



An  
Bord  
Pleanála

Board Order  
ABP-307939-20

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## Planning and Development Acts 2000 to 2022

**Planning Authority: Cork County Council**

**Application for Substitute Consent** by Cleanrath Windfarm Limited care of MKO of Tuam Road, Galway in accordance with section 177E of the Planning and Development Act, 2000, as amended by the insertion on section 57 of the Planning and Development (Amendment) Act, 2010, as amended.

**Location of Windfarm:** townlands of Reananerree, Cloontycarthy, Cleanrath North, Derrineanig, Cleanrath South, Milmorane, Coombilane, Rathgaskig, Augeris, Gorteenakilla, Carrignadoura, Gurteenowen, Gurteenflugh, Lyrenageeha and Lackabaun, County Cork.

## Decision

The Board, in accordance with section 177K of the Planning and Development Act, 2000, as amended, and based on the Reasons and Considerations set out below, decided to **GRANT** substitute consent in accordance with the following conditions.

## Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) Section 177K(2) of the Planning and Development Act, 2000 as amended,
- (b) the National Planning Framework - Ireland 2040,
- (c) the Climate Action Plan, 2023,
- (d) Section 15 of the Climate Action and Low Carbon Development (Amendment) Act, 2021,
- (e) the Environmental Impact Assessment Directive (EIA Directive) means Directive 2014/52/EU, as amended, on 16.04.2014 April 2014, on the assessment of the effects of certain public and private projects on the environment,
- (f) the EU Habitats Directive (92/43/EEC),
- (g) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (h) the likely consequences for the environment and the proper planning and sustainable development of the area where the development is located and the likely significant effects of the development on European Sites,

- (i) the conservation objectives, qualifying interests and special conservation interests for the Mullaghanish to Musheramore Mountains Special Protection Area (Site Code: 004162), The Gearagh Special Area of Conservation (site Code: 000108) and The Gearagh Special Protection Area (Site Code:004109),
- (j) The Regional Spatial and Economic Strategy for the Southern Region, 2020,
- (k) the "Wind Energy Development Guidelines - Guidelines for Planning Authorities", issued by the Department of the Environment, Heritage and Local Government in 2006,
- (l) the policies and objectives of the Cork County Development Plan, 2022-2028,
- (m) the Draft Revised Wind Energy Development Guidelines 2019, issued by the Department of Housing, Planning and Local Government,
- (n) the submissions made in connection with the Substitute Consent application,
- (o) the nature and extent of the proposed works as set out in the application,
- (p) the distance to dwellings or other sensitive receptors,
- (q) the impact on residential amenity arising from noise, and

- (r) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter, including the report from the Board's ecologist.

### **Remedial Environmental Impact Assessment (REIAR)**

In compliance with Section 172 of the Planning and Development Act, 2000, as amended, the Board completed a Remedial Environmental Impact Assessment of the development, taking into account:

- (a) the nature, location, scale and extent of the development,
- (b) the Remedial Environmental Assessment Report and associated documentation submitted in support of the application,
- (c) the submissions from the applicant, the planning authority, the observers and prescribed bodies in the course of the application, and
- (d) the Inspector's report, which includes a report from the Board's ecologist.

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

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the REIAR and associated documentation submitted by the applicant and submissions made in the course of the application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation (including environmental conditions) which are incorporated into the Board's decision.

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

**During Construction:**

The Board considered:

- Risk of pollution of surface waters.
- Risk of peat instability and peat erosion.
- Risk to biodiversity indirectly from pollution of surface waters from suspended solids.

These were and continue to be mitigated by the implementation of measures set out in the REIAR which include specific provisions relating to construction environmental management mitigation measures.

- Positive impacts on population and human health on the local economy from increased spending and jobs during the construction period and from community benefit payments.



Any adverse impacts on population and human health were and continue to be mitigated by the measures to reduce impacts from material assets, air and climate, noise and vibration to acceptable levels.

### **During Operation:**

The Board considered:

- Risk of pollution of surface waters during peat reinstatement and indirect risk to biodiversity.
- Risk to protected species.
- Noise.
- Shadow flicker.
- Landscape and visual effects from the turbines.

These are to be mitigated by the implementation of measures set out in the REIAR which include specific provisions relating to a peat management plan, operational environmental management mitigation measures, including for the White Tailed Eagle and bats as submitted during the application process. Landscape impacts have been mitigated by the design and siting of the turbines. Noise impacts can be mitigated by condition.

- Positive environmental impacts would arise during the operational phase from the generation of renewable energy for 19,272 households and consequential reduction in Green House Gas emissions and continuation of the community benefit scheme over the lifetime of the development.
- Potential for adverse effects on **Biodiversity and Ornithology** arising from the development and cumulatively with other projects, plans and activities in the area with respect to peat habitat, terrestrial invertebrates,

aquatic habitats and species, and salmonids, and other fish related to water quality. Collision risks are considered low. These potential adverse effects can be mitigated and monitored.

