



Board Direction

Ref: PL08.PA0044

The submissions on this file and the Inspector's report were considered at a Board meeting held on 8th July 2016.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, subject to the amendments shown below.

REASONS AND CONSIDERATIONS

In coming to its decision, the Board had regard to the following:

- (a) the national targets for renewable energy contribution of 40% gross electricity consumption by 2020,
- (b) the "Wind Energy Development Guidelines - Guidelines for Planning Authorities", issued by the Department of the Environment, Heritage and Local Government in June, 2006,
- (c) the policies of the planning authority as set out in the Kerry County Development Plan 2015-2021 wherein the subject lands are identified as being open for consideration for wind development,
- (d) the policies of the planning authority as set out in the Cork County Development Plan 2014-2020,
- (e) the availability of a grid connection to serve the proposed development,
- (f) the distance to dwellings or other sensitive receptors from the proposed development,
- (g) the planning history of the lands,

- (h) the submissions made in connection with the planning application and the further information received, and
- (i) the report and recommendation of the Inspector.

The Board was satisfied that the information before it was adequate to undertake an appropriate assessment screening and an environmental impact assessment in respect of the proposed development.

Appropriate Assessment Screening:

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the application and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, including the proposed grid connection route, the proposed development would not be likely to have a significant effect on any European Site in view of the site's conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a Natura impact statement) is not, therefore, required.

Environmental Impact Assessment:

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale and location of the proposed development,
- (b) the environmental impact statement and associated documentation submitted with the application,
- (c) the submissions from the applicant, the planning authorities, the observers and the prescribed bodies in the course of the application, and the further information received, and
- (d) the Inspector's report.

It is considered that the environmental impact statement, supported by the documentation and various submissions by the applicant, identifies and describes adequately the direct and indirect effects of the proposed development on the environment. The Board completed an environmental

impact assessment in relation to the proposed development and concluded that, by itself and in combination with other development in the vicinity, including the proposed grid connection route, and subject to the implementation of the mitigation measures proposed, the effects of the proposed development on the environment are acceptable. In doing so, the Board adopted the report of the Inspector.

Conclusion on Proper Planning and Sustainable Development:

It is considered that the need for the proposed development has been demonstrated and that, subject to compliance with the conditions set out below, including compliance with the mitigation measures set out in the environmental impact statement, the proposed development:

- would have acceptable effects on the environment,
- would not be likely to have a significant effect on any European Site,
- would not have an unacceptable impact on the landscape,
- would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and
- would be acceptable in terms of traffic safety and convenience.

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

CONDITIONS

1. The proposed 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 the Board on the 1st day of April, 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the relevant planning authority, the developer shall agree such details in writing with the relevant 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 interest of clarity.

2. The period during which the development hereby permitted may be carried out shall be 10 years from the date of this order.

Reason: In the interest of clarity.

3. This permission shall be for a period of 25 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.

4. The developer shall ensure that all construction methods and environmental mitigation measures set out in the environmental impact statement and associated documentation are implemented in full, except as may otherwise be required by the conditions set out below.

Reason: In the interest of the protection of the environment.

5. The following design requirements shall be complied with:

- (a) The wind turbines, including masts and blades, and the wind monitoring mast, shall be finished externally in a light grey colour.
- (b) Cables within the site shall be laid underground.
- (c) The wind turbines shall be geared to ensure that the blades rotate in the same direction.
- (d) 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 visual amenity.

6. (a) The Surface Water Management Plan submitted with the application shall be amended to incorporate appropriate contingency measures designed to pre-emptively address any recorded deterioration in the quality of any of the surface waters under observation. Such measures are to be agreed in writing with the PA prior to the commencement of development.
- (b) The Surface Water Management Plan shall be subject to on-going independent audit at the developer's expense and in accordance with the requirements of the planning authority.

Reason: In the interest of environmental protection.

7. (a) Noise levels emanating from the proposed development following commissioning, by itself or in combination with other existing or permitted wind energy development in the vicinity, when measured externally at third party noise-sensitive locations, shall not exceed the greater of 43dB(A) $L_{90,10 \text{ min}}$ or 5 dB(A) above background levels.

(b) All noise measurements shall be made in accordance with I.S.O. Recommendations R1996/1, 2 and 3 "Acoustics – Description and Measurement of Environmental Noise".

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

8. The following shadow flicker requirements shall be complied with:

- (a) Cumulative shadow flicker arising from the proposed development shall not exceed 30 minutes in any day or 30 hours in any year at any dwelling.
- (b) The proposed turbines shall be fitted with appropriate equipment and software to control shadow flicker at dwellings.
- (c) Prior to commencement of construction, a wind farm shadow flicker monitoring programme shall be prepared by a consultant with experience of similar monitoring work, in accordance with details to be submitted to the relevant planning authority for written agreement. Details of the monitoring programme shall include the proposed monitoring equipment and methodology to be used, and the reporting schedule.

Reason: In the interest of residential amenity.

9. Prior to the commencement of development the developer shall agree a protocol for assessing any impact on radio and television or other telecommunications reception in the area. In the event of interference occurring the developer shall remedy such interference according to a methodology to be agreed in writing with the PA, following consultation with other relevant authorities and prior to the commissioning of the turbines.

Reason: In the interest of protecting telecommunications signals and of residential amenity.

