



Planning and Development Acts 2000 to 2018

Planning Authority: Cork County Council

Planning Register Reference Number: 14/6760

Appeal by Jerome Cahalan and Geraldine Hanley of Gurraneigh, Lisarda, County Cork and by the Barna Wind Action Group care of Noonan Linehan Carroll Coffey of 54 North Main Street, Cork against the decision made on the 3rd day of November, 2015 by Cork County Council to grant subject to conditions a permission to Barna Wind Energy (BWE) Limited care of Fehily Timoney and Company of Core House, Pouladuff Road, Cork in accordance with plans and particulars lodged with the said Council:

Proposed Development: A 10 year planning permission for the construction of six wind turbines, with a maximum tip height of up to 131 metres and associated turbine foundations and hardstanding areas, one number permanent meteorological mast up to 90 metres in height, upgrade of existing and provision of new site tracks and associated drainage, new access junction and improvements to public road to facilitate turbine delivery, one number borrow pit, underground electrical and communications cables, permanent signage and other associated ancillary infrastructure. This application is intended to replace the development already granted permission under appeal reference number PL 04.219620 (planning register reference number 05/5907) and subsequently extended under planning register reference number 11/6605, all in the townlands of Lackareagh and Garranereagh,

Lissarda and Barnadivane (Kneeves), Teerelton, County Cork. The proposed development was revised by further public notices received by the planning authority on the 5th day of June, 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 policies to increase the proportion of energy that is generated from renewable sources including wind set out in the Renewable Energy Directive 2009/28/EC and the National Renewable Energy Action Plan which sets a target that 40% of the electricity generated in Ireland would be from renewable sources by 2020,
- (b) the provisions of the Cork County Development Plan 2014-2020, including objective ED-4 and ED 6-1 and the location of the site within an area where wind energy is acceptable in principle and the provisions to facilitate where practical and feasible infrastructure connections to wind farms and other renewable energy sources subject to normal planning considerations,

- (c) the planning history of the site and surrounding area,
- (d) the nature of the landscape and the absence of any specific conservation or amenity designation for the site and immediate environs,
- (e) the submissions on file,
- (f) the documentation submitted by the applicant including the appropriate assessment screening report, and
- (g) the report and recommendation of the Inspector;

Appropriate Assessment Screening

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

In completing the screening for appropriate assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of 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 site's 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 - Bandon River Special Area of Conservation (Site Code: 002171), The Gearagh Special Area of Conservation (Site Code: 000108), The Gearagh Special Protection Area (Site Code: 004109), and Mullaghanish to Musheramore Mountains Special Protection Area (Site Code: 004162), 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 the case concurrently with the appeal reference number PL 04.248152 (244439) for a substation. The Board considered that there was no 'project splitting' in this case and no avoidance of any requirements under Environmental Impact Assessment. The Board noted that the concurrent consideration of the proposed substation and the windfarm together with the planning history details of other developments related to renewable energy and grid connection in the area ensured that all impacts including direct, indirect and cumulative impacts were comprehensively assessed for the purposes of Environmental Impact Assessment.

Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity, would be acceptable in terms of visual amenity and traffic safety and would not be detrimental to other aspects of the environment. 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 to the planning authority on the 19th day of December, 2014, as amended by the further information received by the planning authority on the 26th day of May, 2015, the 20th day of July, 2015, and the 10th day of September, 2015 and the further details received by An Bord Pleanála, 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 the commencement of

development and the proposed development shall be carried out 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 ten years from the date of this Order.

Reason: To facilitate the completion of the development.

3. 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.

4. All mitigation measures identified in the Environmental Impact Statement as amended on the 10th day of September, 2015 and in the other particulars submitted on behalf of the applicant, shall be implemented in full by the developer except as may otherwise be required in order to comply with the following conditions. The developer shall appoint a person with appropriate ecological and construction expertise as an environmental manager to ensure that the mitigation measures identified are implemented in full.

Reason: In the interest of clarity and to protect the environment.

5. The following shall apply to the development:

- (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 windfarm, 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.

6. The operation of the proposed development, by itself or in combination with any other permitted wind energy development, shall not result in noise levels, when measured externally at nearby noise sensitive locations, which exceed:

(a) between 0700 hours and 2300 hours:

(i) the greater of 5 dB(A) L90,10min above background noise levels, or 45 dB(A) L90,10min, at wind speeds of 5 metres per second or greater,

(ii) 40 dB(A) L90,10min at all other wind speeds,

(b) 43 dB(A) L90,10min at all other times,

where wind speeds are measured at 10 metres above ground level.

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 1996:2007: Acoustics - Description and Measurement of Environmental Noise. 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) The proposed development shall be fitted with appropriate equipment and software to control shadow flicker in accordance with the above requirement. Details of these control measures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (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, controlling 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.

8. 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.

9. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a detailed Construction and Environment Management Plan and an Environmental Emergency Response Plan for the proposed project.

This shall include details of construction practice for the development including noise management measures and off-site disposal of waste. Surplus excavation material to be taken off site shall only be recovered or disposed of at an authorised site in accordance with the Waste Management Acts.

Reason: In the interests of residential amenity, public health and safety and the protection of the environment.

10. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

11. Prior to 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.

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. Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with, the planning authority:

- (i) 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.
- (ii) detailed arrangements whereby the rectification of any construction damage which arises shall be completed to the satisfaction of the planning authority/authorities.
- (iii) detailed arrangements for temporary traffic arrangements/controls on roads.
- (iv) a programme indicating the timescale within which it is intended to use each public route to facilitate construction of the development.

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. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the local authority for such works in respect of both the construction and operation phases of the proposed development.

Reason: To ensure adequate servicing of the proposed development and prevent pollution.

15. 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 relating to the proposed development.
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

- (c) delimit a buffer zone of 100 metres around each of the recorded monuments CO094-036 and CO083-078 in advance of construction and shall implement the recommendations of the site archaeologist in this regard.

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 by record and protection of any archaeological remains that may exist within the site.

16. 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.

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.

