

An
Bord
Pleanála

Board Direction
BD-017643-24
ABP-317265-23

The submissions on this file and the Inspector's report and addendum report were considered at Board meetings held on 20/03/2024, 01/05/2024, 18/07/2024 and 27/09/2024.

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

Reasons and Considerations

1. Having regard to Policy Objective UTL 13 of the Waterford City and County Development Plan 2022-2028, which seeks to facilitate and encourage proposals for renewable energy generation '...developed fully in accordance with the Waterford Renewable Energy Strategy (RES), the wind energy designation map (Appendix 2 of the RES), the Waterford Landscape and Seascape Character Assessment (LSCA) undertaken to inform this Development Plan and the National Wind Energy Guidelines, or any subsequent update/ review of these', and given the proposed development site falls within an area identified as 'Exclusion Zone' on the RES Wind Energy Strategy Maps for new wind energy developments, it is considered that, notwithstanding broad policy support for the development of wind energy in the county area, by reference to European, national, regional and local policy, the specific policy context as set out in the development plan has equally provided for defined locations where wind energy projects may variously be supported, deemed open for consideration or excluded. The proposed development is in an identified exclusion zone for wind energy. In this context, it is considered

that the proposed development would materially contravene Policy Objective UTL 13 of the Waterford City and County Development Plan 2022-2028.

Furthermore, having regard to the totality of the documentation on file, including submissions received, the Board determined that no evidence has been provided which would support a material contravention of the development plan in this case. In reaching this conclusion, the Board considered relevant renewable energy policy in the statutory development plan, and in applicable European, national and regional policy and guidance, and determined that a refusal of permission in this case, would not militate against the wider ability for planning consent to be secured for wind energy proposals in County Waterford, subject to the principles of proper planning and sustainable development and consistent with applicable development plan policy and objectives, and accounting for European, national and regional policy and guidance, including consistency with the national Climate Action Plan. In this regard it is considered that the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The subject site is located within and adjacent to an upland area designated 'Most Sensitive' in the Waterford Landscape and Seascape Character Assessment undertaken to inform the development plan, in an area of scenic value. The proposed development by virtue of its layout and scale would adversely interfere with the intrinsic character, integrity and distinctive qualities of the landscape setting which it is considered necessary to preserve under the Development Plan. The proposed development would be contrary to Policy Objective LO2 'To protect the landscape and natural assets of the County by ensuring that proposed developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area and ensuring that such proposals are not unduly visually obtrusive in the landscape, in particular, in or adjacent to the uplands, along river corridors, coastal or other distinctive landscape character units'. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development would result in the direct loss of 3.5 hectares of dry heath (4030) habitat, which is included in Annex I of the European Union Habitats Directive of 1992. This area of dry heath located on Broemountain forms part of a wider habitat area across the commonage area of Broemountain and across the Knockmealdown Mountains which supports nationally declining species, including Annex 1 species protected under the EU Birds Directive of hen harrier and golden plover, as well as other bird species of high and medium conservation concern. Having regard to the direct loss of 3.5 hectares of Dry Heath habitat and the lack of interrogation of the implications for the hen harrier recorded in the area, in addition to associated risk of displacement caused by the proposed turbines to hen harrier and golden plover in this area, the Board is not satisfied that the proposed development will not result in a significant loss of biodiversity. It is considered that the proposed development would be contrary to objectives ENV01, BD01 and BD02 of the operative development plan which seek to protect habitats listed in Annex I of the Habitats Directive, protect biodiversity and ecological connectivity, and achieve net gain in biodiversity enhancement and creation, and would be contrary to Article 4(4) of the Birds Directive (2009/147/EC) to avoid deterioration of habitats affecting protected birds. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

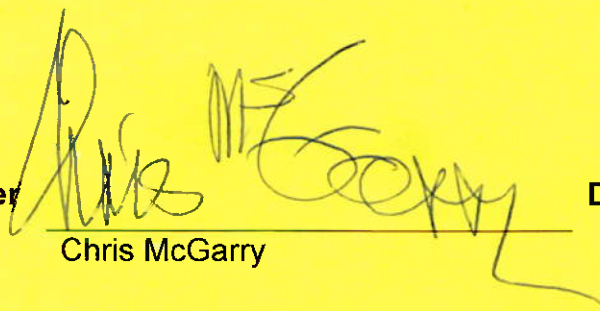
Schedule of Costs

Net amount to be refunded to applicant EURO49,146

Note 1: The Board noted and shared the opinion of the inspector wherein the inspector was not satisfied that the methodology applied to the ornithological surveys as set out in Appendix 7.1 of the EIAR, in particular the timing of surveys using CBS based methods, was scientifically robust for the reasons. (Section 12.6 of the Inspector's report refers). Accordingly, the Board cannot be satisfied that the information allows for a complete assessment of breeding birds in the community. The Board noted that this could have implications for Appropriate Assessment and ordinarily would warranted further consideration and possible further information. However, given the substantive reasons for refusal set out above, and noting also the assessment of the Inspector at para. 13.5.25 of her report that in relation to Dungarvan Harbour SPA, *'Taking into account the measures set out relating to prevention of water pollution and surface water management as described in the EIAR, CEMP, and Surface Water Management Plan, it may be concluded that following the implementation of mitigation, the construction, operation and decommissioning of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects'* the Board decided not to pursue this matter further in the context of the current appeal.

Note 2: The Board noted the need for the proposed development to comply with the Wind Energy Development Guidelines, 2006, in relation to maintaining appropriate separation distances in respect of adjoining sites.

Board Member

A handwritten signature in black ink, appearing to read 'Chris McGarry', is written over a horizontal line. The signature is stylized and cursive.

Chris McGarry

Date: 27/09/2024