



Planning and Development Acts 2000 to 2020

Planning Authority: Donegal County Council

Planning Register Reference Number: 18/51230

Appeal by Inishgaoth Limited care of Canavan Associates Limited of 23 Prince's Street, Derry, Northern Ireland against the decision made on the 11th day of October, 2019 by Donegal County Council to refuse permission for the proposed development.

Proposed Development: A 10 year planning permission for a proposed Wind Energy and Grid Connection Project with a 30-year operational life from the date of commissioning. The proposed Wind Energy site within the townland of Carrowmore or Glentogher, Quigley's Point, Inishowen, County Donegal. The proposed Wind Energy site will consist of six number three bladed wind turbines with a maximum base to blade tip height of up to 124.9 metres and will include turbine transformers; turbine bases and foundations, turbine hardstands and temporary set-down areas; one number permanent lattice anemometer 'met' mast of 80 metres height with foundations and hardstanding area; widening and strengthening of existing access tracks and access areas and construction of new floated and excavated access tracks, junctions and turning areas; one number electrical 38kV substation with control building, car parking and compound area with related communications and electrical equipment/plant with underground electrical feeder cables and

communications lines connecting wind turbines to the switch room control building; two number spoil deposition areas; dedicated Habitat Management area; on-site drainage management works; upgrade of three number existing site entrances; two number temporary construction compounds; two number temporary borrow pits and with all other ancillary and associated development and infrastructure including general and excavation works. The proposed underground Grid Connection route will facilitate connection to the national grid and will consist of the laying of a 38kV underground electrical cable including all associated infrastructure, upgrading of existing tracks, construction of new access tracks, drainage, excavations, joint bays, junction boxes/chambers, marker posts/plates and all related accommodation works, extending circa 17,620 metres in length, from the Wind Energy site control building/electrical compound to the existing ESB owned 110kV Trillick substation, in Ballynahone Townland, Bunrana. The grid route will pass along existing public roads and private access tracks within the townlands of Carrowmore or Glentogher, Illies, Connaghkinnagoe, Ballynakeeloge, Foffenagh, Meenamullagan, Stranaclea, Meenkeeragh, Sorne, Owenakilliew and Barnahone, Tullydush Upper, Annaslee and Ballynahone townlands, all in Inishowen, 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

Having regard to:

- (a) the 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 greenhouses 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 as set out in the Donegal County Development Plan 2018-2024,
- (d) the planning history of the site,
- (e) the character of the landscape in the area and the absence of any ecological designations on the site,
- (f) the characteristics of the site and of the general vicinity,

- (g) the pattern of existing and permitted development in the area,
- (h) the distance to dwellings and other sensitive receptors from the proposed development,
- (i) the Environmental Impact Assessment Report submitted,
- (j) the Appropriate Assessment Screening Report and Natura Impact Statement submitted,
- (k) the submissions made in connection with the planning application, and
- (l) the report and recommendation of the Inspector.

Appropriate Assessment Screening

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 and adopted the screening assessment and conclusion carried out in the Inspector's report that the Lough Swilly Special Area of Conservation (Site Code 002287), the Lough Swilly Special Protection Area (Site Code 004075), the Trawbreaga Bay Special Protection Area (Site Code 004034) and the Lough Foyle Special Protection Area (Site Code 004087) are the only European sites for which there is a likelihood of significant effects.

Appropriate Assessment

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposal for the Lough Swilly Special Area of Conservation (Site Code 002287), the Lough Swilly Special Protection Area (Site Code 004075), the Trawbreaga Bay Special Protection Area (Site Code 004034) and the Lough Foyle Special Protection Area (Site Code 004087), 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 assessment, the Board considered, in particular, the

- (i) likely direct and indirect impacts arising from the proposal both individually or in combination with other plans or projects, specifically upon the Lough Swilly Special Area of Conservation (Site Code 002287), the Lough Swilly Special Protection Area (Site Code 004075), the Trawbreaga Bay Special Protection Area (Site Code 004034) and the Lough Foyle Special Protection Area (Site Code 004087),
- (ii) mitigation measures which are included as part of the current proposal,
- (iii) conservation objective for these European Sites, and
- (iv) views of the Department of Culture, Heritage and the Gaeltacht.

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 integrity of the aforementioned European Sites, having regard to the site's 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 site's conservation objectives.

Environmental Impact Assessment

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

- the nature, scale and extent of the proposed development,
- the Environmental Impact Assessment Report and associated documentation submitted in support of the planning application,
- the submissions from the planning authority, the observers and the prescribed bodies in the course of the application, and
- the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Negative impacts on human health and population arising from construction include noise, traffic and dust disturbance to residents of neighbouring dwellings. All of these impacts are low to moderate. Adequate mitigation measures are proposed to ensure that these impacts are not significant and include adequate mitigation for operational noise.
- Benefits/positive impacts on the air and climate, as the proposed development will have a significant positive effect on human health and population due to the displacement of CO₂ from the atmosphere arising from fossil fuel energy production.
- Potential negative impacts on air and climate relate to the release of carbon to the atmosphere as a result of the potential for impacts on the functioning and viability of blanket bog and other peatland habitats to arise. These impacts will be mitigated by measures outlined within the application.
- Negative impacts on water could arise as a result of accidental spillages of chemicals, hydrocarbons or other contaminants entering the drainage system and discharging to the river thereafter during the construction and operational phases. These impacts will be mitigated by measures outlined within the application.

