological investigative work/excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation (either *in situ* or by record) of places, caves, sites, features and other objects of archaeological interest.

- 5.** The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall incorporate all mitigation measures set out in the application documentation and provide details of intended construction practice for the development, including:
- a)** Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse, site offices, construction parking and staff facilities, re-fuelling arrangements security fencing and hoardings.
 - b)** A comprehensive construction phase traffic management plan including details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
 - c)** A comprehensive decommissioning and operation phase traffic management plan similar to the requirements for the construction phase plan.
 - d)** Measures to prevent the spillage or deposit of clay, rubble, or other debris on the public road network.
 - e)** Details of appropriate mitigation measures for noise, dust, and vibration, and monitoring of such levels.
 - f)** Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained; such bunds shall be roofed to exclude rainwater.
 - g)** Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
 - h)** Means to ensure that surface water run-off is controlled such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses.
 - i)** Surface water discharge from compounds will be via a class one oil interceptor.
 - j)** An audit list of all construction and operational mitigation measures, their timelines for implementation and responsibility for reporting.

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

Reason: In the interest of environmental protection, amenities, public health, and safety

6.

a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location shall not exceed.

- (i) An LAeqT value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive. (The T value shall be one hour.)
 - (ii) An LAeqT value of 45 dB(A) at any other time. [The T value shall be 15 minutes). The noise at such time shall not contain a tonal component.
- At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

b) All sound measurement shall be carried out in accordance with ISO Recommendation R 1996 "Assessment of Noise with respect of Community Response" as amended by ISO Recommendations R 1996 1, 2 or 3 "Description and Measurement of Environmental Noise" as applicable.

Reason: To protect the amenities of property in the vicinity of the site.

7. 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 (NPWS) and Inland Fisheries Ireland. 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.

8. No instream works shall be carried out from 1st day of October to the 30th day of June, fish removal will take place within cofferdams prior to dewatering and Inland Fisheries Ireland to be notified in advance of any works. The Ecological Clerk of Works will ensure all mitigation detailed in application documentation relative to watercourse crossings are employed and watercourse crossings shall not lose material to the rivers.

Reason: In the interests of environmental protection.

9. Site development and building works shall be carried out only between the hours of 0800 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 amenities of property in the vicinity.

10. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

11. All road surfaces, culverts, watercourses, verges, and public lands shall be protected during construction and, in the case of any damage occurring, shall be reinstated to the satisfaction of the planning authority at the developer's expense. Prior to commencement of development, a road condition survey shall be carried out to provide a basis for reinstatement works. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to ensure a satisfactory standard of development.

12. 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 on 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.

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in 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.

Schedule of Costs

In accordance with the provisions of section 182B of the Planning and Development Act 2000, as amended, the amount due to be reimbursed to the applicant is **€67,240**

Board Member



Chris McGarry

Date: 17/01/2024