



An  
Bord  
Pleanála

**Board Direction**  
**BD-016133-24**  
**ABP-315656-23**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 23/04/2024.

The Board decided to refuse permission, generally in accordance with the Inspector's recommendation, for the following reasons and considerations.

### **Reasons and Considerations**

The site of the proposed development is located within an area designated as 'Open to Consideration' for wind farm development in Cork County Development Plan 2022-2028 where policy objective ET13-7 provides that commercial wind energy development proposals are open for consideration in areas where proposals can avoid adverse impacts on factors such as the visual quality of the landscape and the degree to which impacts are highly visible over wider areas. Having regard to the existing natural character of the receiving environment, it is considered that the combined effect of the height, scale and disposition of the proposed turbines would lead to excessively dominant features and a visually obtrusive form of development within the local landscape, would detract from the existing natural character of the area and would contribute to the erosion of the visual and environmental amenity of the area. The development as proposed, would therefore not be readily assimilated into the landscape and would affect the specific visual quality of this area. The development as proposed would fail to satisfactorily comply with policy objective ET13-7 of the Cork County Development Plan 2022-2028 specifically by reference to its adverse impact on the visual quality of the landscape at this location and the degree to which this adverse impact would be visible over the wider area. The proposed development would, therefore, be seriously injurious to the visual amenity of the area, would detract from the character of the area, would not accord with the

relevant provisions of the Development Plan and would be contrary to the proper planning and sustainable development of the area.

### **Note 1**

The Board noted that the planning authority considered the development as proposed would materially contravene policies contained in the previous and current Development Plan. The Inspector's recommended reasons for refusal refer to the proposal materially conflicting with a number of policies in the current plan. Having regard to the totality of the documentation submitted with the application, appeal and responses, while considering the proposal would not, as proposed in the subject application, comply with policy ET13-7, did not share the view that the proposal would materially contravene or materially conflict with the policies in the plan having regard to the location of the site within an area, wherein commercial wind energy development is open to consideration and having regard to the planning history of the site, that on the facts of the case, the Board determined that the proposed development would not accord with the relevant provisions of the Development Plan specifically objective ET13-7 which requires that:

Commercial wind energy development is open to consideration in these areas where proposals can avoid adverse impacts on:

- Residential amenity particularly in respect of noise, shadow flicker and visual impact;
- Urban areas and Metropolitan/Town Green Belts;
- Natura 2000 Sites (SPA's and SAC's), Natural Heritage Areas (NHA's), proposed Natural Heritage Areas and other sites and locations of significant ecological value.
- Architectural and archaeological heritage;
- Visual quality of the landscape and the degree to which impacts are highly visible over wider areas.

In planning such development, consideration should also be given to the cumulative impacts of such proposals.

### **Note 2**

The Board noted the Planning Authority's second reason for refusal related to what they consider to be an absence of compelling evidence and a proper detailed study

and assessment of cycling and walking trails within the wider area which led them to conclude that they could not be satisfied that the proposal would not have an adverse impact on local tourism.

Furthermore, the Board had regard to the contents of the submissions from Failte Ireland in respect of tourism which reference tourist experiences in the West Cork area noting Gougane Barra and the Beara Breffni Way in particular and the importance of landscape in the tourist experience and while agreeing with same, the Board noted the generality of the commentary and concluded having considered all the documentation and submissions that the recognised visual impact described in the reason for refusal did not of itself translate into a measurable impact with respect to the tourism resource noting the reality of functional structures within and throughout locations across the country.

The Board also noted the Inspector's reference in the first recommended reason for refusal to the policies and objectives in the Development Plan relating to the tourism sector, to Gougane Barra as a key tourist attraction of national importance and to the Inspectors consideration of the high level of visibility of the proposed turbines over an expansive area including the setting of Gougane Barra, Bantry town, coastal areas in the vicinity, the Muscraí Gaeltacht and designated scenic routes including the Wild Atlantic Way which all form part of the tourism resource of the area. In considering the tourism policies and objectives referenced by the Inspector and the planning authority TO 10-1-3, TO 10-5, TO10-7 and TO10-10, the Board noted the generality of the expressed policies and objectives which it was considered would not be measurably contravened by the proposed development.

It was also noted by the Board that the Inspector considered that the development as proposed would undermine the setting of Gougane Barra and the framing of the town of Bantry, would erode the landscape and visual quality of the coastal and designated scenic routes in the vicinity and would exacerbate the cumulative landscape impact of wind farm development on tourism and amenity sites in the area.

In not sharing this view, the Board considered that, while the combined effect of the height, scale and disposition of the proposed turbines would lead to excessively dominant features and a visually obtrusive form of development within the local

landscape, as outlined in the reason for refusal included above, the development as proposed would not undermine the setting of Gougane Barra having regard to the evidence presented within the totality of the application. While the development would be visible on routes to and from such tourist attractions and intermittent views would be available along cycling/walking routes and along parts of scenic routes, the Board agreed with the applicants Landscape Consultants that the impact on the landscape and on the visual amenity of the wider West Cork area would not be adverse within the context of the tourism policies and objectives in the Development Plan.

