



An
Bord
Pleanála

Board Order
ABP-304496-19

Planning and Development Acts 2000 to 2019

Planning Authority: Tipperary County Council

Planning Register Reference Number: S5/19/31

WHEREAS a question has arisen as to whether works relating to alterations to wind turbine specification and locations set out in submission to the planning authority on the 28th day of April, 2014 under planning reference number 11510251 (an extension of the duration for which was granted under planning reference number 16600472) at Castlewaller, Newport, County Tipperary is or is not development or is or is not exempted development:

AND WHEREAS Stephen and Denise Walsh care of Connellan and Associates of 'Sonas', Cahercalla Wood, Cahercalla, Ennis, County Clare requested a declaration on this question from Tipperary County Council, and the Council issued a declaration on the 26th day of April, 2019 stating that the matter was not development:

AND WHEREAS Stephen and Denise Walsh referred this declaration for review to An Bord Pleanála on the 17th day of May, 2019:

AND WHEREAS An Bord Pleanála, in the light of the documentation submitted with the referral, decided to re-word the question as follows: -

'Whether the deviation from the permitted rotor diameter from 90 metres to 97 metres and from the permitted tip height of 145 metres to 148.5 metres of 16 turbines, and the relocation of 11 of the 16 permitted turbines by up to 20 metres, all at a wind farm to which planning permission register reference number 11510251 relates at Castlewaller, Newport, County Tipperary is or is not development or is or is not exempted development':

AND WHEREAS An Bord Pleanála, in considering this referral, had regard particularly to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Articles 6 and 9 of the Planning and Development Regulations, 2001, as amended,
- (c) the planning permission granted under register reference number 11510251, which was expressed to be for a wind farm consisting of 16 turbines (each with a maximum hub height of 100 metres, maximum rotor diameter of 90 metres and with a total tip height of 145 metres), one permanent meteorological mast, 2 borrow pits, a sub-station including a control building, new internal access roads, upgrading of existing internal access roads, expansion of drainage system, turbine hardstands, wastewater holding tank, underground cables and ancillary works,

- (d) the documentation on file, including details of the proposed amendments to the permitted Castlewaller wind farm, and in particular to the turbine blade rotor diameter dimensions and overall tip height and to the locations of 11 of the 16 turbines, as outlined in submission to the planning authority by ABO Wind Ireland Limited on the 28th day of April, 2014 on file register reference number 11510251, and
- (e) relevant case law, including Bailey - v - Kilvinane Wind Farm Limited [2016] IECA 92:

AND WHEREAS An Bord Pleanála has concluded that:

- (a) the erection of the turbines would involve the carrying out of works and therefore comes within the definition of development,
- (b) the development for which planning permission was granted, under register reference 11510251, specified, inter alia in the public notice, the maximum hub height, maximum rotor diameter and total tip height,
- (c) the relocation of the turbines, in the absence of any planning condition permitting such relocation or micro-siting, does not come within the scope of the permission,
- (d) the alterations to the turbines, as proposed, including the increased diameters of the turbine rotor blades and of the turbine tip heights beyond that specified as the maximum diameter and tip height in the planning permission, does not come within the scope of the permission granted,

- (e) the deviations in question from the permitted development are material in nature and are not *de minimis*, having regard to the terms of the permission granted, and the potential for increased impacts on residential amenity, visual amenity and biodiversity/protected species, and
- (f) there is no provision for exemption, in the Planning and Development Act 2000, as amended, and in the Planning and Development Regulations 2001, as amended, for these relocations and alterations to turbines:

NOW THEREFORE An Bord Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that the deviation from the permitted rotor diameter from 90 metres to 97 metres and from the permitted tip height from 145 metres to 148.5 metres of 16 turbines, and the relocation of 11 of the 16 permitted turbines by up to 20 metres, all at a wind farm to which planning permission register reference number 11510251 relates at Castlewaller, Newport, County Tipperary is development and is not exempted development.

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.

Philip Jones

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

Dated this day of 2019.