



## Board Direction

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**Ref: PL05.PA0040**

The submissions on this file and the Inspector's report were considered at a further Board meeting held on 15<sup>th</sup> March 2016.

The Board decided to refuse permission by a majority of 4:1 generally in accordance with the Inspector's recommendation and the following reasons and considerations.

### REASONS AND CONSIDERATIONS

In making its decision the Board had regard to:

- the location of the proposed development in an area deemed open for consideration for wind developments in the County Donegal Renewable Energy Strategy albeit in close proximity to Especially High Scenic Areas, to the Northern Ireland border and to a number of designated and protected areas in both jurisdictions (including Pettigo Plateau Nature Reserve SPA (site code 004099); and Lough Nillan Bog SPA (site code 004110);
- the nature of the site in a generally open landscape characterised by blanket bog, commercial forestry and multiple watercourses;
- the documentation submitted in support of the application including the EIS and the NIS;
- the submissions received from observers and the applicant's Response to Submissions; and
- the report of the Inspector and the report of the Board's consulting ecologist.

The Board considers that the information contained in the EIS and NIS is deficient in that it does not enable a comprehensive assessment of the potential impact of the PD to be undertaken on populations of birds listed in Annex I of the EU Birds Directive due to:

- a. failure to carry out viewshed analysis of vantage points;
- b. failure to carry out systematic, vantage point surveys at the key times of dusk and dawn in order to identify commuting corridors for species such as Whooper Swan and Greenland white-fronted goose (both Annex I species);
- c. failure to survey water bodies outside the survey area but within the 15km buffer zone, which may be utilised by species such as Whooper Swan and Greenland white-fronted goose in order to identify any potential flights paths between these water bodies;
- d. failure to comprehensively identify potential bird mortality associated with turbine collision owing to deficient surveys;
- e. failure to satisfactorily address secondary habitat loss/disturbance for birds associated with avoidance; and
- f. failure to identify potential cumulative impacts through a “barrier effect”.

The Board is not satisfied that:

- (i) the development as proposed would not have a significant adverse impact on the ecological environment; and
- (ii) would not adversely affect the integrity of certain designated (Natura) sites in view of those site’s conservation objectives;

and determines that the PD is, therefore, contrary to the PP and SD of the area.

Notes:

1. The Board noted the content of the applicant’s Response to Submissions received on 2<sup>nd</sup> October 2015 but did not consider it necessary to circulate it for comment in the light of the circumstances of the case.
2. The Board considered whether the deficiencies identified in the environmental information could be addressed by means of a request for further information. Given the fundamental nature of the problems outlined above and the likely scope and duration of work required to resolve these it was not considered appropriate to pursue this course of action.
3. The Board noted but did not share the Inspector’s conclusions with regard to the visual impact of the proposed (or amended) development. The Board considered that the site is located outside of

areas of especially high scenic value in a part of the county where wind developments are deemed to be open for consideration. The Board further considered all of the submitted documentation and the observations, including those from the statutory authorities in Northern Ireland, and determined that a refusal on visual impact grounds would not be merited.

4. The Board noted the Inspector's proposed reasons for refusal relating to the risks posed to the Lough Mourne public water supply and to the broader aquatic environment by the PD and considered that these matters could effectively be addressed by way of conditions requiring the employment of proposed mitigation measures and established best construction practice.
  
5. The Board noted the Inspector's concerns in relation to other deficiencies in the acquisition and presentation of environmental data for the EIS (e.g. in relation to felling of forestry, management of invasive species, habitat mapping, etc.) but considered that these matters could have been addressed by means of a further information request or condition and would not in themselves warrant a refusal of permission.

#### **DETERMINATION OF COSTS**

The Board determined that the amount to be refunded to the applicant was €995.00 based on an amended total of 435 hours of the principal Inspector's time (see Inspector's Timesheet dated 10<sup>th</sup> March 2016 with comments by the ADP dated 14<sup>th</sup> March 2016).

Please issue a copy of the Direction with the Order.

Board Member: \_\_\_\_\_ Date: 22<sup>nd</sup> March 2016  
G.J. Dennison