In respect of the potential impact on the town of Bantry and views from Bantry Bay, the Board did not agree that the impact would be adverse having regard to the distance of Bantry from the subject site and while some degree of visibility would arise, the Board did not consider it would be significant either individually or cumulatively having regard to the varying landscape topography and interventions. In this regard the Board did not concur with the potential for the development as proposed to impact the tourism sector within this area of West Cork.

### **Note 3**

The Board did not share the view of the Inspector in respect of the second recommended reason for refusal in respect of ornithology, wherein the Inspector considered that the development as proposed would have significant adverse impacts on the ornithological importance of the area by way of disturbance and displacement of protected bird species and potential for bird strikes. The Board also noted that the planning authority in the first instance or in their most recent submission to the Board did not consider that the proposal would have such an effect such that a refusal was warranted for this reason.

The Inspector, the third party appellants and observers reference the submission made by Dr Allan Mee to the planning authority in respect of the White-tailed Eagle. Having reviewed the submission, the Board noted the genuine knowledge and detail in respect of the White-tailed Eagle as set out in Dr Mee's submission however the Board did not consider the submission of itself would lead to a conclusion that the proposed development would have an adverse impact on the White-tailed Eagle. Furthermore, the Board noted that no reference was made in the submission made by Dr Mee to the Ornithological Chapter and related appendices included in the

applicants EIAR which specifically addresses the White-tailed eagle at sections 7.4.6, 7.5.6, 7.6, 7.7 and within Appendices 7-3 and 7-4 and includes a collision risk assessment at Appendix 7-5. In relation to the need to consider disturbance/displacement during construction and operation, the Board noted that the EIAR specifically addresses this matter within section 7.8.2 for all key ornithological receptors with the White-tailed Eagle addressed at section 7.8.2.3. The Board concluded in this regard, that there was no direct measurable evidence, when considering the totality of the documentation to support the Inspectors view as expressed in the second recommended reason for refusal.

#### **Note 4**

The Board noted the Inspectors additional commentary in respect of noise impact in the addendum report provided and in particular to the matter of amplitude modulation. The Board acknowledges the third-party appellants reference to the matter of noise and noted the 10 source documents referenced in same in their grounds of appeal. The Board noted that particular emphasis was placed in the third parties appeal and further responses on a submission prepared by MAS Environmental Ltd in response to the review of the draft Wind Energy Guidelines and which is dated 19 February 2020, a 2013 paper from Mike Stigwood entitled Audible Amplitude Modulation and a 2013 paper from Professor Fukushima et al, entitled Noise Control for Quality of Life. The Board noted that these reports/papers are not specific to the proposed development, the subject site or the area within which the development is proposed.

The Board also noted the responses from the applicant to the third parties and in particular to the Technical Note attached to the first party response to the third-party appeal dated October 2020.

The Inspector in addressing the matter, outlines that amplitude modulation is referenced in the EIAR but considers that the response to the issue is unclear and that there are no mitigation measures proposed in the event such issues arise with no guidance provided in the 2006 Wind Energy Guidelines. The Inspector considers that this matter may be a new issue for the Board to consider and also provides a draft reason for refusal related to amplitude modulation for the Board's consideration.

Having considered the totality of the documentation and submissions on file relating to the issue of potential noise impact and with specific reference to the matter of amplitude modulation, assessment of the applicant's professional acoustic consultant, Awn Consulting Ltd. as set out in the EIAR, the aforementioned report and papers included with the third party appeal, the responses to the appeals and further responses to submissions circulated, the Board determined that sufficient information was before it to enable an independent objective assessment of this matter. While the Board noted the concerns expressed in respect of the mitigation measures which the Inspector considered were either absent or deficient, the Board had regard to the location of the site and to the distances from the turbines to the most proximate residential receptors, which as stated by the Inspector are at a distance of 760m and further from the turbines. The Board also noted that mitigation of noise by way of the employment of technology was accepted practice in respect of modern windfarm development and that the agreement of same was an accepted form of post consent agreement. The Board did not share the Inspectors view that there is a significant and distinct lack of clarity and consider that there is sufficient information on the file to allow the Board to undertake a comprehensive assessment. In respect of the potential for impacts to arise from amplitude modulation the Board considered that the approach put forward by the applicant's acoustic expert was satisfactory. The Board considered that the expert findings set out in the EIAR and further responses to the Board were robust in respect of the consideration of direct and indirect impacts and the most appropriate mitigation measures to employ within the specific context of the subject site.

Board Direction to issue with the Order.

**Board Member**



**Date:** 23/04/2024

Una Crosse