

An
Bord
Pleanála

Board Direction
BD-019245-25
ABP-319741-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 21/03/2025.

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 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 Development (Amendment) Act 2021, (consistent with the most recent approved, climate action plan, national long term climate action strategy, national adaptation framework and approved sectoral adaptation plans, the furtherance of the national climate objective, and the objective of mitigating greenhouse gas emissions and adapting to the effects of climate change in the State);

and in coming to its decision, the Board had regard to the following:

- European legislation, including of particular relevance:
 - The relevant provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU (EIA Directive) on the assessment of the effects of certain public and private projects on the environment,
 - 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, and
EU Renewable Energy Directive 2009/28/EC which aims to promote the use of renewable energy and amending Directive EU/2003/2413 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 minimisation of emissions from greenhouse gases.
 - Wind Energy Guidelines: Guidelines for Planning Authorities 2006 and the draft guidelines published in 2019.
 - The objectives and targets of the National Biodiversity Action Plan 2023-2030.
- Regional and local planning policy, including:
 - Regional Spatial Economic Strategy for the Southern Region 2019-2031;
 - Kerry County Development Plan 2022-2028
 - Cork County Development Plan 2022-2028
 - Kenmare Municipal District Local Area Plan 2024-2030
 - Kerry County Biodiversity Action Plan 2022-2028.
 - Kerry County Local Authority Climate Action Plan 2024-2029
- Other relevant national policy and guidance documents.
- The existing wind farm on the site and 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 on the planning application by the local authority, prescribed bodies and observations from Dermot Kelleher and Derry Kelleher.

- The report and the recommendation of the Inspector, including the examination, analysis and evaluation undertaken in relation to Appropriate Assessment and Environmental Impact Assessment.

Proper Planning and Sustainable Development

It is 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 Kerry County Development Plan 2022-2028, including Objective 12-21 Repower Areas, 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.

It is further considered that the proposed scheme would accord with European, national, regional and local planning, including European Renewable Energy Directives which promote renewable energy provision, the National Planning Framework, specifically National Policy Objective 55 which promotes renewable energy generation, the Climate Action Plan 2024 which seeks to further the national climate objective and the objective of mitigating greenhouse gas emissions and the provisions of the Regional Spatial & Economic Strategy (RSES) for the Southern Region which includes RPO 95 concerning the implementation of the national renewable energy action plan, as well as leveraging the region as a lead and innovator in sustainable energy generation, and RPO 99 supporting the sustainable development of wind energy at appropriate locations, and would be acceptable in respect of its likely effects on the environment and its likely consequences for the proper planning and sustainable development of the area.

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.

The proposed development, would therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board agreed with and adopted the screening assessment and conclusion carried out in the inspector's report that the Killarney National Park, McGillicuddy's Reeks & Caragh River Catchment SAC, Old domestic building, Curraglass Wood SAC, Kilgarvan Ice House SAC, Kenmare River SAC, Mullaghanish to Musheramore Mts. SPA are the European sites for which there is a likelihood of significant effects.

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, McGillicuddy's Reeks & Caragh River Catchment SAC, Old domestic building, Curraglass Wood SAC, Kilgarvan Ice House SAC, Kenmare River SAC, Mullaghanish to Musheramore Mts. SPA 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

- Likely direct and indirect impacts arising from the proposed scheme both individually or in combination with other plans or projects, specifically upon the Killarney National Park, McGillicuddy's Reeks & Caragh River Catchment SAC, Old domestic building, Curraglass Wood SAC, Kilgarvan Ice House SAC, Kenmare River SAC, Mullaghanish to Musheramore Mts. SPA

and

- mitigation measures which are included as part of the current proposed development,
- conservation objective for these European Sites, and
- views of prescribed bodies in this regard.

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 scheme 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 scheme, 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:

- the nature, scale, location, and extent of the proposed development,
- the Environmental Impact Assessment Report and associated documentation submitted with the application,
- the submissions received during the course of the application, and
- 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 course of the planning application.

