

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Cork County

Planning Register Reference Number: 13/00551

An Bord Pleanála Reference Number: PL 04.243486

APPEAL by Anthony Cohu of Ecological Planning, Landscaping and Design of Borlin, Bantry, County Cork and by Dan Kelleher and others care of Peter Crossan of Planning and Research Solutions of Cloneary, Bawnboy, County Cavan and by Shehy More Windfarm Limited care of McCarthy Keville O'Sullivan of Block 1, G.F.S.C., Moneenageisha Road, Galway against the decision made on the 21st day of May, 2014 by Cork County Council to grant subject to conditions a permission to the said Shehy More Windfarm Limited in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Construction of a windfarm and all associated infrastructure comprising the provision of a total of 12 number wind turbines, with a maximum overall blade tip height of up to 131 metres, upgrading of existing and provision of new internal access roads, provision of a wind anemometry mast (height up to 90 metres), four number borrow pits, underground electricity connection cabling, upgrading of site access junctions an electricity substation with control room and associated equipment, temporary construction compound and all ancillary site and ground works in the townlands of Cloghboola, Gortnacarriga, Tooreenalour, Garryantorna, and Shehy More, Dunmanway, County Cork. The proposed development was revised by further public notices received by An Bord Pleanála in relation to further information received by it on the 18th September, 2015 comprising a detailed Environmental Impact Statement addendum in respect of the proposed grid connection and details regarding the route of that connection which will be entirely by way of an underground 38kV cable. The underground

cable will run within the public road corridor between the site of the current proposal and either the previously permitted substation (in the townland of Garranereagh) or currently proposed substation (in the townland of Barnadivane [Kneeves]). The underground cable will run within the public road corridor through the townlands of Cloghboola, Cornery, Garryantornora, Tooreenalour, Gortnacarriga, Gortaknockane, Cooragreenane, Coolroe West, Curaheen (ED Bealock), Cappanclare, Coorolagh, Carrignacurra, Dromnagapple, Teeranassig, Clonmoyle, Dromleigh, Coolaclevane, Carrigboy, Cooldorragha, Deshure, Teerelton, Lisnacuddy, Reanacaheeragh, Barnadivane, Barnadivane (Kneeves) and Garranareagh. The Environmental Impact Statement addendum also provides details of junction accommodation works to facilitate turbine delivery in the townlands of Glan, Haremount, Johnstown, Carrigdangan and Inchincurka.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

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

- (a) national policy relating to the development of alternative and indigenous energy sources and the minimisation of emissions of greenhouse gases,
- (b) the provisions of the “Wind Farm Planning Guidelines”, issued by the Department of the Environment, Heritage and Local Government in 2006,
- (c) the policies of the planning authority as set out in the Cork County Development Plan 2014, including the Cork County Wind Energy Strategy contained therein,
- (d) the location of the wind farm site in an area which is identified in the development plan as an area “Open to Consideration” where it is the policy of the planning authority to facilitate the development of appropriate wind energy proposals,
- (e) the character of the landscape and the topography surrounding the site,
- (f) the characteristics of the site and of the general vicinity,
- (g) the pattern of existing and permitted development in the area, including other windfarms,
- (h) the distances from the proposed development to dwellings or other sensitive receptors,
- (i) the nature and scale of the proposed development, and the range of mitigation measures set out in the documentation received, including the Environmental Impact Statement, Addendum to the Environmental Impact Statement, Natura Impact Statement, and revised Natura Impact Statement,

- (j) the submissions and observations made in connection with the planning application and the appeal, including the further observations and submissions made in relation to the proposed grid connection and in relation to the environmental and Natura impacts of the proposed development and its grid connection, and
- (k) the reports of the Planning Inspector, including the examination, analysis and evaluation undertaken in respect of Appropriate Assessment and Environmental Impact Assessment, including the cumulative Environmental Impact Assessment and Appropriate Assessment relating to the proposed grid connection from the windfarm to the national electricity grid.

