



Planning and Development Acts 2000 to 2019

Planning Authority: Donegal County Council

Planning Register Reference Number: 18/50156

Appeal by Lettergull Wind Farm Limited care of MKO of Tuam Road, Galway against the decision made on the 20th day of May, 2019 by Donegal County Council to refuse permission for the proposed development.

Proposed Development: A 10 year planning permission for a wind farm with a 30 year operational life (from the date of commissioning of the entire wind farm) and all associated works. The proposed development will consist of the following: up to six number wind turbines with an overall blade tip height of up to 135 metres and all associated foundations and hard-standing areas, one number borrow pit, one number permanent anemometry mast up to a height of 100 metres, upgrade of existing and provision of new site access roads and associated drainage, one number electrical substation compound, which will have one number control building, associated electrical plant and equipment, and a waste water holding tank. One number temporary construction compound, all associated underground electrical and communications cabling connecting the turbines to the proposed on-site substation, as well as on-site underground cabling to facilitate electrical connection to the national grid, and

all associated site development works, including amenity trails on wind farm roads, car parking, seating/benches and signage, all at Momeen and Lettergull, County Donegal.

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

In arriving at its decision, the Board had regard to:

- (a) European, national, regional and local policy and targets with regard to the development of alternative and indigenous energy sources (including for renewable energy, and wind energy in particular) and the minimisation of emissions from greenhouse gases,

- (b) the provisions of the Wind Energy Development Guidelines – Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June, 2006,
- (c) the policies of the planning authority set out in the Donegal County Development Plan 2018-2024,
- (d) the planning history of the site,
- (e) the generally agricultural character of the landscape and the absence of any ecological designations on the site,
- (f) the pattern of existing and permitted development in the area,
- (g) the distance to dwellings and other sensitive receptors from the proposed development,
- (h) the preferred route of the TEN-T Priority Route Improvement Project (N14 Manorcunningham to Lifford section),
- (i) the Environmental Impact Assessment Report submitted,
- (j) the Natura Impact Statement submitted,
- (k) the submissions (including those on transboundary issues from prescribed bodies in Northern Ireland) made in connection with the planning application,
- (l) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development, and the likely significant effects of the

proposed development on European Sites (including transboundary sites), and

(m) the report and recommendation of the Planning Inspector.

Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the River Finn Special Area of Conservation (Site Code: 002301), the Lough Swilly Special Protection Area (Site Code: 004075) and the River Foyle and Tributaries Special Area of Conservation (Site Code: UK0030320) are the European sites for which there is a likelihood of significant effects.

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 the River Finn Special Area of Conservation (Site Code: 002301), the Lough Swilly Special Protection Area (Site Code: 004075) and the River Foyle and Tributaries Special Area of Conservation (Site Code: UK0030320) in view of the sites' Conservation Objectives. The Board noted that the applicant's screening for Appropriate Assessment also included the Lough Swilly Special Area of Conservation (Site Code: 002287) but the Board agreed with the Inspector that this site could be screened out by virtue of the absence of a hydrological connection and its relative distance from the proposed development. The Board noted that the Natura Impact Statement took account of the relevant transboundary European sites in Northern Ireland. 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, in particular, the likely direct and indirect impacts arising from the proposed development (including the approved and potential grid connection) both individually or in combination with other plans or projects, mitigation measures (including construction and operational measures for the protection of watercourses) which are included as part of the current proposal and the Conservation Objectives for the identified 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 would not adversely affect the integrity of European sites in view of the sites' Conservation Objectives.

Environmental Impact Assessment

The Board undertook an Environmental Impact Assessment of the proposed development, taking into account:

- (a) the nature, scale and location of the proposed development,
- (b) the Environmental Impact Assessment Report (EIAR) and associated document submitted in support of the application,
- (c) the submissions made in connection with the planning application, and
- (d) the Inspector's report.

The Board considered that the EIAR, supported by the documentation submitted by the application, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board completed an environmental impact assessment in relation to the proposed development and, in doing so, agreed with the examination, set out in the Inspector's Report, of the information contained in the EIAR, the associated documentation submitted by the applicant, and submissions made in the course of the application, and adopted the Inspector's assessment in this regard.

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

- Negative impacts on **human health and population** as a result of noise, traffic and dust disturbance during the construction phase would be mitigated by the use of specific roads, traffic management and the construction management measures outlined in the Construction Management Plan (Appendix 5 of the EIAR).
- Benefits/positive impacts on **human health and population** during the operation phase as a result of the displacement of CO₂ from the atmosphere arising from the replacement of fossil fuel energy production with renewable energy production.
- Negative impacts on **Water Quality** arising from accidental spillages of chemicals, hydrocarbons or other contaminants entering the drainage system and discharging to the river during the construction phase will be mitigated by measures outlined within the Hydrology and Hydrogeology Chapter of the EIAR (Chapter 8 and Appendix 6), the Construction

Management Plan (Appendix 5 of the EIAR), and the measures set out in the Natura Impact Statement.