Reasoned Conclusion

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 scheme 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 scheme on the environment are those arising from the impacts listed below.

The main significant effects, both positive and negative, are:

- **Population and Human Health** – Short term direct and indirect negative effects arising from the construction phase on residential amenity and use of the public road, and longer-term the potential for noise, shadow flicker and landscape and visual effects, in particular for residents in proximity to the wind farm site, and with open views of it. These effects will be mitigated by the distance of the dwellings from the construction site, implementation of standard good construction practices, management of construction traffic, distance of turbines from residential dwellings, intervening vegetation, and controlled operation of turbines in accordance with defined parameters. However, local landscape and visual impacts will remain. Short term positive effects will arise for the local economy during construction and longer-term positive effects for the local community with the community benefit fund.
- **Biodiversity – Terrestrial and Aquatic** – Long term loss of wet heath and blanket bog habitat and conifer plantation arising from the footprint of the development, the potential for increased loading and pollution of waterbodies during construction and operation, with the risk of adverse effects on downstream water quality dependent habitats and species, the potential for significant direct and indirect effects on mobile species during construction

and the risk of collision by bird and bat species (in particular white-tailed eagle and lesser horseshoe bat) during operation. The impacts would not be at a population level. Further, it is considered that these impacts will be mitigated by the application of best practice construction methodologies, as set out in the project documentation, the application of proposed site and species-specific mitigation measures and with the implementation of the proposed Habitat Enhancement Plan, Blanket Bog Enhancement Plan and a White-tailed Eagle Risk Management Plan Biodiversity Management and Enhancement Plan as well as other standard mitigation measures including control of water quality control; an Ecological Clerk of Works; restricted access to bog and heath; revegetation of bare surfaces; pre-construction surveys; buffer zones; protection of bats; measures to minimise impact upon Kerry Slug; measures to reduce collision risk and monitoring.

- **Land, Soils, Geology, Water, Air Quality Or Climate** – The potential for direct and indirect effects on water quality, particularly during construction, alterations to surface water flow paths, changes to hydromorphology, increased risk of flooding, and localised effects on air quality (noise and dust). In the longer term there will be an increase in the noise environment of the site with the operation of the turbines, and positive effects on climate and air quality. These impacts will be mitigated by the design of the proposed development, implementation of a Construction Environmental Management Plan distance from sensitive receptors, the use of standard good construction practices and operational controls, which have been demonstrated to effective in preventing adverse effects.
- **Noise and Vibration** – No significant residual effects are predicted with respect to noise and vibration. Mitigation includes adherence to regulations for the control and abatement of noise during construction and the implementation of a Construction Environmental Management Plan. It is accepted that certain properties are financially participating in the proposed development and accepting of certain noise impacts at their properties.
- **Landscape and Visual**– There will be a range of operational negative effects on landscape and visual receptors as a result of the nature and scale of a wind farm for which mitigation measures are ineffective. Landscape and visual

impacts would be balanced to a degree by the nature and characteristics of the receiving environment including extensive commercial forestry, agricultural uses, the presence of the existing wind farm and other wind farms in the general area and the nature and characteristics of the various scenic routes in the area. There are no significant effects upon landscape and visual anticipated as part of the proposed development.

- **Cultural Heritage including Archaeology** – No direct impact upon cultural heritage and low potential for the presence of unrecorded archaeological features on the site. The settings of these archaeological sites will be subject to short-term, slight, negative indirect impact during the construction phase. Mitigation includes archaeological monitoring, surveys, use of buffer zones and recording of any discovered features, which will be retained in-situ. With the application of mitigation, no predicted significant effects are anticipated upon cultural heritage resource including archaeology.
- **Material Assets – Telecoms and Aviation** - Mitigation includes avoidance, implementation of measures through a Construction Environmental Management Plan for the project, aeronautical lighting/communications, and measures to protect water and limit the production of waste. No significant residual effects are predicted to result with respect to material assets including land use, telecommunications, electricity networks, air navigation, quarries, and utilities (gas, water and waste), arising from the project.
- **Material Assets – Traffic** – Direct, negative, negligible to minor impact, that is short-term, will arise during the construction phase. With respect to mitigation, a Traffic Management Plan is attached to the Construction and Environmental Management Plan for the project which have been demonstrated to effective in preventing adverse effects.