The Board was satisfied that the information before it was adequate to undertake an Appropriate Assessment and an Environmental Impact Assessment in respect of the proposed development, including the grid connection.

Appropriate Assessment

The Board agreed with the Inspector's conclusion that the proposed development, which is not directly connected with or necessary to the management of a European site, could potentially give rise to a significant effect on the following European sites:- The Gearagh Special Area of Conservation (Site Code 000108), the Bandon River Special Area of Conservation (Site Code 002171) and the Gearagh Special Protection Area (Site Code 004109) by reason of impacts on water quality arising from run-off of sediment and/or pollutants during the construction phase, and that appropriate assessment was required. The Board concurred with the Inspector's screening exercise conclusions that the proposed development would not be likely to have significant effects on any other European Sites, in view of the conservation objectives of such sites.

The Board considered that the information before it, including Natura Impact Statement and revised Natura Impact Statement, the submissions received, and the documentation on file (including the report of the planning authority's Ecologist), was adequate to allow for the carrying out of an appropriate assessment in respect of the identified European sites. The Board carried out an Appropriate Assessment. In carrying out this assessment, the Board considered the nature of the proposed development (including the grid connection), the mitigation measures proposed as part of the development, the conservation objectives for which the Bandon River Special Area of

Conservation (Site Code 002171), the Gearagh Special Area of Conservation (Site Code 000108) and the Gearagh Special Protection Area (Site Code 004109) are designated, the distances between the proposed development and these European sites, and the conclusion of the planning authority's Ecologist in respect of the proposal.

The Board concurred with the Inspector's report and conclusions. The Board, therefore, concluded that it was beyond reasonable scientific doubt that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of the specified European sites in the area, in view of those sites' conservation objectives.

Environmental Impact Assessment

The Board considered the Environmental Impact Statement submitted with the application, the Addendum to the Environmental Impact Statement, the submissions on file and the Inspector's assessment of the environmental impacts, which it noted. The Board considered that this documentation identified and described adequately the direct, indirect, secondary and cumulative effects of the proposed development, including the grid connection, on the environment. The Board adopted the Inspector's report and concurred with its conclusions, and accordingly completed an Environmental Impact Assessment of the development. The Board concluded that the effects on the environment of the proposed development would be acceptable by itself and cumulatively with other development in the vicinity, including other wind farms and the proposed grid connection, subject to compliance with the mitigation measures proposed, and subject to compliance with the conditions set out below.

Planning Considerations

It is considered that, subject to compliance with the conditions set out below, the proposed development would accord with the National and County policies in respect of wind energy, would not have significant negative effects on the community in the vicinity, would not give rise to pollution, would not result in detrimental visual or landscape impacts, would not seriously injure the amenities of the area or of property in the vicinity, would not be injurious to the cultural or archaeological heritage of the area, would be acceptable in terms of traffic safety and convenience, and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The 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 submitted on the 2nd day of April, 2014, and by the further plans and particulars received by An Bord Pleanála on the 18th day of September 2015, 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 interest of clarity.

2. All of the environmental, construction and ecological mitigation measures set out in the Environmental Impact Statement, the Natura Impact Statement, as revised, and other particulars submitted with the application and in the further information submitted to the planning authority on the 2nd day of April 2014, and in the further plans and particulars received by An Bord Pleanála on the 18th day of September 2015, including the revised Natura Impact Statement and the Addendum to the Environmental Impact Statement shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

3. The proposed development shall be amended as follows:
 - (a) Turbine number T12, and its associated access road and ancillary works, shall be omitted from the development,
 - (b) Turbine number T6 shall be relocated a distance of 70 metres to the south of the location shown on submitted drawings.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

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 of the proposed development, the Board considered it appropriate to specify a period of validity of this permission in excess of five years.

5. This permission shall be for a period of 25 years from the date of commissioning of the wind farm.

Reason: To enable the planning authority to review its operation in the light of the circumstances then prevailing.

