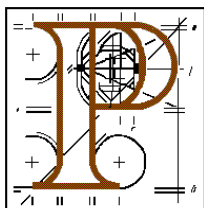


# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

## Wexford County

Planning Register Reference Number: 20151259

An Bord Pleanála Reference Number: PL 26.246321

**APPEAL** by Ballinclay Windfarms Limited care of Bob Gunkel Planning of 53 Halldene Drive, Bishopstown, Cork against the decision made on the 23<sup>rd</sup> day of February, 2016 by Wexford County Council to refuse permission.

**PROPOSED DEVELOPMENT:** Development comprising erection of three number wind turbines, an electricity substation, ancillary buildings and incidental site works, including site roads, temporary haul road entrance and temporary hall road. The tower heights will not exceed 85 metres and the rotor diameters will not exceed 82 metres. The anticipated output from the three turbines will be approximately 6.9 megawatts, all at Tominearly and Killegney, Clonroche, County Wexford.

## 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 national policy with regard to the development of sustainable energy sources,
- (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 character of the landscape in the area and the topography surrounding the site,
- (d) the pattern of development in the area,
- (e) the provisions as set out in the current Wexford County Development Plan, including those regarding renewable energy development,
- (f) the distance to dwellings or other sensitive receptors from the proposed development,
- (g) the submissions from the applicant and observers,
- (h) the submissions made in connection with the planning application and the appeal, including the Environmental Impact Statement submitted with the planning application (including mitigation measures therein) and the further information submitted by the applicant in the course of the planning application and the appeal, and
- (i) the information submitted in relation to ecology by the applicant in the course of the planning application,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the landscape, would not seriously injure the visual or residential amenities of the area 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.

## **Appropriate Assessment Screening**

The Board noted the Appropriate Assessment Screening Report submitted by the applicant and the Appropriate Assessment Screening determination carried out by the Inspector. The Board concurred with the Inspector's determination, and adopted his conclusions and recommendations in this regard including his analysis set out in his report with respect to potential impact on migratory birds. The Board was, therefore, satisfied, having regard to the nature, location and scale of the subject development, and in the light of the mitigation measures set out in the applicant's Screening Report, which would constitute normal construction practice, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have significant effects on the Slaney River Valley Special Area of Conservation (Site Code 000781) and the Wexford Harbour and Slobbs Special Protection Area (Site Code 004076) or on any other European sites in view of the sites' conservation objectives.

## **Environmental Impact Statement**

The Board considered that the Environmental Impact Statement submitted with the application, the report, assessment and conclusions of the Inspector with regard to this file and other submissions on file, was adequate in identifying and describing the direct, indirect, secondary and cumulative effects of the proposed development.

The Board completed an Environmental Impact Assessment, and assessed the likely significant effects of the proposed development, and concluded that the mitigation measures proposed and residual effects were acceptable. The Board concluded that, subject to the implementation of the mitigation measures proposed, the effects of the proposed development on the environment of the proposed development would be acceptable.

## CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. In particular, the mitigation measures described in the Environmental Impact Statement and other details submitted to the planning authority shall be implemented in full during the construction and operation of the development.

**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:** Having regard to the nature of the proposed development, the Board considered it reasonable and appropriate to specify a period of the permission in excess of five years.

3. The permission shall be for a period of 25 years from the date of the commissioning of the wind turbines. The wind turbines and related ancillary structures shall then be decommissioned and removed unless, prior to the end of the period, planning permission shall have been granted a further period.

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

4. The wind turbines, including masts and blades shall be finished externally in a colour to be agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

5. (a) Cables within the site shall be laid underground.
- (b) The wind turbines shall be geared to ensure that the blades rotate in the same direction.

**Reason:** In the interest of visual amenity.

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

**Reason:** In the interest of aviation safety.

7. All oils and fuels shall be stored in bunded areas. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity and to avoid pollution of ground and surface waters.

8. Wind turbine noise arising from the proposed development, by itself or in combination with any other 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.

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 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) 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) Within 12 months of commissioning of the proposed wind farm, a report shall be prepared by a suitably qualified person in accordance with the requirements of the planning authority and submitted to the planning authority for its written approval. The report shall indicate the level of compliance achieved with the above requirements. The developer shall outline proposed measures to address any recorded non-compliances, including control of turbine rotation if necessary. A similar report may be requested at reasonable intervals thereafter by the planning 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 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 and orderly development.

11. Prior to the commencement of development, a detailed reinstatement programme providing for the removal of all turbines and ancillary structures shall be submitted to the planning authority for written agreement. On full or partial decommissioning of the windfarm, or if the windfarm ceases operation for a period of more than one year, the masts and turbines concerned, shall be dismantled and removed from the site. The site shall be reinstated in accordance with the said programme and all decommissioned structures shall be removed within three months of decommissioning.

**Reason:** To ensure the satisfactory completion of the project.

12. Soil, rock and material excavated during construction shall not be left stockpiled on site following completion of works and shall be used as outlined in the Environmental Impact Statement and other documentation submitted in the course of the application.

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

13. 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.

14. Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority, a scheme to control the constriction and operational traffic generated by the proposed development and its impact on the public road. The scheme shall include details of the following:

- (a) the routes taken by various vehicles coming and going from the site, and
- (b) restrictions upon the timing, direction and type of vehicular movements from the site in order to mitigate the impact on the N30.

**Reason:** For the safety and convenience of road users.

15. The developer shall review usage by birds of the wind farm site through an annual monitoring programme, which shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development. This programme shall be developed following consultation with the Department of Arts, Heritage and the Gaeltacht and shall be repeated annually for a period of three years following completion of construction.

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

16. (a) The developer is required to engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930-1994) to carry out pre-development testing at the site. No sub-surface work shall be undertaken in the absence of archaeologist without his/her express consent.
- (b) The archaeologist is required to notify the Department of Arts, Heritage and the Gaeltacht in writing at least four weeks prior to the commencement of site preparations. This will also allow the archaeologist sufficient time to obtain a licence to carry out the work.
- (c) The archaeologist shall carry out the relevant documentary research and may excavate test trenches at locations chosen by the archaeologist, having consulted the proposed development plans.
- (d) Having completed the work, the archaeologist shall submit a written report to the Planning Authority and to the Department of Arts, Heritage and the Gaeltacht for consideration.
- (e) Where archaeological material is shown to be present, avoidance, preservation *in situ*, preservation by record (excavation) and/or monitoring may be required and the Department of Arts, Heritage and the Gaeltacht will advise the developer with regard to these matters.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

17. 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 that 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 of the proper planning and sustainable development of the area.



18. 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:** To ensure satisfactory reinstatement of the site.

19. 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.

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

**Dated this            day of            2016.**