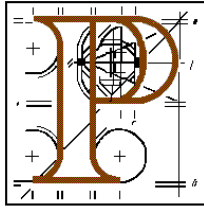


An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Waterford City and County

Planning Register Reference Number: 14/600108

An Bord Pleanála Reference Number: PL 93.245176

APPEAL by Curraghmore Estates and others care of Reid Associates of 2 Connaught Place, Crofton Road, Dun Laoghaire, County Dublin and by Tornado Electrical Limited of Saint Catherine's Hall, Catherine Street, Waterford against the decision made on the 25th day of June, 2015 by Waterford City and County Council to grant subject to conditions a permission to the said Tornado Electrical Limited in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Erection of a wind turbine with rotor diameter not exceeding 54 metres and a hub height not exceeding 60 metres and maximum output of 850 kilowatt together with extended access road at Beallough, Portlaw, County Waterford, as amended by the revised public notice received by the planning authority on the 26th day of March, 2015.

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

Having regard to:

- (a) national policy relating to the development of sustainable energy sources,
- (b) the provisions of the Wind Energy Development Guidelines – Guidelines for Planning Authorities, issued by the Department of the Environment, Heritage and Local Government (2006),
- (c) the site's location within a 'preferred area' for wind energy in the Wind Energy Strategy, Volume 3, Appendix A8 of the Waterford County Development Plan 2011-2017,
- (d) to the limited scale and extent of the development proposed,
- (e) the pattern of existing and permitted development in the area, including the adjacent wind turbines, and the limited need for additional wind farm related infrastructure to serve the development,
- (f) the character of the landscape and the topography surrounding the site,
- (g) the characteristics of the site and of the general vicinity,
- (h) the distances from the proposed development to dwellings or other sensitive receptors including protected structures,
- (i) the planning history of the site and surrounding area, and
- (j) the submissions and observations made in connection with the planning application and the appeal, and the report of the Inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the character and setting of a protected structure, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the provisions of the Wind Energy Strategy, as set out in the Waterford County Development Plan 2011-2017 in which the site is located within a 'preferred area' for wind energy and considered that the additional visual impact that would arise from an additional wind turbine at this location would not be so significant as to warrant a refusal in this instance.

Stage 1 Appropriate Assessment Screening

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site.

In carrying out a screening for Appropriate Assessment, the Board had regard to the Flora and Fauna Assessment Report submitted with the application, the Appropriate Assessment Screening report and the Ecological Report submitted in response to the planning authority's further information request, the planning authority's analysis in respect of Natura 2000 sites and ecology, the submissions on file and the Inspector's report in respect of Appropriate Assessment. The Board identified the Lower River Suir Special Area of Conservation (Site Code 002137), the Comeragh Mountains Special Area of Conservation (Site Code 001952) and the Mid-Waterford Coast Special Protection Area (Site Code 004193) as being within 15 kilometres and carried out an assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's conservation objectives. By virtue of distance and lack of connectivity, the Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the Comeragh Mountains Special Area of Conservation (Site Code 001952) and the Mid-Waterford Coast Special Protection Area (Site Code 004193) in view of the site's conservation objectives.

In respect of the Lower River Suir Special Area of Conservation (Site Code 002137), the Board noted that the Appropriate Assessment Screening report and the Ecological Report submitted in response to the planning authority's further information request included good practice construction methods, which include, inter alia, the construction of silt traps down slope of the works to prevent possible run off as part of the proposed development. The Board agreed with the conclusion in the Appropriate Assessment Screening Report, as endorsed by the Inspector, that a Stage 2 Appropriate Assessment was unnecessary and the Board concurred with the Inspector's view that there was 'nothing to suggest significant effects or any loss of a protected habitat or in the fragmentation of habitat and any qualifying interest'. The Board was

satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the Lower River Suir Special Area of Conservation (Site Code 002137) in view of the site's conservation objectives.

Consideration in respect of the need for an Environmental Impact Statement

The Board concurred with the planning authority's and the Inspector's conclusion that a sub-threshold Environmental Impact Statement is not required in this instance. In addition to all documentation on file, the Board had regard to Article 109 of the Planning and Development Regulations 2001, as amended, and to the criteria set out in Schedule 7 including in respect of the characteristics of the proposed development, the location of the proposed development and the characteristics of potential impacts. The Board concluded that this development is a sub-threshold development which, individually or in conjunction with existing development, would not be likely to have significant effects on the environment and, therefore, decided not to require the submission of an Environmental Impact Statement in this instance.

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 30th day of March, 2015 and the 8th day of June, 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. This permission shall be for a period of 20 years from the date of commissioning of the wind turbine.

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

3.
 - (a) The permitted turbine shall have a maximum tip height of 87 metres.
 - (b) 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.
 - (c) Cables from the turbines to the substation shall be run underground within the site. The proposed wind turbine shall be geared to ensure that the blades rotate in the same direction as the existing turbines.
 - (d) The access tracks within the site shall be surfaced in gravel or hardcore and shall not be hard topped with tar macadam or concrete.
 - (e) Excavated banks and bases around the turbines shall be re-laid with overlying turf during construction.
 - (f) Soil, rock and sand excavated during construction shall not be left stockpiled on site following completion of works. Details of treatment of stockpiled materials shall be agreed with the planning authority prior to commencement of onsite development works.
 - (g) The finished level of all turbine foundations shall not be more than 300 millimetres over existing ground level at the location of each such turbine.

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

4.
 - (a) Removal of hedgerows if required shall only take place outside the bird nesting season 1st March–31st August.
 - (b) Sections of hedgerows that are removed in the course of construction shall be replaced with native species such as Blackthorn, Whitethorn or Ash.

Reason: In the interest of the protection of hedgerows and habitats.

5. 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 turbine, the developer shall inform the planning authority and the Irish Aviation Authority of the co-ordinates of the as-constructed tip height and co-ordinates of the turbine.

Reason: In the interest of air traffic safety.

6. The following conditions shall be complied with:
 - (a) 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:
 - (i) 5 dB(A) above background noise levels or
 - (ii) 43 dB(A) $L_{90,10min}$when measured externally at dwellings or other sensitive receptors.
 - (b) 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.

7. (a) 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.

- (b) 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.

Reason: In the interest of residential amenity.

8. Prior to the 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.

9. (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 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,
 - (iv) detailed arrangements for temporary traffic arrangements/controls on roads, and

- (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.

10. 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) 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; and
- (k) off-site disposal of construction/demolition waste.

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.

11. 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.

12. Details of all fencing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of onsite development works.

Reason: In the interest of visual amenity.

13. 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.

14. 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.

15. 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 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.

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

Dated this day of 2015.