- Potential for adverse impacts on **Population** arising from noise. These potential adverse effects can be mitigated and monitored.

There will be permanent loss of 9.5 hectares due to the construction footprint. This will be offset through peatland habitat reinstatement and enhancement plan of 4.13 hectares and the replacement planting of 12.32 hectares of coniferous forestry.

- Potential for adverse impacts to **Land and Soils** from slope failure risk, excavations, rock blasting, storage and disposal of excavated materials and drainage. Mitigation by design has taken place to avoid areas of deep peat.
- Potential impacts on **Water**, which left unmitigated, could have an effect on receiving watercourses, particularly the risk of sedimentation of sensitive catchments. These potential impacts have been mitigated by siltation and erosion controls, temporary settlement ponds, buffer zones to rivers/ streams, avoidance of deep peat/ steep slopes, surface water monitoring and forestry clearing in accordance with guidelines, and which will continue to be mitigated for during peat reinstatement.
- Potential impacts on **Landscape character and visual amenity** from the proposed turbines focused mainly on the site and its immediate surrounds. From the north, a number of residences are likely to experience open views of the turbines. More sensitive viewpoints will not experience significant effects. Visually, the turbines coalesce with existing turbines.

## **During Decommissioning:**

The Board considered:

- Risk of pollution of surface waters
- Construction traffic movements
- Noise.

These would be mitigated by the implementation of measures set out in the REIAR which include specific provisions for decommissioning, including a traffic management plan.

The Board completed a Remedial Environmental Impact Assessment in relation to the construction, operation and development of the windfarm project and concluded that any impacts on the environment that occurred during the construction phase were temporary and short to medium term in duration following the implementation of Remedial mitigation measures. Subject to the continued implementation of the mitigation measures as set out in the Remedial EIAR, and subject to compliance with the conditions set out below, the effects of the windfarm project on the environment, by itself and in combination with other plans and projects in the vicinity, were, and would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector and Ecologist.



### **Appropriate Assessment:**

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's and Ecologist's report that the Mullaghanish to Musheramore Mountains Special Protection Area (Site Code: 004162), the Gearagh Special Area of Conservation (Site Code: 000108) and the Gearagh Special Protection Area (Site Code: 004109), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Remedial Natura Impact Statement (RNIS) and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's and Ecologist's assessments. The Board completed an appropriate Assessment of the implications of the proposed development for the affected European Sites, namely the Mullaghanish to Musheramore Mountains Special Protection Area (Site Code: 004162), the Gearagh Special Area of Conservation (Site Code: 000108) and the Gearagh Special Protection Area (Site Code: 004109), 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 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 and Ecologist'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.

**Proper Planning and Sustainable Development/Likely effects on the environment:**

It is considered that, subject to compliance with the conditions set out below, the windfarm project would accord with European, national, regional, and local planning and related policy. Following mitigation measures, the effects on the environment or the community in the vicinity from the development would come within acceptable standards, would not give rise to a risk of pollution, would not be detrimental to the visual or landscape amenities of the area, would not adversely impact on the cultural, archaeological, and built heritage of the area and would be acceptable in terms of pedestrian and traffic safety.

Following the implementation of mitigation measures, the development did not have a long-term impact on ecology and biodiversity. The windfarm project was, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The development shall be retained, operated, and decommissioned in accordance with the plans and particulars lodged with the application, and as received by the Board on the 19<sup>th</sup> day of February, 2021, 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 and the development shall be retained and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity and to ensure the protection of the environment and European sites.

2. This permission shall be for a period of 25 years from the date of the first commissioning of the wind farm project.

**Reason:** To provide an appropriate time frame for the operation of the development.

3. The mitigation and monitoring measures outlined in the plans and particulars relating to the operation of the development, including those set out in Chapter 16 of the REIAR and Appendix 2 to 8 of the RNIS, shall be implemented in full or as may be required in order to comply with the following conditions. Within three months of the date of this Order, details of a time schedule for implementation of mitigation measures and associated monitoring shall be submitted to the planning authority for their written agreement.

**Reason:** In the interest of protecting the environment, the protection of European Sites and in the interest of public health.

4. All operations on site shall be carried out so as there is no discharge of polluting matter to waters.

**Reason:** To protect water quality.

5. A water quality monitoring programme shall be put in place downstream of the areas where reinstatement of peatland is to take place. This programme shall be submitted to and agreed in writing with the planning authority, prior to commencement of the peat restoration works.

**Reason:** To protect water quality.

6. The developer shall ensure that all peat related mitigation measures are monitored throughout the entire life cycle of the project and are implemented in full for the decommissioning works.

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

7. A revised Operations Environmental Management Plan shall be submitted to the planning authority for written agreement within three months of the date of this Order. The ongoing water quality monitoring programme shall be detailed in this OEMP. This will include for monthly monitoring in the first three years of operation and quarterly thereafter. The results shall be made available to the planning authority on an annual basis and on request.

