



Planning and Development Acts 2000 to 2018

Planning Authority: Kerry County Council

Planning Register Reference Number: 18/374

Appeal by Lyreacrompane Heritage Group of Lyreacrompane, Listowel, County Kerry against the decision made on the 31st day of October, 2018 by Kerry County Council to grant subject to conditions a permission to Knocknagoum Windfarm Limited of Lissarda Business Park, Lissarda, County Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a battery storage compound adjacent to the existing substation, with up to 10 number container units, palisade fencing, site access track and entrance, bunded concrete plinths, associated electrical equipment, transformers, control building and all ancillary site works at Muingnaminnane, Tralee, County Kerry, as amended by the further public notice received by the planning authority on the 7th day of September, 2018.

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

It is an objective of the planning authority as set out in the Kerry County Development Plan 2015-2021 to support and facilitate the sustainable provision of a reliable energy supply in the County, with emphasis on increasing energy supplies derived from renewable resources whilst seeking to protect and maintain biodiversity, archaeological and built heritage, the landscape and residential amenity (Objective EP-1). Having regard to the scale, extent and layout of the proposed development, to the “Rural General” designation of the local area and to permitted development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not endanger public health and would not have significant adverse impacts on the environment or amenities of the area. The proposed development would, therefore, be in accordance with the provisions of the current County Development Plan and 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 the other relevant submissions and carried out both 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 agreed with the screening assessment and conclusion carried out in the Inspector's report that the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code: 004161) and the Lower River Shannon Special Area of Conservation (Site Code: 002165) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment Stage 2

The Board considered the Natura impact statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites, namely, Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code: 004161) and the Lower River Shannon Special Area of Conservation (Site Code: 002165), in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,

- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for the European Sites.

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 Sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives.

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 7th day of August, 2018 and the 7th day of September, 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 the 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. During the operational phase of the proposed development, the noise levels arising from the development shall be consistent with the levels set out in the Noise Assessment report submitted to the planning authority on the 7th day of August, 2018.

Reason: In the interest of residential amenity

3. (a) The proposed development shall be undertaken in compliance with all environmental commitments made in the documentation supporting the application, including the Natura impact statement submitted to the planning authority on 7th day of August, 2018.
- (b) Bunds shall be installed around all temporary oil containment facilities and the developer shall ensure that no oil, grease or other objectionable matter is discharged into any drain, sewer or watercourse.

Reason: To protect the environment.

4. Comprehensive details of the proposed lighting system to serve the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of public safety and visual amenity.

5.
 - (a) The exterior of the battery storage containers and the palisade fencing shall be finished in a dark green colour.
 - (b) The proposed control building shall be in accordance with the design drawing (drawing number 0082-1-G-020-R001) received by the planning authority on the 23rd day of April, 2018. The roof shall be covered with slates or tiles which shall be either black, dark grey or blue-black. The colour of the ridge tile shall match the colour of the roof.
 - (c) The external walls of the proposed control building shall be a neutral colour such as light grey or off-white.

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

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects published by the Department of the Environment, Heritage and Local Government in July, 2006.

Reason: In the interest of sustainable waste management.

7. On full or partial decommissioning of the battery storage compound, the palisade fencing, concrete plinths, battery storage units, equipment, transformers and ancillary works shall be removed permanently within three months of such decommissioning.

Reason: To ensure satisfactory reinstatement of the site upon cessation of the project.

8. 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) details of site security fencing and hoardings,
 - (b) 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,
 - (c) measures to obviate queuing of construction traffic on the adjoining road network,
 - (d) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
 - (e) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,

- (f) 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,
- (g) details of on-site re-fuelling arrangements, including use of drip trays,
- (h) details of how it is proposed to manage excavated soil, and
- (i) means to ensure that surface water run-off is controlled such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses.

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

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

9. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the satisfactory reinstatement of the site as envisaged in condition number 7 above. 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 completion and maintenance of the development until taken in charge.

10. 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.

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

Dated this day of 2019.