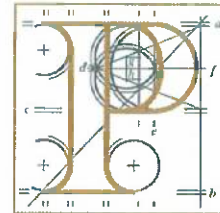


Our Case Number: ABP-314798-22

Your Reference: Ørsted Onshore Ireland Midco Limited (Ørste



**An
Bord
Pleanála**

MKO
Planning & Environmental Consultants
Tuam Road
Galway
Co. Galway
H91 VW84

Date: 14 August 2023

Re: Repowering of the existing Kilgarvan Windfarm. Provision of approximately 11 no. wind turbines and all associated works.

Townlands of Inchincoosh, Inchee, Lettercannon, Coomacullen and Cloonkeen, Co. Kerry and Inchamore, Co. Cork.

Dear Sir / Madam,

Please be advised that following consultations under section 37B of the Planning and Development Act 2000 as amended, the Board hereby serves notice under section 37B(4)(a) that it is of the opinion that the proposed development falls within the scope of paragraphs 37A(2)(a), (b) and (c) of the Act. Accordingly, the Board has decided that the proposed development would be strategic infrastructure within the meaning of section 37A of the Planning and Development Act 2000, as amended. Any application for permission for the proposed development must therefore be made directly to An Bord Pleanála under section 37E of the Act.

Please also be informed that the Board considers that the pre-application consultation process in respect of this proposed development is now closed.

The following is a list of prescribed bodies to be notified of the application for the proposed development.

1. Minister for Housing, Local Government and Heritage
2. Minister for the Environment, Climate and Communications
3. Commission for Regulation of Utilities
4. Department of Agriculture, Food and Marine
5. Department of Tourism, Culture, Arts, Gaeltacht, Sports and Media
6. An Taisce
7. An Chomhairle Ealaíon
8. Fáilte Ireland
9. Heritage Council
10. Inland Fisheries Ireland
11. Transport Infrastructure Ireland
12. Irish Aviation Authority
13. Uisce Éireann
14. Health Service Executive
15. Southern Regional Assembly
16. Kerry County Council
17. Cork County Council

Teil	Tel	(01) 858 8100
Glaó Áitiúil	LoCall	1800 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	www.pleanala.ie
Ríomhphost	Email	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

Further notifications should also be made where deemed appropriate.

In accordance with section 146(5) of the Planning and Development Act, 2000 as amended, the Board will make available for inspection and purchase at its offices the documents relating to the decision within 3 working days following its decision. This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

In accordance with the fees payable to the Board and where not more than one pre-application meeting is held in the determination of the case, a refund of €3,500 is payable to the person who submitted the pre-application consultation fee. As a meeting only one meeting was required in this case, a refund of €3,500 will be sent to you in due course.

The following contains information in relation to challenges to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Acts (as amended).

A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(7) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website, www.citizensinformation.ie.

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Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice.

If you have any queries in the meantime, please contact the undersigned officer of the Board or email sids@pleanala.ie quoting the above mentioned An Bord Pleanála reference number in any correspondence with the Board.

Yours faithfully,



Ashling Doherty
Executive Officer
Direct Line: 01-8737160

PC09

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