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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Cork County Council**

**Planning Register Reference Number: 17/05292**

**Appeal** by Joe Boles on behalf of the Friends of North Cork Environment of Shinanagh, Dromina, Charleville, County Cork against the decision made on the 29<sup>th</sup> day of January, 2018 by Cork County Council to grant subject to conditions a permission to B&R Wind Limited care of RPS of Innishmore, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Works to connect the permitted Boolard Wind Farm (planning register reference numbers 12/5997 and 15/5521/An Bord Pleanála reference number PL 04.245560) to the existing Charleville 110kv ESNB substation comprising as follows: installation of approximately 5.694 kilometres of 20kv underground electricity cable and fibre communications cable in ducting, 12 number joint bays, 12 number communications chambers and two number earth link boxes (all underground); access covers to chambers and boxes at finished surface level; ancillary marker posts and marker plates as necessary; the replacement of an existing concrete pipe with a box culvert under an existing agricultural track and the construction of new parapet walls above the track; and all associated site development and

reinstatement works. The development will also consist of alterations to permitted wind farm site layout (as per planning register reference numbers 12/5997 and 15/5521/An Bord Pleanála appeal reference number PL 04.245560) as follows: (i) widening of permitted vehicular site entrance, (ii) provision of two number turning areas/overrun areas for turbine delivery/construction vehicles off the permitted wind farm site road, (iii) localised realignment and refinement of internal wind farm site road network, (iv) increased crane pad size at both permitted turbine locations, and (v) also, construction of control building (minor change of location from planning register reference number 15/5521/ appeal reference number PL.04.245560); all at site at Boolard, Shinanagh, Clyderragh, Cloghanughera, Killaree, Ardmore, Kiltass, Milltown, Garrynagranoge, Ballypierce, Clashganniv, Rathnacally, Charleville, County Cork.

## **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 the Cork County Development Plan 2014 – 2020 and to the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of land use, would be compatible with identified archaeological features and ecological interests of the area and would not seriously injure the amenities of the area. Access arrangements would be acceptable and any risk to water quality would be capable of being addressed by standard construction methods, which would be integral to the design of the project. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment:**

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the application and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the site's conservation objectives.

## **Environmental Impact Assessment Screening:**

The Board is satisfied that the proposed development on its own or when assessed cumulatively with the impacts of other existing or permitted development, would not be likely to have significant effects on the environment and would not, therefore, require Environmental Impact Assessment. In this regard, the Board has adopted the E.I.A. screening analysis as set out in the Inspector's report.

## **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 to the planning authority on the 21<sup>st</sup> day of December, 2017, 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 proposal hereby permitted shall comply with the terms and conditions of the planning permission granted under planning register reference number 12/5997, as amended by the permission granted under planning register reference number 15/5521, An Bord Pleanála appeal reference number PL 04.245560, which governs the overall development of the lands of which the site forms part, except as amended in order to comply with the conditions herein.

**Reason:** In the interest of the proper planning and sustainable development of the area.

3. All trees and hedgerows within and on the boundaries of the site, except those trees and hedgerows whose removal is shown on Drawing Numbers 05607-B152, received by the planning authority on the 24<sup>th</sup> day of May, 2017, and DC/BW/02-A, received by the planning authority on the 21<sup>st</sup> day of December, 2017 shall be protected during building operations and retained thereafter.

The temporary hoarding shown on the former plan and the tree protective fence shown in the latter plan shall be erected and retained in situ for the entirety of the construction phase.

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

4. An Ecological Clerk of Works shall be appointed. The removal of trees and hedgerows and the trimming of trees and hedgerows shall only be undertaken at times outside the bird breeding season. Such removal and trimming shall only proceed under the supervision of the Ecological Clerk of Works and mature trees shall only be removed or trimmed once he/she has surveyed them for the presence of bats.

