



Planning and Development Acts 2000 to 2018

Planning Authority: Cork County Council

Planning Register Reference Number: 17/00431

Appeal by Nigel de Haas of Inchicurra, Dunmanway, County Cork and by others against the decision made on the 16th day of April, 2018 by Cork County Council to grant subject to conditions a permission to Keel Energy Limited care of McCathy Keville O’Sullivan Limited of Block 1, Galway Financial Services Centre, Moneenageisha Road, Galway in accordance with plans and particulars lodged with the said Council.

Proposed Development: A 10-year permission for proposed development consisting of: (1) A 110 kV electricity substation including two number control buildings, associated electrical plant and equipment, underground electricity cabling, fencing, alterations to a previously permitted borrow pit and temporary construction compound at the Carrigarierk Wind Farm (An Bord Pleanála appeal reference number PL 04.246353, planning register reference number 15/730) in the townland of Carrigdangan. (2) 110 kV underground electricity cabling connecting the proposed substation to the existing Dunmanway Electricity Supply Board substation in the townlands of Carrigdangan, Inchincurka, Kilnadur, Aultaghreagh, Aultagh, Ardcahan, Knockduff, Gurteennasowna and Ballyhalwick. (3) 33 kV underground

electricity cabling connecting the proposed substation to the permitted Carrigarierk Wind Farm through the townlands of Carrigdangan and Gortatanavally and the permitted Shehy More Wind Farm (An Bord Pleanála appeal reference number PL 04.243486, planning register reference number 13/00551), through the townlands of Shehy More, Coolcaum, Coolmountain, Tullagh, Lackabaun, Clogher, Farrannahineeny, Crushterra, Gurteen and Carrigdangan, together with all ancillary works and apparatus. The proposed development is located north of Dunmanway, County Cork. Further public notices were received by the planning authority on the 9th day of November, 2017.

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 national targets for renewable energy contribution of 40% gross electricity consumption by 2020,
- the “Wind Energy Development Guidelines - Guidelines for Planning Authorities”, issued by the Department of the Environment, Heritage and Local Government in June, 2006,
- the policies of the planning authority as set out in the Cork County Development Plan (2014-2020),
- the distance to dwellings or other sensitive receptors from the proposed development,
- the planning history of the wider area including the decisions to grant permission for wind farm developments under An Bord Pleanála appeal reference numbers PL 04.246353 and PL 04.243486,
- the submissions made in connection with the planning application and the appeal,
- the likely consequences for the environment and the potential for impacts of the proposed development on European Sites,

it is considered that the proposed development would facilitate the development of renewable energy in accordance with the national policy in relation to renewable energy, would be in accordance with the policies and objectives of the planning authority set out in the county development plan to support the development of renewable energy, and would not seriously injure the residential amenities of the area or of adjoining property, nor be likely to create a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Stage 1

The Board considered the Screening Report for Appropriate Assessment, the Natura impact statement and all other relevant submissions and carried out an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites. The Board noted that the proposed development is not directly connected with or necessary for the management of a European Site and considered the nature, scale and location of the proposed development, as well as the report of the Inspector.

The Board agreed with the screening report submitted with the application and with the screening exercise carried out by the Inspector. The Board concluded that, having regard to the qualifying interests for which the sites were designated and in the absence of a hydrological connection between the application site and the European Sites, The Gearagh Special Area of Conservation (Site Code: 000108), the Derryclogher (Knockboy) Bog Special Area of Conservation (Site Code: 001873), and Saint Gobnet's Wood Special Area of Conservation (Site Code: 000106), The Gearagh Special Protection Area (Site Code: 004109) and the Mullaghanish to Musheramore Mountains Special Protection Area (Site Code: 004162) could be screened out from further consideration and that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on these European Sites in view of the sites' conservation objectives and appropriate assessment is, therefore, not required in relation to these European Sites.

Appropriate Assessment Stage 2

The Board considered the Natura impact statement and revised Natura impact statement submitted by the applicant, together with all other relevant submissions at both application and appeal stage. The Board carried out an appropriate assessment of the implications of the proposed development for the Bandon River Special Area of Conservation (Site Code: 002171) in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, the mitigation measures which are included as part of the current proposal and the conservation objectives for this European Site. In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of Bandon River Special Area of Conservation (Site Code: 002171) or any other European Site in view of the site's conservation objectives.

Environmental Impact Assessment

The Board completed, in compliance with Section 172 of the Planning and Development Act 2000, as amended, an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale, location and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted with the planning application,
- (c) the submissions from the planning authority, from interested parties, and from prescribed bodies in the course of the application and appeal, and
- (d) the Inspector's report,

the Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, identifies and describes adequately the direct, indirect and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU, amending Directive 2011/92/EU.

