

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Tipperary County

Planning Register Reference Number: 15/600561

An Bord Pleanála Reference Number: PL 92.245874

APPEAL by Ballinacurry Wind Farm Limited care of Entrust Limited of Carraig, Old Lucan Road, Ballydowd, Lucan, County Dublin against the decision made on the 17th day of November, 2015 by Tipperary County Council to refuse permission.

PROPOSED DEVELOPMENT: Erection of a single wind turbine, overall height of up to 138 metres, electrical control building, access road and ancillary site works at Gortanassy West and Ballinacurry, Ballingarry, County Tipperary.

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) the target of the National Renewable Energy Action Plan to deliver 40% of electricity from renewable resources by 2020,
- (b) the Planning Guidelines relating to Wind Energy Development issued by the Department of the Environment, Heritage and Local Government in June, 2006,
- (c) the policies of the South Tipperary County Development Plan 2009-2015 including the landscape designation of the area in which the site is located as a 'Secondary Amenity Area',
- (d) the character of the landscape and the pattern of development in the area,
- (e) the scale of the proposed turbine and the layout proposed,
- (f) the planning history of the site and adjoining lands including the planning permission granted for a single turbine under An Bord Pleanála appeal reference number PL 23.243357, and
- (g) the environmental mitigation measures set out in the Site Report that accompanied the application,

it is considered that, subject to the mitigation measures proposed and to compliance with the conditions set out below, the proposed development would not have a significant effect on the environment, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of its impacts on the landscape character of the area, would be acceptable in terms of traffic safety and convenience, would not create an unacceptable risk of environmental pollution and would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board completed a screening exercise, taking into account the submissions on file, in relation to potential impacts of the site having regard to the nature and scale of the proposed development and characteristics of the River Barrow and River Nore Special Area of Conservation (Site Code 002162) and the Lower River Suir Special Area of Conservation (Site Code 002137). The Board accepted the conclusions of the screening report accompanying the application to the planning authority. No Appropriate Assessment issues arise and the Board concluded on the basis of the information available that the application for consent for the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on any European site.

The Board concurred with the Planning Inspector's conclusions as set out in her memo dated 30th, May 2016 in respect of screening for Environmental Impact Assessment including sub-threshold Environmental Impact Assessment and the cumulative impact of the proposed development together with the development previously permitted under An Bord Pleanála appeal reference number PL 23.243357, that is, the proposed development would not be likely to have a significant effect on the environment.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that having regard to the limited scale of the proposed development involving the erection of a single turbine and the separation distance between the site and the regional road (R691) and the protected view (VO 52 – Appendix 6, Volume 1 of the South Tipperary County Development Plan, 2009-2015) the proposed development individually and in combination with the development permitted under An Bord Pleanála appeal reference number PL 23.243357 could be satisfactorily assimilated into the landscape without undue injury to the visual amenities 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 7th day of September, 2015 and the 23rd day of October, 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. The tip height of the proposed wind turbine shall not exceed 126.5 metres.

Reason: In the interest of visual amenity.

3. This permission shall be for a period of 25 years from the date of the commissioning of the wind turbine. The wind turbine and related ancillary structures shall then be decommissioned and removed unless, prior to the end of the period, planning permission shall have been granted for its retention for a further period. On full or partial decommissioning of the wind turbine or if the wind turbine ceases operation for a period of more than one year, the mast and the turbine concerned (including foundations) shall be removed and all decommissioned structures and any access roads shall be removed within three months of decommissioning.

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

4. The environmental mitigation measures set out in the Site Report received by the planning authority on the 7th day of July, 2015 shall be implemented in full.

Reason: In the interest of environmental protection and to protect the amenities of the area.

5. Prior to commencement of development, the developer shall agree in writing with the planning authority, the details of the turbine delivery route within the county. Details of the monitoring of the structural integrity of local roads and bridges shall be agreed between the developer and the planning authority. Where works to roads and bridges are required to facilitate the proposed development the costs of these works shall be as agreed between the developer and the planning authority or in default of agreement shall be as determined by An Bord Pleanála.

Reason: In the interest of road safety and to enable satisfactory reinstatement of the local road network.

6. Upon completion of the wind turbine, details of 'as constructed' co-ordinates and elevations of the turbine shall be submitted to the Irish Aviation Authority. If required, warning lights shall be affixed to the turbine, at the developer's expense, in accordance with the requirements of the Irish Aviation Authority.

Reason: In the interest of aviation safety.

7. 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 5 dB(A) above background noise levels or 43 dB(A) L90, 10 min when measured externally at dwellings or other sensitive receptors. 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. 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 R1996-1. 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 turbine.

Reason: In the interest of residential amenity.

8. Shadow flicker at surrounding dwellings shall not exceed 30 hours per annum or 30 minutes per day. In the event of this limit being exceeded, the operation shall cease until mitigation measures have been agreed in writing with the planning authority.

Reason: In the interest of residential amenity.

9. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

10. (a) Cables within the site shall be run underground.
- (b) Details of all fencing shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual and residential amenity.

11. Specific details of the arrangements for the storage of liquids and hydrocarbons on site shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of environmental protection.

12. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority, a protocol for assessing any impact on radio or television or other telecommunication reception in the area. In the event of interference occurring, it shall be the responsibility of the developer to mitigate such interference according to a methodology to be agreed with the planning authority.

Reason: In the interest of residential amenity.

13. Archaeological Monitoring shall consist of the following:-
 - (a) The developer shall engage the services of a suitably qualified Archaeologist to monitor all topsoil stripping associated with the development.
 - (b) Should archaeological material be found during the course of monitoring, the Archaeologist may have work on the site stopped, pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the Local Authority with regard to any necessary mitigating action (for example, preservation in situ, and/or excavation). The developer shall facilitate the archaeologist in recording any material found.

- (c) The planning authority shall be furnished with a report describing the results of the monitoring.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

14. Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security 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 the satisfactory reinstatement of the site. The form and amount of the security shall be agreed between the planning authority and the developer and in default of such agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory reinstatement of the site.

15. Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the satisfactory reinstatement of the public road in the vicinity of 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 in the vicinity of the site. The form and amount of the security shall be agreed between the planning authority and the developer, and in default of such agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory reinstatement of the public road in the vicinity of the site.

16. 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 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 2016.