6.
 - (a) The permitted turbines shall have a maximum tip height of 131 metres. Details of the turbine design, height and colour shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development.
 - (b) Cables from the turbine to the substation shall be run underground within the site.
 - (c) The wind turbines shall be geared to ensure that the blades rotate in the same direction.
 - (d) Transformers associated with each individual turbine and mast shall be located either within the turbine mast structure or at ground level beside the mast.
 - (e) No advertising material shall be placed on or otherwise affixed to any structure on the site without a prior grant of planning permission.

- (f) The access tracks within the site shall be surfaced in suitable material, acceptable to the planning authority, and shall not be hard topped with tarmacadam or concrete.
- (g) Roads, hard-standing areas and other hard-surfaced areas shall be completed to the written satisfaction of the planning authority within three months of the date of commissioning of the windfarm.
- (h) Soil, rock and other materials excavated during construction shall not be left stockpiled on site following completion of works. Excavated areas including the borrow pits and areas of peat placement shall be appropriately restored within three months of the date of commissioning of the wind farm, to details to be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of the amenities of the area.

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

Reason: In the interest of air traffic safety.

- 8. Wind turbine noise arising from the proposed development, by itself or in combination with other existing or permitted wind energy development in the vicinity, shall not exceed the greater of:

- (a) 5 dB(A) above background noise levels or
- (b) 43 dB(A) $L_{90,10min}$

when measured externally at dwellings or other sensitive receptors. All of the noise mitigation measures set out in the submitted documentation shall be fully complied with.

Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a noise compliance monitoring programme for the subject development, including any mitigation measures such as the de-rating of particular turbines. All noise measurements shall be carried out in accordance with ISO Recommendation R 1996 “Assessment of Noise with Respect to Community Response,” as amended by ISO Recommendations R 1996-1. 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 amenity.

9. (a) The proposed development shall be fitted with appropriate equipment and software to suitably control shadow flicker at nearby dwellings, including control or turbine rotation, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
- (b) Shadow flicker arising from the proposed development, by itself or in combination with other existing or permitted wind energy development in the vicinity, shall not exceed 30 hours per year or 30 minutes per day at existing or permitted dwellings or other sensitive receptors.
- (c) 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 commissioning of the proposed wind farm, this report shall be submitted to, and agreed in writing with, the planning authority. The developer shall outline proposed measures to address any recorded non-compliances, including control of turbine rotation. A similar report shall be provided by the developer to the planning authority at such time intervals as may be required by the authority.

Reason: In the interest of residential amenity.

10. Prior to commencement of development, the developer shall agree a protocol for assessing any impact on radio or 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 planning authority, following consultation with other relevant authorities and prior to commissioning the turbines.

Reason: In the interest of residential amenity.

11.
 - (a) Full details of the upgrading works to the existing site accesses and the associated road improvement works to be undertaken along the public road at the access points, including any road widening and strengthening, designed to facilitate the proposed development, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
 - (b) Prior to the commencement of any other development works on the application site, the developer shall have completed, to the written satisfaction of the planning authority, the upgrading works to the existing site access arrangements and the associated road improvement works along the public road in accordance with condition 11 (a) above.
 - (c) The provision of the required upgrading of the site access arrangements and the associated road improvement works on the public road at the accesses shall be undertaken at the expense of the developer.

Reason: In the interest of proper planning and sustainable development and in the interest of pedestrian and road traffic safety.

12. (a) Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with, the planning authority:
- (i) a Transport Management Plan, including details of the road network/haulage routes, the vehicle types to be used to transport materials on and off site, and a schedule of control measures for exceptional wide and heavy delivery loads.
 - (ii) a condition survey of the roads and bridges along the haul routes to be carried out at the developer's expense by a suitably qualified person both before and after construction of the wind farm development. This survey shall include a schedule of required works to enable the haul routes to cater for construction-related traffic. The extent and scope of the survey and the schedule of works shall be agreed with the planning authority/authorities prior to commencement of development.
 - (iii) detailed arrangements whereby the rectification of any construction damage which arises shall be completed to the satisfaction of the planning authority/authorities.
 - (iv) detailed arrangements for temporary traffic arrangements/controls on roads.
 - (v) a programme indicating the timescale within which it is intended to use each public route to facilitate construction of the development.
- (b) All works arising from the aforementioned arrangements shall be completed at the developer's expense, within 12 months of the cessation of each road's use as a haul route for the proposed development.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: To protect the public road network and to clarify the extent of the permission in the interest of traffic safety and orderly development.