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

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as well as the information received by the Board dated 5th December 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 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. All mitigation, environmental commitments and monitoring measures identified in the Environmental Impact Assessment Report shall be implemented in full.

Reason: In the interest of protecting the environment and public health

3. All mitigation, environmental commitments and monitoring measures identified in the Natura Impact Statement shall be implemented in full.

Reason: To protect the integrity of European Sites.

4. The period during which the development hereby permitted may be carried out shall be ten years from the date of this Order.

Reason: Having regard to the nature and extent of the proposed development, the Board considered it appropriate to specify a period of validity of this permission in excess of five years.

5. Prior to the commissioning of the wind farm, the developer shall decommission the existing turbines and remove all turbine component from the site and dispose of them at a suitable licenced facility. Details of these measures shall be submitted to, and agreed in writing with, the planning authority and following consultation with the relevant authorities.

Reason: In the interest of orderly development.

6. This permission shall be for a period of 35 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.

7. The following design requirements shall be complied with:

- (a) The turbines shall be designed to a hub height of 125 metres, a rotor blade diameter of 163 metres and an overall height of 200 metres, in accordance with the turbine option assessed in the Environmental Impact Assessment Report and Natura Impact Statement, together with application documentation.
- (b) The turbines including masts and blades, and the wind monitoring mast, shall be finished externally in a light grey colour.
- (c) Cables within the site shall be laid underground.
- (d) The turbines shall be geared to ensure that the blades rotate in the same direction.
- (e) 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 orderly development and visual amenity.

8. 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.

9. In the event that the developer does not utilise the government's Renewable Energy Support Scheme (RESS), prior to the commencement of development, a community gain proposal in accordance with the provisions of Section 37G(7)(d) of the Planning and Development Act 2000, as amended, shall be submitted to the planning authority for written agreement. In default of agreement, the matter shall be referred to An Bord Pleanála for determination.

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

10. The operation of the 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 (excluding those financially involved), which exceed:

(a) Between the hours of 7am and 11pm:

- i. the greater of 5 dB(A) L90,10min above background noise levels, or 45 dB(A) L90,10min, at standardised 10m height above ground level wind speeds of 7m/s or greater
- ii. 40 dB(A) L90,10min at all other standardised 10m height above ground level wind speeds

(b) 43 dB(A) L90,10min at all other times.

Prior to the commissioning of the development, the developer shall submit to and agree in writing with the planning authority a Noise Compliance Monitoring Programme (NCMP) for the subject development, including any mitigation measures such as the de-rating of particular turbines. The NCMP shall include a detailed methodology for all sound measurements, including frequency of monitoring (initially six months, with confirmatory monitoring in the third year post commissioning) and recording of results, which shall be made publicly available.

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 and/or amenities.

11. Appropriate software shall be employed on each of the turbines to ensure that there will be no shadow flicker at any existing nearby dwelling, except for those financially involved. Turbine shutdown shall be undertaken by the wind energy

developer or operator in order to eliminate the potential for shadow flicker. 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 at dwellings. Within 12 months of the commissioning of the wind farm, this report shall be prepared and 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 by the planning authority at reasonable intervals thereafter.