- Negative **Noise and Shadow Flicker** arising during the operation phase will be mitigated by the omission of T3 and T6 from the proposed development and through the imposition of conditions on noise and shadow flicker limits on the operational windfarm.
- Negative **Landscape and Visual** impacts will be mitigated by the omission of T3 and T6 from the proposed development.
- Impacts on **Birds** including displacement, loss of habitat and risk of collision (risk does not exceed 1% for all bird species) were not deemed to be significant (Chapter 6 of the EIAR) and will be mitigated by engaging an Ecological Clerk of Works to undertake pre-construction bird surveys.

The Board concluded that, subject to the implementation of the mitigation measures set out in the EIAR, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable, having regard to the overall benefits of the proposed development.

Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with European, National, Regional and Local policies and would make a positive contribution to the implementation of Ireland's national strategic policy on renewable energy and its move to a low energy carbon future, would have an acceptable impact on the landscape, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not adversely affect the archaeological or natural heritage, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. Turbines identified as T3 and T6 shall be omitted from the development.

Reason: In the interest of visual and residential amenity

3. The period during which the development hereby permitted shall be carried out is 10 years from the date of this Order.

Reason: In the interest of clarity.

4. This permission shall be for a period of 30 years from the date of the first commissioning of the wind farm.

Reason: To enable the planning authority to review its operation in the light of the circumstances then prevailing.

5. The developer shall ensure that all construction methods and environmental mitigation measures set out in the Environmental Impact Assessment Report and Natura Impact Statement and associated documentation are implemented in full, save as may be required by conditions set out below.

Reason: In the interest of protection of the environment.

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 the hours of 0700 and 2300 -

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

(ii) 43 dB(A) L90, 10min at all other wind speeds. and

- (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 R 1996 “Assessment of Noise with Respect to Community Response,” as amended by ISO Recommendations R 1996-1. 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 suitable 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, including control of 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. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, details of an obstacle warning light scheme which can be visible to night vision equipment.

Reason: In the interest of aviation safety.

9. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

10. Water supply, wastewater treatment and surface water attenuation and disposal shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

11. The following design requirements shall be complied with:
- (a) The tip height shall not exceed 135 metres. Details of the turbine design and hub height, tip height, and blade length shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development.
 - (b) The wind turbines including masts and blades, and the wind monitoring mast, shall be finished externally in a light grey colour.
 - (c) Cables within the site shall be laid underground.
 - (d) The wind turbines shall be geared to ensure that the blades rotate in the same direction.
 - (e) No advertising material shall be placed on or otherwise be affixed to any structure on the site without a prior grant of planning permission.

Reason: In the interest of visual amenity.

12. The delivery of large-scale turbine components for the construction of the windfarm shall be managed in accordance with a Traffic 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 the road network to be used by construction traffic, including over-sized loads, and detailed arrangements for the protection of bridges, culverts or other structures to be traversed, as may be required. The plan should also contain details of how the developer intends to engage with and notify the local community in advance of the delivery of oversized loads.

Reason: In the interest of public safety and residential amenity.

13. On full or partial decommissioning of the turbines or if the turbines cease operation for a period of more than one year, the mast and the turbine concerned shall be removed and all decommissioned structures shall be removed, and foundations 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. In the event that the proposed development causes interference with telecommunications signals, effective measures shall be introduced to minimise interference with telecommunications signals in the area. Details of these measures, which shall be at the developer's expense, shall be submitted to, and agreed in writing with, the planning authority prior to commissioning of the turbines and following consultation with the relevant authorities.

Reason: In the interest of protecting telecommunications signals and of residential amenity.

15. Details of aeronautical requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Prior to commissioning of the turbines, the developer shall inform the planning authority and the Irish Aviation Authority of the as constructed tip heights and co-ordinates of the turbines and wind monitoring masts.

Reason: In the interest of air traffic safety.

16. The developer shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

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

17. The developer shall retain the services of a suitably qualified and experienced Ecologist (to perform the role of Ecological Clerk of Works) to undertake pre-construction surveys at the various project elements, including any river crossings, immediately prior to commencing work in order to check for the presence of protected species in the vicinity.

Reason: In the interest of protecting ecology and wildlife in the area.

18. 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 operation (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 of any remains that may exist within the site.

19. The developer shall retain the services of a suitably qualified and experienced bird specialist to undertake appropriate annual bird surveys of this site. Details of the surveys to be undertaken and associated reporting requirements shall be developed following consultation with, and agreed in writing with, the planning authority prior to commencement of development. These reports shall be submitted on an agreed date annually for five years, with the prior written agreement of the planning authority. Copies of the reports shall be sent to the Department of Arts, Heritage and the Gaeltacht

Reason: To ensure appropriate monitoring of the impact of the development on the avifauna of the area.

20. 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.

21. 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.

22. 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 the Board 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.

Maria FitzGerald

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this day of 2020.