- Further impacts on water relate to changes to the hydrological regime of the area and the resultant impacts that this may have on the Annex I peatland habitat in the area and associated biodiversity. These impacts will be mitigated by measures outlined within the application and can, therefore, be ruled out.
- Negative impacts to lands and soils relate to the removal of six hectares of Wet Heath habitat, the status of which is bad and deteriorating and is listed for protection within Annex I of the Habitats Directive. This habitat is not within a European Designated Site and is not essential to the maintenance of any European Designated Site. Notwithstanding the conclusion reached in respect of the inability of the proposed measures to fully mitigate the loss of six hectares of Wet Heath habitat, it is considered that the environmental effects would not justify a refusal of planning permission having regard to overall benefits of the proposed development.
- Negative noise and dust impacts arise during the construction phase from construction activities. These impacts will be mitigated through adherence to best practice construction measures. Noise disturbance from the operation of turbines is not likely to arise given the separation distances between turbines and residential properties. Impacts arising from noise and dust disturbance during both the construction and operational stage can, therefore, be ruled out.
- Negative traffic impacts arise during the construction phase of the development, these impacts will be mitigated through the implementation of a traffic management plan and a construction management plan. Impacts arising from traffic can, therefore, be ruled out.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, are not considered significant and, as such, are acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Conclusions on Proper Planning and Sustainable Development

Having regard to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with European energy policy, the National Planning Framework, the Regional Planning Guidelines for the Midland Region 2010-2022, and the Wind Energy Development Guidelines - Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in June, 2006, 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 natural heritage of the area 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, as amended by the further information submitted to An Bord Pleanála on the 6th day of November 2020, 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 hereby permitted is constructed shall be 10 years from the date of this Order.

Reason: In the interest of clarity.

3. This permission shall be for a period of 25 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.

4. The developer shall ensure that all construction methods set out in the Environmental Impact Assessment Report and associated documentation are implemented in full, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of the protection of the environment.

5. The mitigation measures and monitoring commitments identified in the Environmental Impact Assessment Report, and other plans and particulars, including the Natura Impact Statement, submitted with the planning application shall be implemented in full by the developer, except as may otherwise be required in order to comply with the following conditions. Prior to the commencement of development, the developer shall submit to, and agree in writing with, the planning authority, a schedule of these mitigation measures and monitoring commitments, and details of a time schedule for implementation of the mitigation measures and associated monitoring.

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

6. The developer shall ensure that water levels are monitored at a regular frequency throughout the year over the life of the development and shall ensure that water levels are maintained at a level required to maintain viable and active peat habitat within and adjacent to the site. Details of such monitoring shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Monitoring shall occur both within the site at various locations and along the development boundary of the site and shall include the use of appropriate means such as piezometers to measure ground water levels, as agreed by the planning authority.

Reason: In the interest of protection of the environment.

7. 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 7am and 11pm:
 - (i) the greater of 5 dB(A) $L_{90,10min}$ above background noise levels, or 45 dB(A) $L_{90,10min}$, at standardised 10 metre height above ground level wind speeds of 12m/s or greater, and
 - (ii) 40 dB(A) $L_{90,10min}$ at all other standardised 10 metre height above ground level wind speed.
 - (b) 43 dB(A) $L_{90,10min}$ at all other times.

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.

8. Prior to commencement of development, the developer shall submit a shadow flicker compliance monitoring programme for the proposed development, including any mitigation measures such as the use of appropriate equipment and software to suitably control shadow flicker at nearby dwellings, including control of turbine rotation, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority. 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.

Reason: In the interest of residential amenity.

9. (a) Details of an obstacle warning light scheme which can be visible to night vision equipment shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
- (b) 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 aviation safety.

10. Prior to commencement of development, a detailed Environmental Management Plan for the construction and operational stages shall be submitted to, and agreed in writing with, the planning authority, generally in accordance with the proposals set out in the Environmental Impact Assessment Report. The Environmental Management Plan shall incorporate the following:
 - (a) a detailed plan for the construction phase incorporating, inter alia, construction programme, supervisory measures, noise management measures, construction hours and the management of construction waste,
 - (b) a comprehensive programme for the implementation of all monitoring commitments made in the application and supporting documentation during the construction and operation period, and
 - (c) proposals in relation to public information and communication.

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

Reason: In the interests of environmental protection and orderly development.

11. 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.

12. The following design requirements shall be complied with:

- (a) The wind turbines including masts and blades, and the wind monitoring mast, shall be finished externally in a light grey colour.
- (b) Cables within the site shall be laid underground.
- (c) The wind turbines shall be geared to ensure that the blades rotate in the same direction.
- (d) 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.

13. The delivery of large-scale turbine components for the construction of the wind farm 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 shall of the road network to be used by construction traffic, including oversized 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 interests of traffic and public safety.

14. 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.

15. 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 interests of protecting telecommunications signals and of residential amenity.

16. The developer shall ensure that all plant and machinery used during the works shall 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 undertake pre-construction surveys at the various project elements immediately prior to the commencement of development in order to check for the presence of protected species in the vicinity.

Reason: In the interests 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 curlew 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 following commencement of operation of the windfarm, with the prior written agreement of the planning authority. Copies of the reports shall be sent to the Department of Housing, Local Government and Heritage.

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: To ensure the satisfactory completion of the development.

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: To ensure the 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.

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

Dated this day of 2021.