**Reason:** To protect water quality.



8. The relative rated noise levels (LA rated 10 min.) resulting from wind energy development and taking into account the cumulative impact of noise levels resulting from other existing and approved developments, shall not result in noise levels, when measured externally at nearby noise sensitive locations, which exceed:
- (i) Background noise levels by more than 5 dB(A) L90 10min, or 40 dB(A), L90 10 min at standardised 10 metres height above ground level at windspeeds of 8m/sec or greater,
  - (ii) 40 dB(A) L90 10min at all other standardised 10 metres height above ground level wind speeds.

**Reason:** In the interest of residential amenity.

9. (a) A noise compliance monitoring programme shall be submitted for agreement with the planning authority within three months of the date of this Order. All results shall be submitted to the planning authority within one month of the completion of any survey. The developer shall carry out any additional noise mitigation measures as may be required by the planning authority.
- (b) A designated employee shall interface with the planning authority or member of the public in relation to complaints or queries in relation to noise. Contact details shall be provided to the planning authority within one month of the date of this Order.

**Reason:** In the interest of residential amenity and to monitor the compliance of the development in respect of noise of the wind energy development on the amenity of noise sensitive locations in the vicinity of the site.

10. There will be no shadow flicker at any existing nearby dwelling or other relevant existing affected sensitive property and the necessary measures outlined in the EIAR submitted with the application, such as turbine shut down during the associated time periods, shall be taken by the wind energy developer or operator to eliminate the shadow flicker.

**Reason:** In the interest of residential amenity

11. The developer shall retain the services of a suitably qualified and experienced Civil Engineer and Ecologist for the duration of the decommissioning works in order to prevent damage to the integrity or stability of the peatland environment.

**Reason:** In the interest of protecting the environment.

12. (a) Annual and adaptive monitoring for use of Lough Allua and the wind farm area by white-tailed sea eagles will be undertaken by a competent qualified ornithologist for the first five years and thereafter, every five years for the operational life of the windfarm, unless otherwise required arising from the adaptive monitoring programme. This monitoring will be undertaken over a sufficient observation period, and at suitable vantage points, which allow detection of roosting or overflying eagles, based on best practice and appropriate times of the year or on the basis of reliable reports of roosting eagles in the vicinity of the site. Monitoring will be

carried out in conjunction with other wind farms in the vicinity of the Cork and Kerry border. The results of monitoring will be reported to regional staff of the National Parks and Wildlife Service.

- (b) The precautionary management plan for eagle protection submitted to the Board on the 19<sup>th</sup> day of February, 2023, shall be implemented, including carcass removal of any fallen animals.

**Reason:** To protect the white-tailed sea eagle.

13. The developer shall monitor usage by birds and bats of the wind farm site and document bird and bat casualties through an annual monitoring programme, which shall be submitted by the developer and agreed in writing with, the planning authority prior to commencement of development. This programme shall be developed in consultation with the National Parks and Wildlife Service and shall cover the entire period of the operation of the wind farm.

**Reason:** To ensure appropriate monitoring of the impact of the development on the birds and bats of the area.

14. In the event that the windfarm 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 within six months of the date of this Order, following consultations with the relevant authorities.

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

15. All signage relating to the site shall be in Irish and English.

**Reason:** The location of the site within the Gaeltacht area.

16. Within three months of the date of this Order, the developer shall confirm to the planning authority's satisfaction that the cable route crossings at the bridges CH2 and CH8 (as identified in the Remedial EIAR) have not interfered with the heritage value and structural stability of the bridge.

**Reason:** To preserve the integrity of the bridges.

17. Prior to commencement of decommissioning works, a transport management plan for the development shall be submitted to, and agreed in writing with, the planning authority. The traffic management plan shall incorporate details of the road network to be used, 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 shall also contain details of how the developer intends to engage with and notify the local community in advance of the removal of oversized loads. All works to the public road network shall be at the developer's expense.

**Reason:** In the interest of traffic safety

18. On full or partial decommissioning of the wind farm, or if the wind farm ceases operation for a period of more than one year, the wind monitoring masts, the turbines concerned and all decommissioned structures shall be removed, and foundations covered with soil to facilitate re-vegetation, all to be complete to the written satisfaction of the planning authority within 24 months of decommissioning or cessation of operation.



**Reason:** To ensure satisfactory reinstatement of the site upon full or partial cessation of the project.

19. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of repair of public roads after decommissioning which benefits the proposed development. The amount of the contribution 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 for determination. The contribution shall be paid with three months of decommissioning or in such phased payments as may be agreed with the planning authority, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

20. Within three months of the day of this Order, 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 after decommissioning, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory

completion of the reinstatement, including all necessary demolition and removal.

The form and amount of the security shall be 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 after decommissioning.

21. The Community Benefit scheme, as set out in Chapter 4 of the REIAR, shall be adhered to for the life of the development. The benefit shall be index-linked to the index scheme as set out in the planning authority's Section 48 Development Contribution Scheme.

**Reason:** To ensure that the community living in proximity to the wind farm,



Stephen Bohan

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

Dated this 16<sup>th</sup> day of January 2024.