10. Details of any aeronautical requirements shall be submitted to, and agreed in writing with, the relevant planning authority prior to commencement of development. Prior to commissioning of the turbines, the developer shall inform the relevant planning authority and the Irish Aviation Authority of the as-constructed tip heights and co-ordinates of the turbines and wind monitoring masts.

Reason: In the interest of air traffic safety.

11. Prior to commencement of development, a transport management plan for the construction stage shall be submitted to, and agreed in writing with, the relevant planning authority. The traffic management plan shall incorporate details of the road network to be used by construction traffic, including over-sized loads, and detailed arrangements for the protection of bridges, culverts or other structures to be traversed, as may be required. The plan shall also contain details of how the developer intends to engage with and notify the local community in advance of the delivery of oversized loads.

Reason: In the interest of traffic safety.

12. The developer shall retain the services of a suitably qualified and experienced ecologist to undertake pre-construction surveys at the various project elements, including any river crossings, immediately prior to commencing work in order to check for the presence of protected species in the vicinity. Any specimens should be removed and relocated to a similar, suitable, undisturbed nearby habitat under the direct supervision of the ecologist and subject to a derogation licence where required.

Reason: In the interest of protecting ecology and wildlife in the area.

13. The vegetation along the banks of the Sullane River and the hedgerows along the N22 National Primary Road and the Local Road L3400 in the vicinity of the proposed works shall be re-instated following the removal of the temporary bridge structure.

Reason: In the interest of protecting ecology and wildlife in the area.

14. The developer shall retain the services of a suitably qualified and experienced bird specialist to undertake appropriate monthly surveys of this site. Details of the surveys to be undertaken, associated and reporting requirements shall be developed following consultation with, and agreed in writing with, the relevant planning authority prior to commencement of development. These reports shall be submitted on an agreed date annually for the full duration of the proposed development, with the prior written agreement of the relevant planning authority. Copies of the reports shall be sent to the **Department of Arts, Heritage and the Gaeltacht (please update name of department)**.

Reason: To ensure appropriate monitoring of the impact of the development on the avifauna of the area.

15. The developer shall ensure that all plant and machinery used during the works shall be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

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

16. Arch A

Reason: In order to conserve the archaeological heritage of the site etc.

17. All recorded monuments within the site shall be protected by a 150 metre buffer zone and all identified features of archaeological interest within the site shall be protected by a 50 metre buffer zone.

Reason: In order to protect the archaeological heritage of the site.

18. The developer shall retain the services of a suitably qualified and experienced conservation/heritage consultant to carry out a complete survey of Ballyfinnane Bridge in County Cork before works commence. The developer shall submit a method statement and material specification for the re-instatement works which should be carried out to the best conservation standard and in any event to the written requirements of the relevant PA. A timeframe for the works

shall be agreed with the relevant planning authority and the details shall be made available for public inspection by the relevant planning authority.

Reason: In order to conserve the heritage of the area.

19. On full or partial decommissioning of the wind farm, or if the wind farm ceases operation for a period of more than one year, the wind monitoring mast, the turbines concerned and all decommissioned structures shall be removed, and foundations covered with soil to facilitate re-vegetation. These reinstatement works shall be completed to the written satisfaction of the relevant planning authority within three months of decommissioning or cessation of operation.

Reason: To ensure the satisfactory reinstatement of the site upon full or partial cessation of the project.

20. Prior to the 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 relevant planning authorities, 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 authorities 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 authorities and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory reinstatement of the delivery route.

21. Prior to the 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 the satisfactory reinstatement of the site

22. The developer shall pay to the relevant planning authorities a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authorities that is provided or intended to be provided by or on behalf of the authorities 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 the commencement of development or in such phased payments as the planning authorities 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 authorities and the developer or, in default of such agreement, the matter shall be referred to the Board 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.

Note:

The Board noted the Inspector's proposed condition in relation to community gain funds but decided to omit same as the developer had indicated his intentions in this respect. The Board considered that any such scheme might include measures designed to promote greater public knowledge and awareness of the ecology of the area and in particular its avifauna.

Please issue a copy of the Direction with the Order.

SCHEDULE OF COSTS

In accordance with the provisions of section 37H(2)(c) of the Planning and Development Act 2000, as amended, the amount due to be refunded by An Bord Pleanála to the applicant is **€38,380**.

A breakdown of An Bord Pleanála's costs is set out in the attached Appendix 1.

Board Member: _____ Date: 11th July 2016
G.J. Dennison

Appendix 1.

DETERMINATION OF COSTS

The Board considered the Draft Order and accompanying information relating to the Board's costs and made the following determination.

| Board's Costs | | |
|----------------------|--|----------|
| (1) | Cost based on Inspector's time Inspector 1 (application) - €58,740 Inspector 2 (pre-application consultation) - €7,480 | €66,220 |
| (2) | Costs invoiced to Board: N/A | € |
| (3) | Total chargeable costs | €66,220 |
| (4) | Application Fee - €100,000 Pre-application Consultation Fee- €4,500 | €104,500 |
| (5) | Observer fees paid | €100 |
| (6) | Net amount due to be paid by applicant, or | € |
| (7) | Amount due to be refunded to applicant | €38,380 |

Please issue a copy of the Direction with the Order.

Board Member:

Date: 11th July 2016

G.J. Dennison