Reasoned Conclusions on the Significant Effects.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated, as follows:

- There is potential for likely significant effects on water quality because of the disturbance to soils, subsoils and bedrock in the area of the substation, borrow pit and temporary construction compound and in the roadside cabling within the catchment of the Bandon river system. Mitigation measures against release of suspended solids and hydrocarbons include avoidance of in-stream works, cessation of works during periods of heavy rain, covering of exposed areas of fill/stockpiles during rain and use of swales and silt fences to trap any silt escaping the working areas. These measures are set out in the Environmental Impact Assessment Report and the additional information and are considered adequate to mitigate direct, indirect and cumulative impacts on water quality.

- There is potential for likely significant effects on aquatic fauna within the catchment of the Bandon river system. Mitigation measures against release of suspended solids and hydrocarbons are set out in the Environmental Impact Assessment Report and the additional information and are considered adequate to mitigate direct, indirect and cumulative impacts on aquatic fauna.
- There is potential for likely significant effects on archaeological remains proximate to the proposed development, in particular the Stone Row at Farranahineeny. Mitigation measures include maintenance of appropriate separation distances between the works and identified archaeological features, monitoring ground works for any archaeological impacts and screen planting between the substation and the Stone Row at Farranahineeny. These measures set out in the in the Environmental Impact Assessment Report and the additional information are considered adequate to mitigate direct, indirect and cumulative impacts.
- Impacts on population and human health will be generally arise in terms of traffic management on the public road where cable laying will occur. Construction phase impacts are addressed in the Environmental Impact Assessment Report and the construction and environmental management plan which will mitigate noise and vibration through limiting the duration of construction hours, the use of plant with low potential of noise and/or vibration, the use of noise barriers and locating plant away from noise sensitive receptors. Noise and vibration levels would be within acceptable emissions limits during normal operation.

- Landscape and Visual impacts will be limited to those that arise from the proposed substation, as the remainder of the proposed development will be underground. The mitigation measures, including planting and landscaping as set out in the in the Environmental Impact Assessment Report and the additional information, will mitigate the impact of the substation on the landscape and are considered adequate to mitigate direct, indirect and cumulative impacts.

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 20th day of October, 2017 and the 22nd day of February, 2018, 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 the subject of this grant of permission may be carried out shall be 10 years from the date of this Order.

Reason: Having regard to the relationship of this development to the windfarms it will serve, under An Bord Pleanála appeal reference numbers PL 04.246353 and PL 04.243486, it is considered appropriate to specify a period in excess of five years.

3. All of the environmental, construction and ecological mitigation measures set out in the Environmental Impact Assessment Report, the Natura impact statement, as revised, and other particulars submitted with the planning application and in the further information submitted to the planning authority on the 20th day of October, 2017 and on the 22nd day of February, 2018 shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this Order.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

4. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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 operations (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection (in-situ or by record) of any remains that may exist within the site.

5. The construction of the development shall be managed in accordance with a Construction Environmental 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 compounds including areas 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 for the substation, and details of the timing of works for the construction of the underground cabling, including arrangements for facilitating traffic on public roads during construction (or, where necessary to facilitate construction and where agreed with the roads authority, the provision of alternative temporary re-routing for traffic) and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
 - (f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.

- (g) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (h) 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.
- (i) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (j) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers, drains or watercourses.

A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

Reason: In the interests of amenities, public health and safety.

6. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a final landscaping scheme for the area of the proposed substation, which shall be based on the documentation and mitigation measures submitted as part of this application. The landscaping scheme shall include a timeframe for implementation, including aftercare for a period of five years following completion. The landscaping works, as agreed, shall be supervised by a qualified landscape architect or similarly qualified and experienced professional, who shall be required to certify to the planning authority in writing his/her opinion on compliance of the completed landscape works with the approved landscape scheme within six months of substantial completion of the development hereby permitted.

Reason: In order to provide screening for the proposed substation in the interest of visual amenity.

7. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority plans and particulars for the implementation of the Invasive Species Management Plan submitted with the planning application. These plans and particulars shall include the employment of suitable qualified and experienced personnel to monitor the development works and the treatment, and/or removal and safe disposal, of contaminated material when it arises.

Reason: To prevent the spread of invasive plant species.

8. 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 and by the construction of the proposed underground electricity piping/cabling under public roads, 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 interests of traffic safety and the proper planning and sustainable development of the area.

9. 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.

Philip Jones

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

Dated this day of 2019.