13. 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 masts and the turbines concerned shall be removed and all decommissioned structures shall be removed, and foundations removed or 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.

14. 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 prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) 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;
- (i) Provision of construction hours, including deliveries of materials to the site;

- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels (where not already provided for in documentation submitted with the application and appeal);
- (k) 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;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soils, including peat;

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities and safety.

- 15. (a) Prior to commencement of development, a detailed Environmental Management Plan for the construction stage shall be submitted, generally in accordance with the Environmental Impact Statement and the documentation submitted with the planning application and appeal, for the written consent of the planning authority.
- (b) The Environmental Management Plan shall incorporate the following:
 - (i) a detailed construction programme,
 - (ii) detailed method statements for construction, including a method statement for the excavation of rock from the borrow pits. In the event that blasting is used for the excavation of rock, the vibration levels from blasting shall not exceed a peak particle velocity of 12 millimetres/second, when measured in any three mutually orthogonal directions at any sensitive location. Blasting shall not give rise to air overpressure values at sensitive locations which are in excess of 125 dB (Lin)max peak with a 95% confidence limit. No individual air overpressure value shall exceed the limit value by more

than 5 dB (Lin). Blasting operations shall take place only between 1000 hours and 1700 hours, Monday to Friday, and shall not take place on Saturdays, Sundays or public holidays. Monitoring of the noise and vibration arising from blasting and the frequency of such blasting shall be carried out at the developer's expense by an independent contractor who shall be agreed in writing with the planning authority,

- (iii) a site drainage management plan, in accordance with the detail provided in the Environmental Impact Statement and Addendum to the Environmental Impact Statement, the Nature Impact Statement, as revised, and the other documentation submitted with the application and appeal, incorporating a detailed silt management plan and pollution prevention plan, and including appropriately-sized silt traps and/or settlement ponds as required, to be prepared by a suitably qualified drainage engineer or equivalent professional, with experience of drainage design in forest environments, to the satisfaction of the planning authority,
 - (iv) a programme for the on-going monitoring of water quality during the construction period,
 - (v) a construction waste and demolition management plan, and
 - (vi) an emergency response plan.
- (c) The Environmental Management Plan shall be subject to ongoing independent audit (all costs of which shall be borne by the developer) in accordance with the requirements of the planning authority.

Reason: In the interest of protection of the environment and sustainable waste management.

16. All site development works shall be carried out to a standard not below the minimum specified in “Best Practice for Wind Energy Development in Peatlands” issued by the Department of the Environment, Heritage and Local Government.

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

17. Drainage arrangements shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

18. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

19. Rock from the borrow pits shall be won only for the purposes of road/hardstanding construction on the site, and shall not be sold or transported off-site without a prior grant of planning permission.

Reason: In the interest of orderly development, and to limit the use of materials from the borrow pits to the specific purposes for which application was made.

20. Any signage relating to that part of the proposed development that is located within the Muscraí Gaeltacht (that is, turbines numbers 9, 10 and 11 and the associated roads and other works within this part of the windfarm), including any public roadside signage within the Gaeltacht area, shall be in both Irish and English, with Irish as its primary language. Details of any such signage shall be submitted to, and agreed in writing with, the planning authority prior to erection.

Reason: Having regard to the location of a portion of the subject site within this Gaeltacht area, and to accord with the relevant provisions of the Cork County Development Plan 2014.

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: In the interest of orderly development and visual amenity and 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 the 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 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.

24. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000, as amended, in respect of works to the public road in the vicinity of the site which are required to facilitate the proposed development and which are undertaken by the local authority. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.