



An
Bord
Pleanála

Board Order
PL 02.247401

Planning and Development Acts 2000 to 2017

Planning Authority: Cavan County Council

Planning Register Reference Number: 16/74

Appeal by Taghart Energy Limited care of Galetch Energy Services of Clondargan, Stradone, County Cavan and by The Dhuish Environmental Group care of Joan O'Callaghan of The Haven, Upper Glasleck, Shercock, County Cavan against the decision made on the 27th day of September, 2016 by Cavan County Council to grant subject to conditions a permission to the said Taghart Energy Limited in accordance with plans and particulars lodged with the said Council:

Proposed Development: The erection of seven number wind turbines with a maximum height of up to 125 metres and all associated site development works including a 38kV substation and compound; a staff welfare facility, wastewater treatment system and percolation area; turbine foundations; crane hardstandings; access tracks; underground cabling; three number site entrances; a permanent meteorological mast with a maximum height of up to 83 metres and temporary upgrade to the R162/L3520 junction. The planning application is accompanied by an Environmental Impact Statement. The development will replace the permitted development on this site pursuant to planning register reference number 10/154 (An Bod Pleanála appeal reference number PL02.239141) on lands at Taghart South, Taghart North, Glasleck and Ralaghan, Shercock, County Cavan, as amended by the further public notice received by the planning authority on the 1st day of September, 2016.

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 making its decision, the Board had regard to:

- (a) the national policy with regard to the development of alternative and indigenous energy sources and the minimisation of emissions of greenhouse gases;
- (b) the Wind Energy Development Guidelines for Planning Authorities 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 Cavan County Development Plan 2014-2020;
- (d) the character of the landscape and the topography surrounding the site;
- (e) the characteristics of the site and of the general vicinity;
- (f) the planning history of the site and the pattern of existing and permitted development in the area, including other wind farms;
- (g) the distance to dwellings or other sensitive receptors from the proposed development;
- (h) the Environmental Impact Statement;

- (i) the submissions made in connection with the planning application; and
- (j) the report and recommendation of the Planning Inspector.

Appropriate Assessment Screening

The Board accepted and adopted the Inspector's screening assessment in respect of the identification of the European sites which could potentially be affected, and the identification and 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 sites' conservation objectives. 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 following European sites: Stabannan-Braganstown Special Protection Area (Site Code 004091), Lough Oughter Complex Special Protection Area (Site Code 004049), Slieve Beagh Special Protection Area (Site Code 004167), or any other European site, in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment and submission of a Natura impact statement is not, therefore, required.

Environmental Impact Assessment

The Board considered that the Environmental Impact Statement submitted with the application, the reports, 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 on the environment of the proposed development would be acceptable.

Conclusion on Proper Planning and Sustainable Development

It is considered that the proposed development, subject to compliance with the conditions set out below, would be acceptable in terms of impact on the visual amenities and landscape character of the area, would not seriously injure the amenities of property in the vicinity, would not be prejudicial to public health 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.

Conditions

1. The proposed 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 to the planning authority on the 16th day of August, 2016, 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 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 appropriate to specify a period of validity of this permission in excess of five years.

3. This permission shall be for a period of 25 years from the date of commissioning of the wind farm. 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 for their continuance for a further period.

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

4. All environmental mitigation measures set out in the Environmental Impact Statement and associated documentation, including the further information submitted to the planning authority, shall be implemented in full, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of protection of the environment.

5. No micro-siting is hereby permitted. The location of any turbine shall not be altered without a prior grant of planning permission.

Reason: In the interest of residential amenity and of clarity.

6.
 - (a) The permitted turbines shall have a maximum tip height of 125 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 within the site shall be laid underground.
 - (c) The wind turbines shall be geared to ensure that the blades rotate in the same direction.
 - (d) Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, or any statutory provision replacing or amending them, no advertising material shall be placed on or otherwise affixed to any structure on the site without a prior grant of planning permission.

- (e) 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.
- (f) 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.
- (g) Soil, rock and other materials excavated during construction shall not be left stockpiled on site following completion of works. Excavated areas shall be appropriately restored within three months of the date of commissioning of the wind farm, in accordance with 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) L90,10min

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 all nearby dwellings, including control of turbine rotation, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to 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 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 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) 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 windfarm 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(s) 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(s),
 - (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 roads 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.

- 12. 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 (including the installation of wheelwash facilities on the site).

- (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) Details of construction hours, including for 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.
- (m) Details of a site drainage management plan, in accordance with the documentation and mitigation measures provided in the Environmental Impact Statement, as amended, 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, to the satisfaction of the planning authority.
- (n) A programme for the on-going monitoring of water quality during the construction period.

Prior to commencement of construction, proposals for environmental monitoring of construction works on site by an ecologist and by an environmental scientist or equivalent professional, including the monitoring and implementation of construction stage mitigation measures and illustrating compliance with the requirements set out above, shall be submitted to, and agreed in writing with, the planning authority, together with associated reporting requirements. A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

Reason: In the interests of amenities and safety.

13. Water supply, waste water treatment and surface water attenuation and disposal shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

14. The developer shall review usage by bats and birds of the wind farm site and document bat and bird casualties through an annual monitoring programme, details of 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 in consultation with the Department of Culture, Heritage and the Gaeltacht, and shall cover the entire period of the operation of the wind farm.

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

15. 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.

16. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues: -

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 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 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.

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: In the interest of orderly development and visual amenity and to ensure satisfactory reinstatement of the site.