Reason: In the interest of residential amenity

12. The construction of the development shall be managed in accordance with a Construction 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:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) Location of areas for construction site offices and staff facilities;
 - (c) Details of site security fencing and hoardings;
 - (d) Details of on-site car parking facilities for site workers during the course of construction;
 - (e) 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;
 - (f) Measures to obviate queuing of construction traffic on the adjoining road network;
 - (g) Measures to prohibit right-turning access for construction traffic from the eastbound lanes of the N22 National Primary Road;
 - (h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;

- (j) Details of a local community feedback mechanism, where feedback including complaints are received and acted upon by a designated Community Liaison Officer;
- (k) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (l) 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;
- (m) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (n) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;
- (o) Works to be carried out in accordance with Inland Fisheries Ireland 'Guidelines on protection of fisheries during construction works in and adjacent to waters';
- (p) 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, with monitoring on a daily basis of all watercourses in or adjacent to works areas;
- (q) Measures to be implemented to minimise the potential for increased soil / peat stability and erosion of soils, with monitoring of the same.
- (r) Details of the blasting/breaking operations at the borrow pit including timing, frequency and monitoring of noise and vibration in compliance line with relevant standards.

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

13. Site development and building works shall be carried out between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority and in accordance with measures outlined in the EIAR.

Reason: To safeguard the amenity of property in the vicinity.

14. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the relevant section of the Council for such works and services.

Reason: In the interest of public health and surface water management.

15. All mitigation measures in relation to archaeology and cultural heritage as set out in the EIAR included in application documents or submitted as Further Information shall be implemented in full, except as may otherwise be required in order to comply with conditions of this permission. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results 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. The Construction Environmental Management Plan (CEMP) shall include the location of any and all archaeological or cultural heritage constraints relevant to the proposed development. The CEMP 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.

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

16. (a) Prior to commencement of development and following consultation with the Irish Aviation Authority and Kerry Airport, the developer shall submit for written agreement of the planning authority, details of an obstacle warning light scheme which can be visible to night vision equipment. They shall also notify the Irish Aviation Authority and Kerry Airport of the intention to commence crane operations with a minimum of 30 days prior notification of their erection.

(b) Prior to 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 and wind monitoring mast. Details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Subsequently the developer shall inform the planning authority, the Irish Aviation Authority and Kerry Airport of the co-ordinates of the as constructed positions of the turbines and the highest point of the turbines (to the top of the blade spin).

Reason: In the interest of air traffic safety.

17. 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 relevant planning authority for the area in which it is intended to travel and Transport Infrastructure Ireland 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 developer intends to engage with and notify the local community in advance of the delivery of oversized loads and prohibit right-turning access for construction traffic from the eastbound lanes of the N22 National Primary Road.

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

18. (a) Prior to commencement of development, the developer shall submit for written agreement of the planning authority, details of the proposed monopole structure and outdoor cabinets adjacent to Turbine 9.
- (b) 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 interest of protecting telecommunications signals and of residential amenity.

19. Prior to the commissioning of the windfarm, the developer shall submit for the written agreement of the planning authority and the National Parks and Wildlife Service details of actions to be taken by the developer under the Blanket Bog Enhancement Plan and a White-tailed Eagle Risk Management Plan to ensure the enhancement and management of the site for biodiversity.

Reason: In the interest of biodiversity.

20. Prior to commencement of development, details of measures to protect fisheries and water quality of the river system, including use of box culverts where appropriate, and a programme of water quality monitoring shall be prepared in consultation with the contractor, the local authority and Inland Fisheries Ireland and shall be implemented thereafter.

Reason: In the interest of protecting the receiving water quality, fisheries and aquatic habitats.

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 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 developer 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.

22. 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

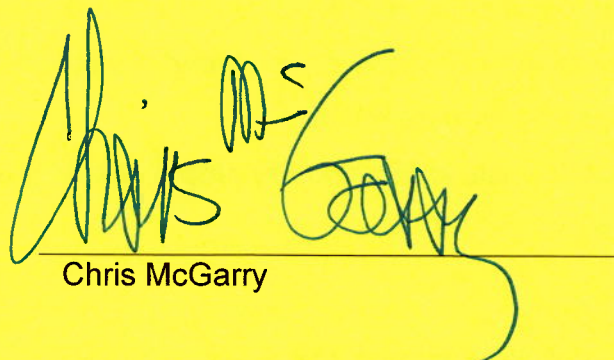
security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall 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.

23. 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 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.

Board Member



Chris McGarry

Date: 21/03/2025