**Reason:** To safeguard breeding birds and bats, in the interest of wildlife protection.

5. (1) Prior to commencement of development, a detailed landscaping scheme, including an implementation timetable, for replacement planting of trees and hedgerows adjacent to the site access off the LS-5476 road and the formation of a replacement earthen mound adjacent to the junction between the farm track and the L-1309 road shall be submitted to, and agreed in writing with, the planning authority.
- (2) Prior to commencement of operation of the control building, the perimeter landscaping to its surrounding hardstanding shall be planted in accordance with the scheme shown on Drawing Number IE201035\_M\_011\_B received by the planning authority on the 21<sup>st</sup> day of December, 2017.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

6. An Ecological Clerk of Works shall be appointed to supervise the implementation of the Surface Water Management Plan and the Japanese Knotweed Management Plan. Any water pollution incidences shall be the subject of a written report to the planning authority and a written compliance monitoring report shall, likewise, be submitted to the planning authority at the end of the construction period.

**Reason:** To safeguard the environment, in the interest of orderly development.

7. Prior to commencement of development, a scheme identifying the number and location of marker posts shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of orderly development.

8. (1) Prior to commencement of development, a Construction Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority.
- (2) Site Management Procedures and Construction Work Methodologies set out in the Outline Construction Environmental Management Plan shall be followed during the construction phase of the development.
- (3) Methodologies identified in the Construction and Environmental Management Plan submitted to the planning authority on the 21<sup>st</sup> day of December, 2017 shall be fully implemented throughout the construction phase.

**Reason:** To promote good traffic management and to safeguard the environment and the amenities of the area.

9. The developer shall engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930 – 2004) to carry out pre-development archaeological testing in the area where the cable route crosses Ringfort CO002-091 and its Zone of Notification. No sub-surface work shall be undertaken in the absence of the archaeologist without his/her express consent.

The archaeologist shall notify the Local Authority Archaeologist and the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht (DoCHG) in writing at least four weeks prior to the commencement of site preparations.

The archaeologist shall excavate the test trenches, by hand in undisturbed ground, to the depth of the cable trench. Having completed the work, the archaeologist shall submit a written report to the planning authority and to the National Monuments Service (DoCHG) for consideration.

Where archaeological material is shown to be present, avoidance, preservation in situ and preservation by record (excavation) may be required and the planning authority and the National Monuments Service (DoCHG) shall advise the developer with regard to these matters.

No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the planning authority and the National Monuments Service (DoCHG).

**Reason:** To identify and preserve items of archaeological importance.



10. The developer shall engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930 – 2004) to monitor under license from the Department of Culture, Heritage and the Gaeltacht (DoCHG) the excavation of the cable trench and top soil removal in all areas of undisturbed ground both along the cable route and within the development site, and in the Zone of Notification associated with Ringforts CO002-100 and 108. The remainder of the cable route shall be subject to intermittent monitoring/watching brief.

In the event that archaeological material is found during the course of monitoring, the archaeologist shall have work on the site immediately stopped and notify the Local Authority Archaeologist and National Monuments Service (DoCHG).

No further surface clearance shall take place, pending a decision as to how best to deal with the archaeology.

The developer shall be prepared to be advised by the Local Authority Archaeologist in regard to any necessary mitigating action (for example, preservation in situ or excavation). The developer shall facilitate the archaeologist in recording any material found.

The planning authority and National Monuments Service (DoCHG) shall be furnished with a written report describing the results of the monitoring.

**Reason:** In the interest of preserving items of archaeological interest.

11. (a) During the construction phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling shall not exceed:-

(i) an Leq, 1-hour value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive,

(ii) an Leq, 15-minute value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

(b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996 – 2007: Acoustics - Description and Measurement of Environmental Noise.

**Reason:** To protect the residential amenities of property in the vicinity of the site.

12. Prior to commencement of development, a baseline road condition survey of the roads comprised within the red edge of the application site shall be undertaken, submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of orderly development.

13. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory restoration of public roads, following the completion of the construction period, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any such restoration. 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 the satisfactory restoration of public roads in the interest of traffic safety.

14. 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.

15. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of works proposed to be carried out for the upgrading of the public roads. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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

**Dated this            day of            2019.**